COCONUT POINTE RESIDENCES







AT BROOKS TOWN CENTER

P.A.C. Land Development
A Real Estate Development Company

HOLEMONTES
ENGINEERS | LANDSCAPE ARCHITECTS | PLANNERS | SURVEYORS

COCONUT POINTE RESIDENCES

AT BROOKS TOWN CENTER

CONSTRUCTION ENGINEERING GROUP
Consulting Engineers

LandDesign

SCOTT + CORMIA
ARCHITECTURE + INTERIORS

Brooks Town Center apartments, Walmart and Hilton Garden Inn among items addressed by the Planning, Zoning & Design Board October 10, 2023

Public Hearing



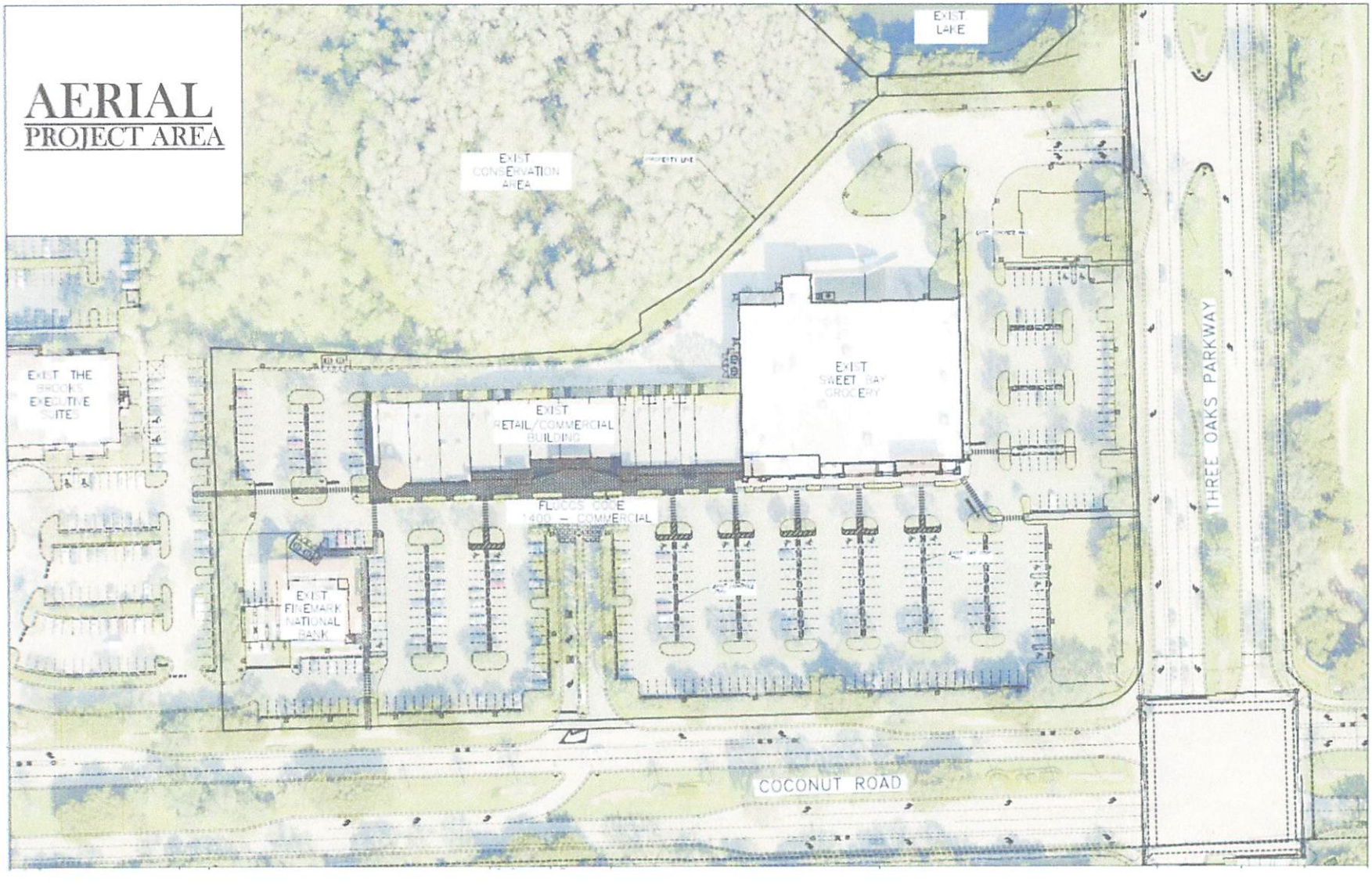
Coconut Point Residences

The meeting started with a public hearing for the development order for PAC Estero Apartments, LLC to redevelop a portion of the existing Brooks Town Center into a 4-story, 137-unit residential apartment complex on 5.33 acres of the total project site of 9.95 acres. The project is located at the northwest corner of Coconut Road and Three Oaks Parkway.

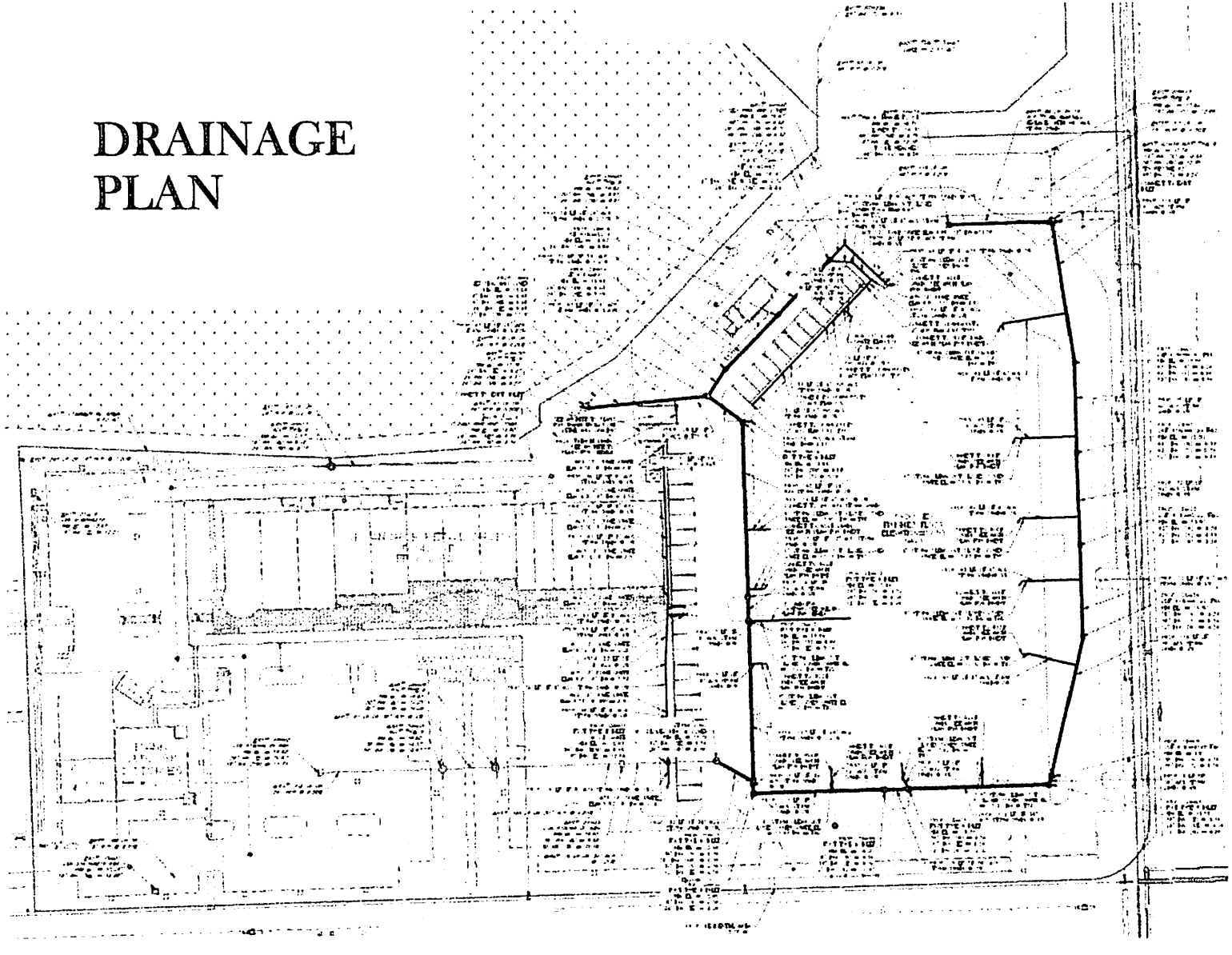
When Lee County approved The Brooks rezoning and Development of Regional Impact in 1997, there was an array of various uses allowed. The 9.95-acre site that is the subject of this development order was developed as a shopping plaza with a Sweetbay grocery store which later became Winn Dixie. The applicant plans to demolish the vacant Winn Dixie building to develop the apartments.

The project will include the four-story building with balconies, garage, carport and surface parking. They plan to have a dog park, pool and internal courtyard area with outdoor

AERIAL
PROJECT AREA

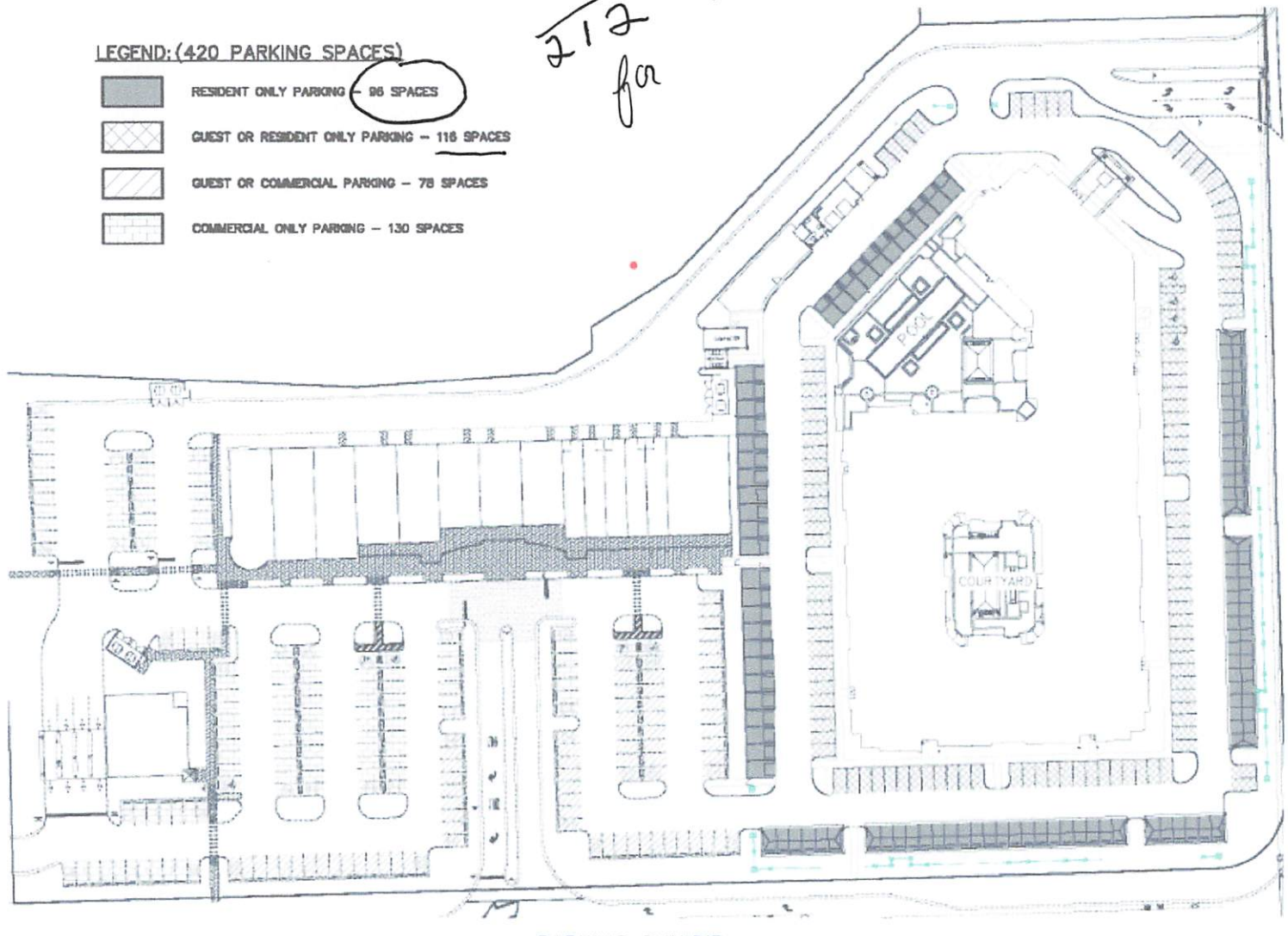


DRAINAGE PLAN



PARKING EXHIBIT

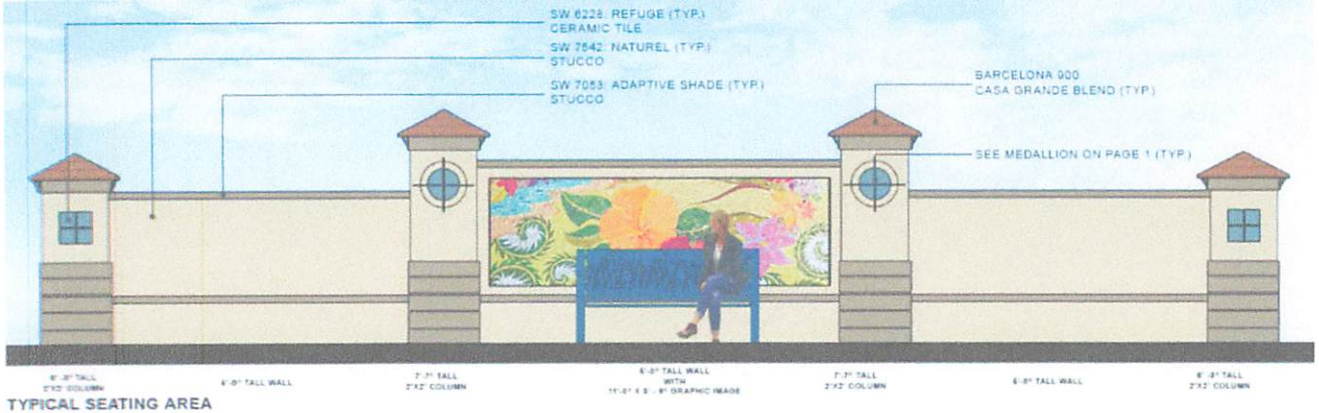
116
96
212 Spaces
for



PARKING EXHIBIT

N.T.S.

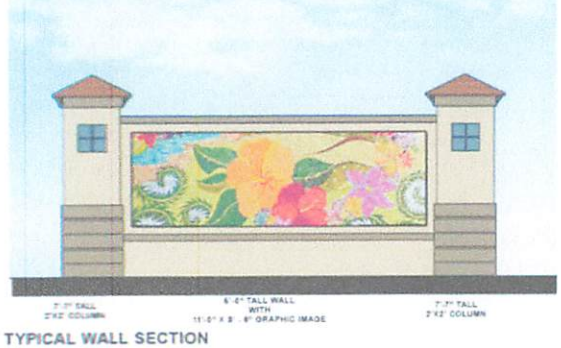
PROPOSED LANDSCAPE WALL
ELEVATIONS



TYPICAL SEATING AREA

COLOR LEGEND

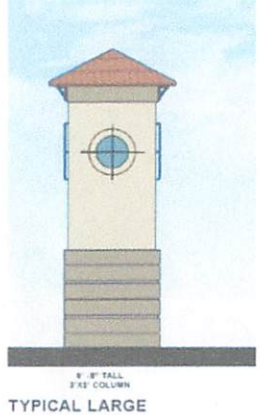
- SW 7012: CREAMY
- SW 7542: NATUREL
- SW 7053: ADAPTIVE SHADE
- SW 7041: VAN DYKE BROWN
- SW 6228: REFUGE
- SW 6230: RAINSTORM
- BARCELONA 900 CASA GRANDE BLEND



TYPICAL WALL SECTION



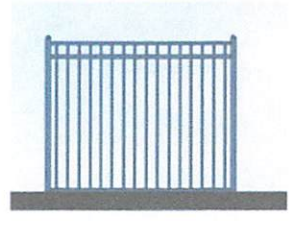
TYPICAL END WALLS



TYPICAL LARGE SINGLE COLUMN

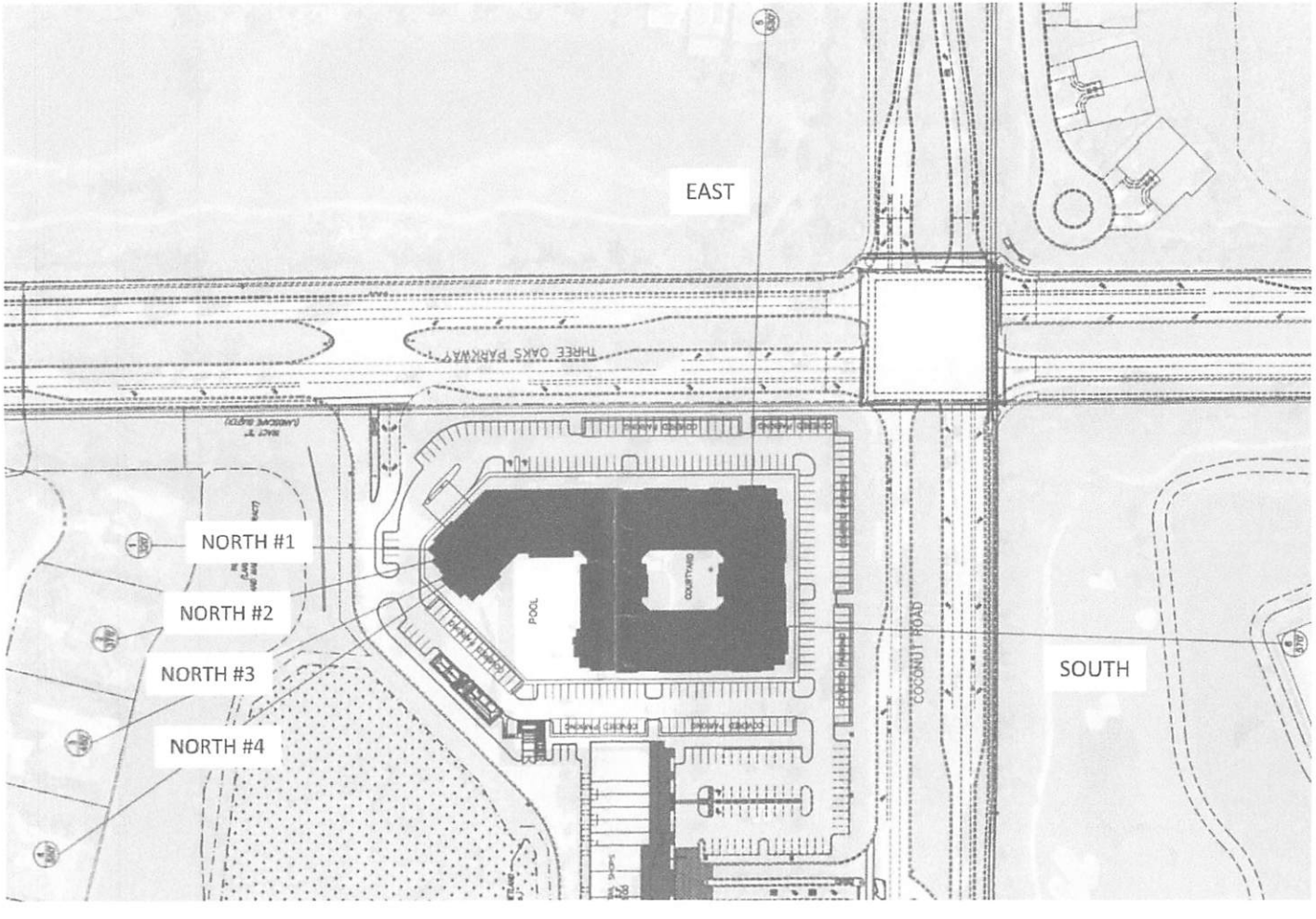


TYPICAL BENCH



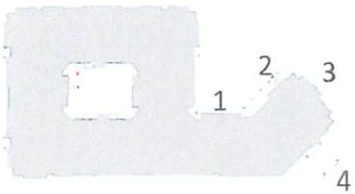
TYPICAL FENCE

LINE OF SIGHT EXHIBIT



BUILDING ELEVATIONS

MAIN BUILDING ELEVATIONS



KEY PLAN



4 EXTERIOR ELEVATION



3 EXTERIOR ELEVATION



1 EXTERIOR ELEVATION



2 EXTERIOR ELEVATION

BUILDING RENDERING

North and East Face



BUILDING RENDERING

West and Northwest Face



SECTION 3-3. RESIDENTIAL DISTRICTS

3-301. GENERAL PURPOSE

The purpose of the residential zoning districts is to:

A. Provide appropriately located lands for residential development that are consistent with the goals, policies, and objectives of the comprehensive plan;
B. Support and preserve the development pattern and character of established neighborhoods;
C. Provide a range and diversity of housing choices to meet the needs of the Village's citizens;
D. Provide for safe and efficient vehicular, bicycle, and pedestrian access and circulation, and neighborhoods that promote multiple forms of mobility;
E. Protect residential neighborhoods from incompatible development;
F. Protect residential districts from flooding and other adverse environmental impacts;
G. Provide for the public services and facilities needed to serve residential development;
H. Maintain the Village's neighborhoods as safe and convenient places to live;
I. Ensure compatible infill development; and
J. Promote green building practices in terms of energy efficiency and conservation, the use of alternative energy, greenhouse gas reduction, water supply and water quality protection, food security, materials recycling, and similar goals.

3-302. RESIDENTIAL DISTRICTS

The residential zoning districts in this LDC are identified in Table 3-302: Residential Zoning Districts.

TABLE 3-302: RESIDENTIAL ZONING DISTRICTS
Residential Single Family (RSF) District
Residential Multiple Family (RM-2) District
Mobile Home (MH) District
Recreational Vehicle (RV) District

D. Density and Dimensional Standards

	Lot area (ft^2)	39,500[1]
	Lot coverage, max (percent of total area)	25
	Lot width, min. (ft.)	100
	Lot depth, min (ft.)	130
	Side setback, min. (ft.)	25
	Rear setback, min. (ft.)	25
	Street setback, min. (ft.)	
	Local or private (ft.)	20[2]
	Collector or arterial (ft.)	25[2]
	Waterbody setback, min. (ft.)	25 feet from the edge of the waterbody
	Accessory use setback, min (ft/)	
	Street (ft.)	20 / 25 / 100 [3]
	Side (ft.)	10
	Rear (ft.)	5
	Building height, max. (ft.)	35
	Density (max.) (DUs/Acre)	1 / 1 per 5[4]

NOTES:

[1] The minimum area for a corner lot is one acre.

[2] Setback from edge of right-of-way or street easement line.

[3] 20 local or private street, 25 collector or arterial. Also any accessory structure shall either be set back at least as far as the principal structure, or 100 feet, whichever is less.

[4] Generally one, except for mobile homes maximum density is one mobile home unit per five acres.

3-303. RESIDENTIAL SINGLE FAMILY (RSF) DISTRICT

A. Purpose

The purpose of the Residential Single Family (RSF) District is to provide lands that accommodate primarily single-family detached dwellings on lots with a minimum area of 7,500 square feet. District regulations discourage development that substantially interferes with the quiet residential nature of the district.

B. Concept







C. Use Table

The allowed principal and accessory uses in the RSF District are identified in Table 3-303.C: RSF District Uses

TABLE 3-303.C: RSF DISTRICT USES [1]
P = Permitted; S = Permitted by approval of a Special Exception;
E = Existing Only as of January 27, 2021; Not listed = Prohibited

Use Type	Permission	Use Specific Standard
Principal Uses		
Community garden	P	Sec. 4-113
Day care center	S	Sec. 4-116
Dwelling, mobile home	E	Sec. 4-118
Dwelling, single-family residence	P	
Golf course	P	
Park, Village, County, or State	E	Sec. 4-102;
Place of worship	S	Sec. 4-102; Sec. 4-128
Schools, elementary, middle, or high	S	Sec. 4-102; Sec. 4-135
Utility, minor	P	Sec. 4-140
Wireless telecommunications	S	Sec. 4-143
Accessory Uses		
Accessory apartment	S	Sec. 4-201; Sec. 4-202.A
Antenna	P	Sec. 4-201
Bike parking rack or Share station	P	Sec. 4-201
Clubhouse (as accessory to a residential development, golf, or tennis facility)	P	Sec. 4-201
Community recreation facility (as accessory to a residential development)	P	Sec. 4-201
Composting, small-scale	P	Sec. 4-201
Cool roof	P	Sec. 4-201
Dock	P	Sec. 4-201; Sec. 4-202.C
Electric vehicle (EV) level 1 or 2 charging station	P	Sec. 4-201; Sec. 4-202.E
Excavation for ponds accessory to single-family residences	S	Sec. 4-201; Sec. 4-202.F
Fences	P	Sec. 4-201
Garage or carport	P	Sec. 4-201
Home occupation	P	Sec. 4-201; Sec. 4-202.I
Park, private as accessory use	S	Sec. 4-201
Pickleball facilities	S	Sec. 4-202.M
Satellite earth stations and amateur radio antennas	P	Sec. 4-201; Sec. 4-202.N
Solar energy collection facility, small-scale	P	Sec. 4-201; Sec. 4-202.O
Storage shed	P	Sec. 4-201
Swimming pools, tennis courts, porches, decks, and similar recreational facilities	P	Sec. 4-201; Sec. 4-202.P

NOTES:

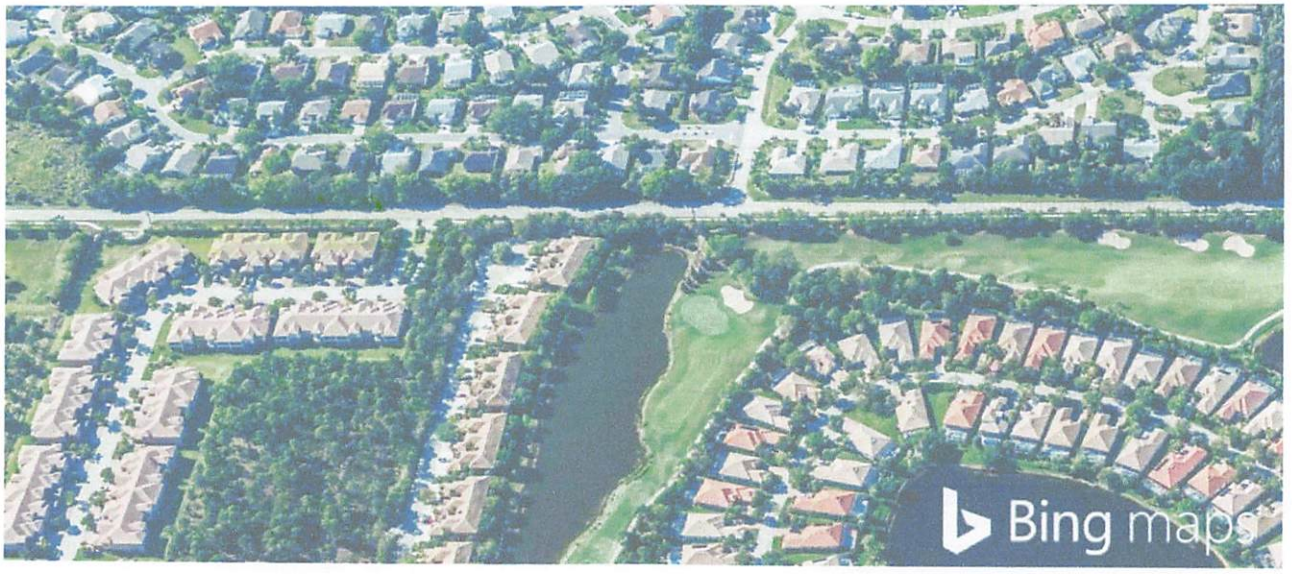
[1] For a specific explanation of how to use the use table, see Appendix A: Use Table.

3-304. RESIDENTIAL MULTIPLE FAMILY (RM-2) DISTRICT

A. Purpose

The purpose of the Residential Multiple Family (RM-2) District is to provide for regulation of lands with an existing designation of RM-2 in appropriate locations that accommodate primarily small and medium scale two-family attached, townhouse, multifamily, and single-family detached development. It is the intent of the Village Council in establishing this district, and applying it to the Official Zoning Map that upon the adoption of this LDC, the RM-2 district not be applied to any additional lands in the Village.

B. Concept



D. Density and Dimensional Standards

	Lot area (ft^2)	7,500
	Lot coverage, max (percent of total area)	40
	Lot width, min. (ft.)	75
	Lot depth, min (ft.)	100
	Side setback, min. (ft.)	7.5
	Rear setback, min. (ft.)	20
	Street setback, min.(ft.)	
	Local or private (ft.)	20[1]
	Collector or arterial (ft.)	25[1]
	Waterbody setback, min. (ft.)	25 feet from the edge of the waterbody
	Accessory use setback, min (ft/)	
	Street (ft.)	20 / 25 [2]
	Side (ft.)	7.5
	Rear (ft.)	5
	Building height, max. (ft.)	35
	Density (max.)	See comprehensive plan

NOTES:

[1] Setback from edge of right-of-way or street easement line.

[2] 20 local or private street, 25 collector or arterial.

3-703. RESIDENTIAL PLANNED DEVELOPMENT (RPD) DISTRICT

A. Purpose

The purpose of the Residential Planned Development (RPD) District is to provide land owners a development option for increased flexibility consistent with the goals, policies, and objectives of the comprehensive plan, if they comply with the provisions of the comprehensive plan, and the project will not have an adverse economic, environmental, fiscal, or social impact to surrounding lands and the Village. The principal types of development allowed in the RPD District are permanent year-round residential dwelling units, along with limited commercial development that primarily serves the residents of the RPD.





B. Use Standards

All principal and accessory uses shall be consistent with the uses allowed for the RPD District in Table 3-702.F: Planned Development Districts Uses, and be identified in the PD adopting ordinance, in accordance with Sec. 3-702.D, General Standards for All Planned Development Zoning Districts.

C. Intensity and Dimensional standards

Standard	Requirement
Lot area (ft^2) [1]	To be established in PD Master Concept Plan or PD adopting ordinance as set forth in Sec. 3-702, Planned Development Districts, Generally. The RPD District shall be consistent with the goals, policies and objectives in the comprehensive plan, and the FLUM.
Lot coverage, max (percent of total area)	
Lot width, min. (ft.)	
Lot depth, min (ft.)	
Side setback, min. (ft.) [2] [3]	
Rear setback, min. (ft.) [2] [3]	
Street setback (arterial street with frontage road) (ft.)	
Street setback (arterial street without frontage road or local street) (ft.)	
Street setback (private street) (ft.)	
Intensity/Density	
Waterbody setback	25 feet from the edge of the waterbody

Building height, max. (ft.)	35
Setbacks from external perimeter of planned *development*	[4] [5] [6] [7]

NOTES:

[1] If the PD Master Concept Plan or adopting ordinance includes individual lots in clusters or a townhouse configuration, the specific lot area and dimensions shall be determined by the space requirements of the unit itself, the provision of private open space, and the voluntary reservation of additional common open space, if any.

[2] If the PD Master Concept Plan or adopting ordinance includes single-family detached or attached zero lot line housing, each dwelling unit may have one wall without windows or doors on a side lot line, may encroach with eaves or cornices no more than 36 inches into the adjacent yard, and shall maintain at least a minimum separation from the building on the side opposite the zero setback line consistent with the standard set forth in [3] below (ten feet as long as sufficient separation is maintained to prevent the spread of fire, and as long as adequate access is provided for emergency services as certified by the Fire Official).

[3] If the PD Master Concept Plan or adopting ordinance includes clustering of single-family detached structures, as long as sufficient separation is maintained to prevent the spread of fire, and as long as adequate access is provided for emergency services as certified by the Fire Official, the separation of buildings may be reduced to no less than ten feet.

[4] The width of any buffer area or landscape strip required by Section 5-4, Landscape Standards, or 15 feet, whichever is greater.

[5] Parking or internal roads or drives may not be closer to the development perimeter than the width of any buffer area or landscape strip required by Section 5-4, Landscape Standards.

[6] The provisions of this subsection notwithstanding, the Village Council may require greater setbacks and buffers when, in its opinion, they are necessary for the protection of public health, safety, welfare.

[7] Uses allowed in required perimeter setbacks include bikeways, pedestrian walks, sidewalks, jogging paths, and park furniture, including gazebos and picnic shelters.

D. District-Specific Development Standards

Development in a RPD district shall comply with the following standards.

1. *Nonresidential Development*

   A. The amount of nonresidential development in the PD Master Concept Plan and PD adopting ordinance for the RPD shall comply with the requirements in Table 3-703.D.1.A: Maximum Gross Nonresidential Floor Area Allowed in RPD.

TABLE 3-703.D.1.A: MAXIMUM GROSS NONRESIDENTIAL FLOOR AREA ALLOWED IN RPD [1]

Total Approved Dwelling Units	Gross Nonresidential Floor Area Allowed (maximum square feet)
100 dwelling units or less	5,000
101-300 dwelling units	10,000
301-600 dwelling units	15,000
601-1200 dwelling units	20,000
More than 1200 dwelling units	Additional space may be added at a rate of 5,000 square feet per 300 dwelling units to a maximum of 30,000 square feet. In no case may the commercial area exceed three percent of the gross area of the project.

NOTES:

[1] The following uses shall not be counted against the maximum gross floor area in the RPD: EMS, fire, or sheriff's station; place of worship; school, elementary, middle, or high; day care; food or beverage, limited service; restaurant, convenience; restaurant, standard; drugstore; grocery store or food market; gas station (with self-service fuel pumps only), and home occupations.

   B. Unless constrained by physical factors or other standards in this LDC (e.g., wetlands preservation), nonresidential development shall be oriented to the interior of the project,

located centrally within the development, and not be quickly or easily accessible from the exterior of the development.

C. Outside display or storage of goods for retail sale is prohibited.

D. Signage for commercial developments other than project sales shall not be visible from the perimeter of the project, and shall otherwise comply with Chapter 6: Signage.

E. Parking for commercial development shall comply with Section 5-2, Off-Street Parking, Bicycle Parking, and Loading Standards, unless deviated in accordance with Sec. 3-703.D.3, Deviation from Development Standards, except that up to, but not more than, one-half of the required number of parking spaces may be reduced in direct proportion (one space deleted per dwelling unit) to the number of dwelling units located within one-quarter mile of the nonresidential area, as measured to the geometric center of the nonresidential area, if it is served by a continuous and technically adequate system of pedestrian and bicycle paths or ways.

F. Real estate sales activity and model homes shall be limited to the RPD project only. Such uses shall be terminated upon the sale of the last dwelling unit in the project or phase, or 12 months after the issuance of the last certificate of occupancy for the last dwelling unit built in the project or phase, whichever occurs first.

G. No development or occupancy of nonresidential development shall commence until a substantial proportion of the residential development occurs and is occupied. Table 3-703.D.1.G: Maximum Percent of Nonresidential Development Allowed in Relation to Residential Development, indicates the maximum proportion of the total permitted commercial floor space that may be occupied for a minimum proportion of residential land uses commenced. This limit shall not apply to health care facilities.

TABLE 3-703.D.1.G: MAXIMUM PERCENT OF COMMERCIAL DEVELOPMENT ALLOWED IN RELATION TO RESIDENTIAL DEVELOPMENT

Type of Development	Percent of Development			
Percent of Residential Dwelling Units Commenced	25	50	75	100
Maximum Percent of Commercial Floor Space Permitted	25	50	100	

2. *Pedestrian and Non-motorized Connections*

Pedestrian and non-motorized amenities shall be provided to establish connections within the site and to adjacent public streets. Amenities may include, but are not limited to:

A. Sidewalks and trails;

B. Wayfinding markers and signage;

C. Crosswalks, raised intersections, traffic signals, or other safety features;

D. Curb cuts for bicycles, wheelchairs, and other forms of non-motorized transportation; and

E. Paths that connect to buildings, parking areas, open space areas, and public streets.

3. *Deviation from Development Standards*

A. Development in a RPD district shall comply with the standards in Chapter 5: Site Development Standards, Chapter 6: Signage, and Chapter 7: Natural Resources, unless they are deviated from as allowed by Table 3-703.D.3.A: Development Standards Subject to Deviations.

cross-access is impractical due to site constraints, is inappropriate due to traffic safety issues, or is undesirable due to the proposed development's incompatibility with existing development on the adjacent parcel.

C. Easements allowing vehicular, bicycle, or pedestrian cross-access between adjoining parcels of land, along with agreements defining maintenance responsibilities of the property owners, shall be recorded in the land records of Lee County.

5. *Parking Location*

A minimum of 75 percent of all proposed new or additional surface parking areas shall be located to the side or rear of the development's principal building(s) or in a parking structure. There shall be no more than two rows of parking in the front of the building. Surface parking lots with more than 100 parking spaces shall be organized into smaller modules that contain 50 or fewer spaces each and are visually separated by buildings or landscaped areas. All parking areas and structures containing more than 50 parking spaces shall provide clearly identified pedestrian routes between parking areas and a primary pedestrian entrance(s) to the building(s) served by the parking area.

6. *Pedestrian Circulation*

Sidewalks shall be provided on both sides of the street, with a planting strip (street trees at one per 50 feet on center (on average), ground cover and/or grates located in this planting area). To the maximum extent practicable, street trees shall be planted between the sidewalk and the street. Sidewalks shall maintain a pedestrian "clear zone" that is unobstructed by any permanent or nonpermanent object for a minimum width of six feet. Where a sidewalk or other walkway crosses a street, driveway, drive aisle, or parking lot, the crossing shall be clearly marked with a change in paving material, color, or height.

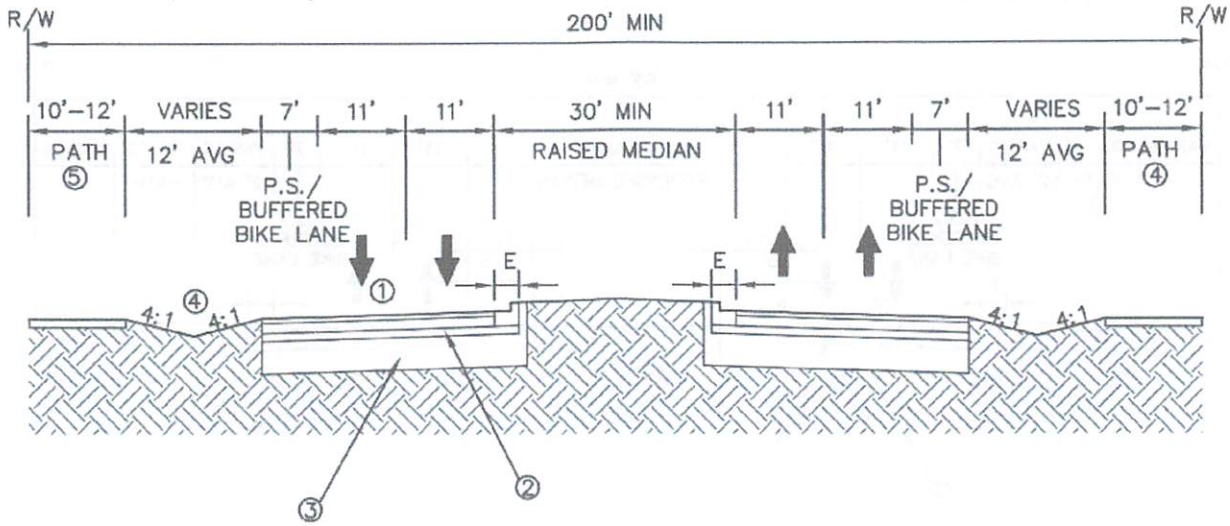
7. *General Development Standards*

A. Development in a MPD district shall comply with the standards in Chapter 5: Site Development Standards, Chapter 6: Signage, and Chapter 7: Natural Resources, unless they are deviated as allowed by Table 3-706.D.7.A: Development Standards Subject to Deviations.

TABLE 3-706.D.7.A: DEVELOPMENT STANDARDS SUBJECT TO DEVIATION

Standard	Means to Deviate
Section 5-2, Off-Street Parking, Bicycle Parking, and Loading Standards	PD Master Concept Plan or PD adopting ordinance
Section 5-3, Mobility and Connectivity Standards	PD Master Concept Plan or PD adopting ordinance
Section 5-4, Landscape Standards	PD Master Concept Plan or PD adopting ordinance, except deviation from minimum open space standard prohibited
Section 5-5, Fence and Wall Standards	PD Master Concept Plan or PD adopting ordinance
Section 5-6, Exterior Lighting Standards	PD Master Concept Plan or PD adopting ordinance
Section 5-7, Architectural, Form, and Design Standards	PD Master Concept Plan or PD adopting ordinance, except shall comply with the standards in Sec. 5-705.C, Mixed-Use Development Design Standards
Section 5-8, Green Building Standards	Deviations Prohibited
Chapter 6: Signage	PD Master Concept Plan or PD adopting ordinance
Chapter 7: Natural Resources	Deviations Prohibited

3. The following illustration applies to four-lane arterial roads in 200 feet of right-of-way with raised median, open drainage, and on-site retention (suburban section) (Suburban = curb and gutter and open ditches):



4–LANE SUBURBAN ARTERIAL

DESIGN SPEED = 45 MPH

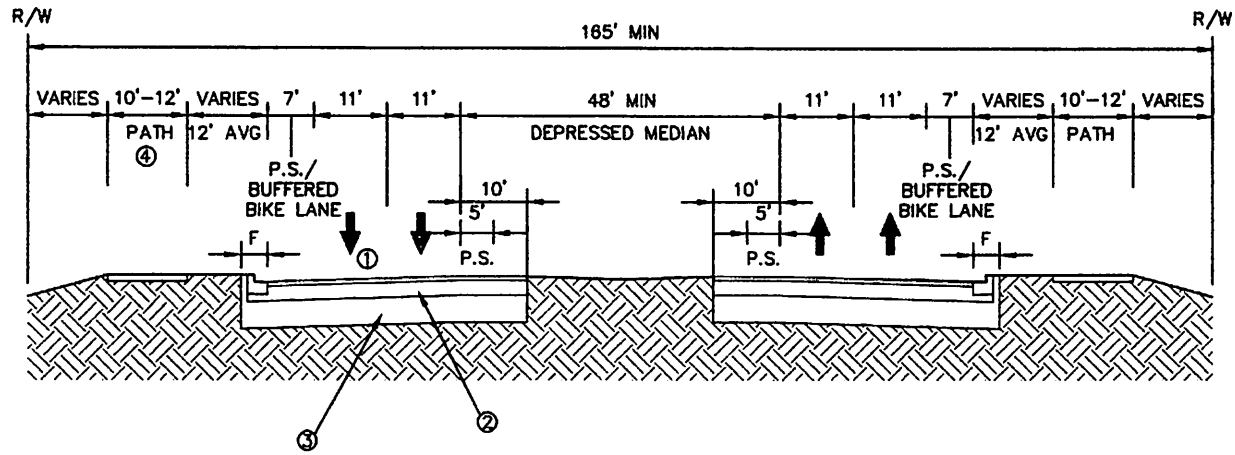
(AS APPROVED BY THE DIRECTOR)

N.T.S.

NOTES:

1. One inch S–III wearing surface plus two and one half inch type S–1 asphaltic concrete.
2. FDOT Optional BaseGroup 9 – 8" compacted limerock.
3. 12 inch thick stabilized subgrade LBR 40.
4. This size open drainage ditches are insufficient in size to retain all stormwater. Off–site retention ponds or additional drainage easements may be required.
5. Pathways can be placed in easements located outside of right of way.

4. The following illustration applies to four-lane arterial roads in 165 feet of right-of-way with depressed median, closed drainage, and on-site retention (urban section) (Rural = clear zones and open ditches):



4–LANE URBAN ARTERIAL

DESIGN SPEED = 45 MPH

(AS APPROVED BY THE DIRECTOR)

N.T.S.

NOTES:

1. One inch S–III wearing surface plus two and one half inch type S–1 asphaltic concrete.
2. FDOT Optional BaseGroup 9 – 8" compacted limerock.
3. 12 inch thick stabilized subgrade LBR 40.
4. Pathways can be placed in easements located outside of right of way

CHAPTER 4. USE SPECIFIC STANDARDS

SECTION 4-1. GENERAL PROVISIONS

This Section 4.1 identifies the standards that apply to individual principal uses. Section 4-2, Use Specific Standards for Accessory Uses and Structures, identifies standards applicable to individual accessory uses and structures. Section 4-3, Temporary Uses and Structures, identifies uses or structures allowed on a temporary basis, sets out general standards applicable to all temporary uses and structures, and sets out special standards that apply to particular temporary uses and structures. Standards in this Chapter 4 are supplemental to the requirements in a specific zoning district in Chapter 3: Zoning Districts, and to applicable standards in Chapter 5: Site Development Standards, Chapter 6: Signage, and Chapter 7: Natural Resources.

4-101. ONE PRINCIPAL USE PER LOT

A development shall include a single principal use per lot, with one or more accessory uses that are customarily incidental and subordinate to the principal use (e.g., home occupation as accessory to a dwelling, or administrative offices as accessory to a school, retail sales, or manufacturing use).

4-102. USES FIVE ACRES OR LARGER

A. Unless exempted in subsections B and C, below, all rezonings (zoning map amendments) that are five acres or greater in area shall only be approved and developed as a planned development district in accordance with the procedures and standards of this LDC.

B. Village, County, or State Parks are exempt from subsection A, above.

C. Public schools, places of worship, and religious facilities are exempt from subsection A, above. Permitting for these exempt uses is according to the use tables in Chapter 3: Zoning Districts

D. See also Sec. 4-112.A (all commercial development requiring a rezoning only developed as a planned development).

USE SPECIFIC STANDARDS FOR PRINCIPAL USES

4-103. AGRICULTURE

A. The keeping, raising, or breeding of horses or other equines shall comply with the following standards:

1. Lots shall comply with the standards in Table 4-103.A: Horse and Equine Lot Standards:

TABLE 4-103.A: HORSE AND EQUINE LOT STANDARDS			
Stable Type	**Minimum Lot Size**	**Minimum Lot Width (ft)**	**Building Setback (ft)**
Private Stables	1 acre	Large enough to accommodate appropriate setbacks	35
Boarding Stable	5 acres		100

2. Commercial stables are prohibited.

3. The keeping, raising, or breeding of goats, sheep, and swine shall comply with the following standards:

   A. The animals shall not be kept or allowed to run within 100 feet of any residential dwelling unit under separate ownership, unless the property on which the dwelling unit is located is being used for bona fide agricultural purposes.

   B. Any building or other roofed structure for the keeping of animals shall be set back a *minimum* of 300 feet from any dwelling unit under separate ownership, unless the property on which the dwelling unit is located is being used for bona fide agricultural purposes.

   C. Keeping or raising any Vietnamese pot-bellied pigs shall be considered as agriculture and not personal pets.

B. Dairy barns and commercial-scale poultry raising buildings are prohibited.

4-112. COMMERCIAL DEVELOPMENT LOCATION STANDARDS

The following different commercial uses shall comply with the following standards.

A. All Commercial Development

All commercial development requiring a rezoning (see Sec. 2-501.C, Rezoning (Zoning Map Amendment)) shall only occur through use of planned development districts.

B. Minor Commercial Development

1. Minor commercial development consists of use types that provide convenience goods and services, such as: convenience food and beverage store without gas service; drugstore; grocery store or food market; laundry services; repair shop, household; personal services group I; personal services group I; and similar uses.
2. Except as allowed in subsections 3 or 4 below, minor commercial developments shall not exceed 30,000 square feet in gross floor area, and shall be located either:
   A. Within 330 feet of the intersection of:
      1. A local and collector road; or
      2. A local and arterial road; or
      3. A collector and collector road; or
      4. A collector and arterial road; or
      5. An arterial and arterial road; or
   B. In a Residential Planned Development (RPD) District, if it is located and designed primarily to meet the commercial needs of the residents of the planned development.
3. A minor commercial development that is included in and complies with the regulations of a mixed-use planned development (MPD) district, the Estero planned development (EPD) district, or a compact planned development is not subject to subsection 2 above.
4. The Village Council may grant an exception approving a rezoning that does not comply with the location standards of subsection 2 above, if the development complies with Section 5-7, Architectural, Form, and Design Standards, does not promote a continuation of a strip commercial development pattern, and is otherwise consistent with the comprehensive plan.

C. Neighborhood Commercial Development

1. Neighborhood commercial development consists of use types which allow the sale of specialty goods and personal services, such as: automotive service station; retail sales; convenience food and beverage store with gas service; convenience food and beverage store without gas service; drugstore; grocery store or food market; laundry services; repair shop, household; personal services group I; personal services group II; tobacco shop; vehicle and boat rental and sales; vehicle and boat repair and maintenance; and similar uses.
2. All neighborhood commercial developments shall have a gross floor area of between 30,000 and 100,000 square feet, and be located at the intersection of an arterial and a collector road or two arterial roads so that direct access is provided to both intersecting roads (The direct access may be provided by an internal access road to either of the two intersecting roads.) "At the intersection" means no more than one quarter of a mile from the centerline of the intersection and shall include proper spacing of access points, unless excepted through the planned development rezoning process in accordance with this subsection.
3. A neighborhood commercial development approved as part of a planned development may extend beyond one quarter of a mile of the intersection, if:
   A. Direct access from at least one of the arterial roads is provided to the development within ¼-mile of the intersection;
   B. An internal access road or frontage road provides access to the intersecting road, prior to occupancy of the planned development;
   C. All access points comply with the spacing standards in this LDC; and
   D. Any retail commercial use, including any outdoor sales, does not extend beyond one-half mile of the centerline of the intersection.

4. The Village Council may grant an exception approving a rezoning for neighborhood commercial development that does not comply with the location and floor area standards of subsection 2 above, if the development complies with Section 5-7, Architectural, Form, and Design Standards, does not promote a continuation of a strip commercial development pattern, and is otherwise consistent with the comprehensive plan.

D. Community Commercial Development

1. Community commercial development consists of use types allowed in neighborhood commercial development as well as additional use types such as: cinema or theater; laundry services; performance center; repair shop, household; recreational facility, indoor; recreational facility, outdoor; tobacco shop; tattoo or body piercing establishment; and similar uses.
2. All community commercial development shall have a gross floor area of between 100,000 and 400,000 square feet, and be located at the intersection of two arterial roads so that direct access is provided to both intersecting roads (The direct access may be provided by an internal access road to either of the two intersecting roads). "At the intersection" means no more than one-quarter-of-a-mile from the centerline of the intersection and shall include proper spacing of access points, unless excepted through the planned development rezoning process in accordance with subsection 3 below.
3. A neighborhood commercial development approved as part of a planned development may extend beyond one-quarter mile of the intersection, if:
   A. Direct access from at least one of the arterial roads is provided to the development within one quarter mile of the intersection;
   B. An internal access road or frontage road provides access to the intersecting road, prior to occupancy of the planned development;
   C. All access points comply with the spacing standards in this LDC; and
   D. Any retail commercial use, including any outdoor sales, does not extend beyond one-half mile of the centerline of the intersection.
4. The Village Council may grant an exception and approving a rezoning that does not comply with the location and floor area standards of subsection 2 above, if the development complies with Section 5-7, Architectural, Form, and Design Standards, does not promote a continuation of a strip commercial development pattern, and is otherwise consistent with the comprehensive plan.

E. Regional Commercial Development

1. Regional commercial development consists of uses types involving the sale of a full range of shopping goods, as well as uses allowed in a community commercial development.
2. Except for the Coconut Point DRI, all regional commercial developments shall comply with the following:
   A. Have a gross floor area of between 400,000 and 1,000,000 square feet, and be located to provide direct access to two arterial roads (The direct access may be provided by an internal access road to either or both of the two intersecting roads);
   B. Except as allowed by subsection 3 below, extend no more than ¼-mile from the centerline of the intersection; and
   C. Properly space access points along the arterial roads to ensure safe and adequate access.
3. A regional commercial development approved as part of a planned development located at the intersection of two arterials, may extend beyond ¼-mile of the intersection, if:
   A. Direct access from at least one of the arterial roads is provided to the development within ¼-mile of the intersection;
   B. An internal access street or frontage road provides access to the intersecting road, prior to occupancy of the planned development;
   C. All access points comply with the spacing standards in this LDC; and
   D. Any retail commercial use, including any outdoor sales, does not extend beyond ½-mile of the centerline of the intersection.
4. The Village Council may grant an exception approving a rezoning for regional commercial development that does not comply with the location and floor area standards of subsection 2

above if the development complies with Section 5-7, Architectural, Form, and Design Standards, does not promote a continuation of a strip commercial development pattern, and is otherwise consistent with the comprehensive plan.

4-113. COMMUNITY GARDEN

A community garden shall comply with the following standards:

A. Be a maximum of one half acre in size.

B. In zoning districts that allow residential uses, not use or operate power tools or portable mechanical equipment outdoors before 8:00 AM and after 7:00 PM.

C. Use fertilizer, pesticide, insecticide, herbicide, or agricultural use chemicals consistent with label instructions and be in compliance with the fertilizer ordinance.

D. Limit accessory buildings to sheds (for the storage of tools), greenhouses, seasonal farm stands, shade pavilions, and planting preparation houses, and ensure the combined area of all accessory buildings and other structures not exceed 5,000 square feet.

E. Ensure buildings not exceed a maximum of 15 feet in height.

F. Ensure all buildings have an impervious floor to catch chemical runoff.

G. Limit areas for communal composting to 10 percent of the area of the parcel.

H. Ensure any perimeter fences, including trellises, which are allowed, comply with the standards in Section 5-5, Fence and Wall Standards.

I. Provide trash receptacles on site.

J. Have an established set of operating rules addressing the governance structure of the garden, hours of operation, assignment of garden plots, and maintenance and security requirements and responsibilities.

K. Have one sign that does not exceed six square feet in area and four feet in height, indicating the name of the community garden and the contact information of the principal operator, including the operator's name and current telephone number.

L. Flowers, vegetables, or other crops grown at a community garden may be sold on-site if a temporary use permit is approved in accordance with Sec. 2-505.C, Temporary Use Permit, prior to the sale. A maximum of eight events involving such sales may be scheduled each year. Each event shall not exceed two days. The land owner may obtain a single temporary use permit covering all events scheduled for the year. Proof of sanitary facilities shall be provided with a temporary use permit application.

4-114. CONTINUING CARE RETIREMENT COMMUNITY

A continuing care retirement community shall comply with the following standards:

A. Age restrictions shall comply with the federal Fair Housing Act.

B. The number of nursing care beds shall not exceed 20 percent of the total number of permitted dwelling units.

C. The facility may include retail commercial uses as ancillary to the principal residential and healthcare uses.

D. A minimum of 30 percent of the facility's land area shall be devoted to outdoor open space, indoor or outdoor recreation facilities, or indoor or outdoor social-oriented amenities, including community centers. Such areas shall be located so they are safely and conveniently accessible to community residents.

E. Each outdoor area intended for active recreation shall have a minimum area of 5,000 square feet and a minimum side dimension of 50 feet.

F. A new continuing care retirement community shall not be developed in coastal high hazard areas unless it complies with Sec. 7-505.A.5, Facilities Requiring Special Care, allowing the structure to function as a shelter.

G. See Sec. 10-302.B, Density Equivalents, for determining equivalent density when relating this use to dwellings.

CHAPTER 5. SITE DEVELOPMENT STANDARDS

SECTION 5-1. GENERAL SITE DEVELOPMENT STANDARDS

5-101. OVERVIEW

Chapter 5: Site Development Standards includes specific development standards grouped by subject. These standards are initially reviewed as a part of certain applications to the Village.

5-102. GENERAL STANDARDS

The following standards apply to all development in the Village:

A. Lands proposed for development shall be suitable for the purposes in the application for development order approval.

B. The size, shape, and orientation of a lot and the siting of buildings shall be designed to provide development logically related to trees, topography, solar orientation, natural features, streets, and adjacent land uses. All development shall be designed to maximize the preservation of natural features, trees, tree masses, unusual rock formations, watercourses, and sites which have historical significance, scenic views, or similar assets. The U.S. Secretary of the Interior's Standards for Rehabilitation are the recommended guidelines for all development involving historic resources.

C. All proposed development shall be specifically adapted and designed for the uses anticipated, including lot configuration, access, and internal circulation, and that the development will be consistent with the comprehensive plan and the standards of this chapter.

D. The developer shall demonstrate that the proposed development complies with all other provisions this LDC and all other laws, ordinances and regulations, as applicable.

E. The developer shall be responsible for the full cost of site-related improvements.

SECTION 5-2. OFF-STREET PARKING, BICYCLE PARKING, AND LOADING STANDARDS

5-201. PURPOSE AND INTENT

The purpose of this section is to establish off-street parking and loading standards to ensure developments provide appropriate parking and loading for zoning districts and uses. The standards in this section are intended to provide for adequate off-street parking, bicycle parking, and loading while supporting walkability in appropriate locations. They are also intended to provide the flexibility needed to accommodate alternative parking solutions.

5-202. APPLICABILITY

A. New Development

All new development shall provide off-street parking, bicycle parking, and loading areas in accordance with the standards of this section.

B. Existing Development

1. *Change in Use*

   Except as identified in subsection 4 below, any change in use shall be accompanied by the additional off-street parking, bicycle parking, and loading spaces required for the new use.

2. *Expansion*

   Any expanded or enlarged (in terms of the number of dwelling units, floor area, number of employees, or seating capacity) structure or use shall provide additional off-street parking, bicycle parking, and loading spaces for the expanded or enlarged part of the structure or use only.

3. *Repair from Damage*

   A structure that suffers damage in excess of 50 percent of its appraised value shall update off-street parking, bicycle parking, and loading areas to comply with the requirements of this section.

4. *Upgrading of Nonconforming Parking*

   Nonconforming off-street parking facilities upon an enlarged, expanded, or altered structure or use shall be updated to comply with the requirements of this section in accordance with the standards of Chapter 9: Nonconformities.

5-203. PARKING AND LOADING PLAN REQUIRED

All development applications subject to review for compliance with the standards of this section shall include a parking and loading plan. This may be combined with the circulation plan required in Sec. 5-302.B, Circulation Plan. The parking and loading plan shall identify the number and location of required parking spaces, access aisles, driveways, and bicycle parking facilities (if applicable); illustrate the relationship of the off-street parking facilities to the development they are designed to serve; show how the parking facilities coordinate with the pedestrian, bicycle, transit, and vehicular circulation systems for the development; and show how the off-street loading areas (if applicable) are designed.

5-204. OFF-STREET PARKING STANDARDS

A. General Standards for Off-Street Parking and Loading Areas

1. *Use of Parking and Loading Areas*

   A. *General*

      1. Off-street parking areas required by this section shall be used solely for the parking of licensed motorized vehicles in operating condition, except as provided below. Required parking spaces and loading berths may not be used for the display of goods for sale (except that farmers' markets may be permitted to operate within parking areas), or for the sale, lease, storage, dismantling, or service of any vehicles, boats, motor homes, campers, mobile homes, building materials, equipment, or supplies.
      2. The Director may approve the installation of charitable drop-off collection stations, automatic teller machines (ATMs), or similar facilities within a designated off-street parking area upon determining that these facilities:
         (a) Do not reduce off-street parking required by this section; and
         (b) Do not create a traffic or pedestrian hazard.
      3. Residential property owners are not prohibited from the occasional servicing of their own noncommercial vehicle or conducting normal residential accessory uses.
      4. Off-street parking areas required by this section may be used for carnivals, fairs, and amusement attractions and devices in accordance with the following standards:
         (a) The off-street parking area shall have enough spaces to comply with the minimum requirements for both the uses served by the off-street parking area and the carnival, fair, or amusement attraction or device. Prior to obtaining a temporary use permit (see Sec. 2-505.C, Temporary Use Permit) for the temporary use of a parking lot, the applicant shall submit a site plan that demonstrates there will be no net loss or reduction in the number of parking spaces required for any existing principal use that relies on the off-street parking area.
         (b) The temporary use may not be located in an off-street parking area that is nonconforming as to the number of spaces needed for the existing uses.

   B. *Identified as to Purpose and Location*

      Off-street parking areas and off-street loading areas shall include painted lines, wheel stops, or other methods of identifying individual parking spaces and loading berths, and distinguishing such spaces or berths from aisles. Specific dimensional and marking standards are defined in Sec. 5-204.A.4, Markings.

2. *Surfacing*

All off-street parking areas, as well as off-street loading areas, shall be surfaced with asphalt, concrete, brick, stone, pavers, or an equivalent hard, dustless, and bonded surface material. Use of surfacing that includes recycled materials (e.g., glass, rubber, used asphalt, brick, block, and concrete) is encouraged. These surfaces shall be maintained in a smooth, well-graded, clean, orderly, and dust-free condition.

3. *Location and Arrangement*

A. *Safe and Convenient Access*

1. *Access Points*

(a) Each parking area shall have distinct access points with the following dimensions, except where the Director determines that high traffic volumes or other special circumstances require modifications of these standards:

i. A one-way access shall be at least 15 feet wide at the property line.

ii. A two-way access shall be at least 24 feet wide at the property line.

iii. The maximum width of an access shall be 35 feet at the property line.

(b) Access points shall not exceed a 6 percent grade for 20 feet into any lot or parcel, provided that where a pedestrian way crosses the access point, the maximum grade shall be 2 percent.

(c) Access points shall not enter a street right-of-way or easement at an angle of less than 90 degrees without the Director's approval.

2. Off-street parking and loading areas shall be arranged for convenient access between an adjacent road and all parking spaces and loading berths to facilitate ease of mobility, ample clearance, and safety of vehicles and pedestrians. Each off-street parking space and loading berth shall have adequate, unobstructed means for the ingress and egress of vehicles.
3. Off-street parking areas shall be arranged so no parking or maneuvering incidental to parking shall occur on a public road or sidewalk, except for off-street parking areas serving single-family detached and two-family dwellings.
4. Except for off-street parking areas serving single-family detached or two-family dwellings, off-street parking areas shall be arranged so an automobile may be parked or un-parked without moving another automobile, unless within an automated or mechanical parking deck or garage.
5. A maximum of a two-foot overhang is allowed from a curb or wheel stop onto a non-paved surface for all off-street vehicular parking spaces except parallel spaces. The two-foot overhang areas may not intrude onto pedestrian walkways, landscaped buffers, accessways, rights-of-way, or adjacent property not a part of the site. Off-street loading areas shall be arranged so no loading berth extends into the required aisle of a parking area.
6. In parking areas that provide more than one tier of parking spaces, pedestrian accommodations shall be provided.

B. *Backing onto Streets Prohibited*

All off-street parking and loading areas shall be arranged so that no vehicle is required to back out from such areas directly onto a road or accessway, except for parking areas serving as driveways of single-family detached dwellings, two-family dwellings, or coach homes with garages.

4. *Markings*

A. Each required off-street parking area and space, and each off-street loading area and berth, shall be identified by surface markings that are arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles, except for parking areas serving single-family detached and two-family dwellings. Such markings—including striping, directional

arrows, lettering on signs and in handicapped-designated areas, and labeling of the pavement—shall be maintained to be readily visible at all times.

B. One-way and two-way accesses into required parking facilities shall be identified by directional arrows. Any two-way access located at any angle other than 90 degrees to a street shall be marked with a traffic separation stripe running the length of the access. (This requirement does not apply to vehicular use area (parking area) drive aisles.)

5. *Drainage*

All off-street parking and loading areas shall be properly drained to eliminate standing water and prevent damage to adjacent land and public streets and alleys. The slope of the street surface shall be one percent or greater, and the slope of gutters shall be 0.3 percent or greater.

6. *Exterior Lighting*

Off-street parking and loading areas shall comply with the standards of Section 5-6, Exterior Lighting Standards.

7. *Landscaping*

Off-street parking areas and loading areas shall comply with the standards of Section 5-4, Landscape Standards.

8. *Accessible Parking for Physically Disabled*

Development required to provide off-street parking spaces shall ensure that a portion of the total number of required off-street parking spaces are specifically designated, located, and reserved for use by persons with physical disabilities, in accordance with the standards in Ch. 316, Fla. Stat.; the Florida Accessibility Code for Building Construction, adopted in accordance with Sec. 553.503, Fla. Stat.; and the standards in the Federal Americans with Disabilities Act Accessibility Guidelines. Access aisles shared between two disabled spaces shall be no less than five feet wide and shall be part of an accessible route to the closest building or facility entrance.

9. *Maintained In Good Repair*

All off-street parking and loading areas shall be maintained in safe condition and good repair at all times so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding land.

10. *Completion*

All off-street parking and loading areas shall be completed prior to the issuance of a certificate of compliance for the development they serve.

B. Off-Street Parking Space Standards

1. *Minimum Number of Off-Street Parking Spaces*

A. Development subject to the requirements of this section shall provide the minimum number of off-street parking spaces in accordance with Table 5-204.B.1: Minimum Number of Off-Street Parking Spaces.

B. Uses with variable parking demands or unlisted uses shall comply with Sec. 5-204.B.2, Unlisted Uses.

TABLE 5-204.B.1: MINIMUM NUMBER OF OFF-STREET PARKING SPACES

Use Type	Minimum Number of Vehicular Parking Spaces
Agricultural use	No minimum
Animal clinic	1/1,000 sf
Animal shelter	1/500 sf
Assisted living facility	1.12/du
Automatic car wash	1.5 per car stall
Automotive service station	4 per service bay plus 1 per employee
Banks and financial institutions	3/1,000 sf
Bait and tackle shop	1/400 sf

TABLE 5-204.B.1: MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Grocery store or food market	1/350 sf; dead storage calculated at same rate
Home care facility	4.5/1,000 sf
Hiking and nature study, including clearing for pedestrian boardwalks	No minimum
Hospital	1 per 2 beds, plus 1 per employee
Hotels/motels	1 per 1.2 guest rooms
Laundry, self-service	1.7/1,000 sf
Laundry services	1.7/1,000 sf
Library	2/1,000 sf
Manufacturing, assembly, or fabrication, Light	2/1,000 sf
Medical or dental lab	1/400 sf
Medical marijuana dispensary	N/A (Use not permitted in Village)
Moving and storage facility	2/1,000 sf
Multiple-occupancy complex	4.5 spaces per 1,000 sf or 4.0 spaces per 1,000 sf for complexes larger than 500,000 sf
Nature Center	3/1,000 sf
Newspaper/periodical publishing establishment	1/4000 sf
Nursing home	1 per 3 beds or 1/500 sf, whichever is greater
Office, general	1/300 sf
Office, medical	1/300 sf
Outdoor education	Determined by Director
Outpatient care facilities	4.5/1,000 sf
Park, Village, County, or State	Determined by Director
Personal services group I	1/250 sf (minimum 5)
Personal services group II	3 per operator or 1/100 sf, whichever is greater (minimum 5)
Pet services	1/350 sf
Pharmaceutical manufacturing	1.75/1,500 sf
Place of worship	1 per 3 seats
Post office	1/250 sf (minimum 5)
Recreational facilities, indoor	4/1,000 sf
Recreational facilities, outdoor	Determined by Director
Recreational vehicle	1 (in addition to parking for recreational vehicle)
Recycling drop-off facility	No minimum
Religious facility	1 per 3 seats
Repair shop, household	1/250 sf (minimum 5)
Research and development laboratories	1/600 sf
Resource recovery to energy facility	1 per employee at largest shift
Restaurant, convenience	1 per 4 seats
Restaurant, fast casual or fast food	13/1,000 sf of total floor area including outdoor eating space
Restaurant, standard	12.5/1,000 sf total floor area including outdoor eating area
Retail sales (not multiple occupancy)	1/350 sf
Satellite earth stations and amateur radio antennas	1 when used as a primary use
Schools, elementary, middle and high	Public: As required by state law Private HS: 1 per employee plus 1 per 10 students Private elementary school: 1 per employee plus 1 per 40 students
Self storage	1 per 25 storage units (minimum 5)

A. A tree location plan shall be submitted when general trees located within a designated preserve are being claimed for credit. The tree location plan shall include specific information about all trees that are being preserved for credit within the entire development footprint. In addition, the tree location plan shall: (1) be at the same scale as the site plan for the development order or limited development order, as applicable; (2) show the location of trees to be saved; (3) state the caliper for each tree (three-inch minimum caliper measured at four and one-half feet above ground level); and (4) identify the species of each tree.

B. Except for prohibited invasive exotic species as identified in Table 5-403.A: Prohibited Invasive Exotic Plants, above, every consideration shall be given to retaining as much of the existing plant material on a site as possible.

C. Each existing indigenous native tree preserved in place, which has a trunk diameter of four inches or greater measured at four and one-half feet above the ground (dbh), shall receive a credit of five trees against the general tree standards. Native palms preserved in place that are eight feet or greater from ground level to base of fronds shall receive a credit of three trees. Existing sabal palms that are relocated onsite shall be given a two tree credit. Credits for existing trees may not be used to reduce the required canopy trees required in parking areas. Existing native trees in buffers may be used for credit provided they occur within the required buffer segment.

D. Credits shall apply only when the trees are labeled as protected-credit trees. If the protected-credit trees die within three years from the date a certificate of compliance is issued for the development, they shall be replaced by the number of trees for which credit is given.

E. Credits shall apply where the preserved tree is in a barricaded area that is at least two-thirds the radius of the crown spread of the credited tree measured from the trunk center, except in no case may this area radius be less than two and one-half feet. For indigenous native pine trees, the barricaded area may be no less than the full crown spread of the tree, unless other measures such as tie-walls or special slope treatment are constructed for additional protection. Prior to the land clearing stage of development, the owner, developer, or agent shall erect protective barriers that are at a minimum made of a three-foot high silt fence, a three-foot high orange construction fence, or approved alternative barricading material. For all native, indigenous open space areas, including shrubs and ground cover, barricades shall be erected around the perimeter of the vegetation. The owner or developer or an agent shall not cause or permit the movement of equipment or the storage of equipment, material, debris, or fill within the required protective barrier. The protected trees shall be alive and healthy at the end of the construction for the credit to apply.

F. Credit shall not be given for spartina.

2. *Larger Trees*

General tree standards may be reduced by up to 50 percent through the planting of larger trees. Larger trees are at least four inches in diameter at 12 inches above the ground and at least 16 feet in height at the time of planting.

3. *Alternative Landscape Betterment Plan*

General tree standards may be reduced through approval of an alternative landscape betterment plan. Alternative, creative designs are encouraged for difficult sites for landscape design, including but not limited to infill developments, existing developments, and irregularly shaped parcels. The approval of the alternate landscape betterment plan shall be reviewed and approved by the Director, and may include conditions to ensure that the overall landscape design complies with the intent of this section. An alternative landscape betterment plan shall comply with the following standards:

A. The plan shall not deviate from the minimum open space requirements of this LDC.

B. The plan shall be labeled as an alternate landscape betterment plan, and delineate, identify, and locate all changes to the requirements of this section.

C. The betterment plan shall not deviate from the native species requirements of this LDC.

D. The plan shall designate the location of all plant material to be installed.

E. The plan shall exceed the intent of the minimum landscape standards.

F. Any changes to an approved plan shall be reviewed as a minor change.

5-405. GENERAL TREE AND STREET TREE STANDARDS

A. Purpose

The purpose of this subsection is to establish standards that maintain green spaces and trees in the Village landscape by requiring the planting of trees in new development and incentivizing tree preservation with credits against those standards.

B. General Tree Standards

Development subject to the requirements of this subsection shall comply with the requirements of Table 5-405.B: General Tree Standards. All required trees shall be a minimum of 12 feet in height measured from final grade of the project site, with a five-foot spread (5'S) and have two and one half-inch caliper (2-1'2" CA) and 45 gallon (45G) or field growth (FG) in size at the time of planting, except that palms shall have a minimum of ten feet of clear trunk at time of planting.

TABLE 5-405.B: GENERAL TREE STANDARDS [1]

Types of Development	Minimum Required General Trees
Single-family dwelling development constructed on individual (single) lots	Provide one tree for each 3,000 square feet of development area. The preferred location for installation is on common property (around a clubhouse, lakes, dry detention area, or other similar areas)
Single-family dwelling development on a conventional zoning district lot with minimum lot sizes of 6,500 square feet or greater	Two trees for each lot
Other residential development (including recreational vehicle development)	Provide one tree for each 3,000 square feet of development area. The preferred location for installation is on common property (around a clubhouse, lakes, dry detention area, or other similar areas)
All other developments	Provide one tree for each 3,500 square feet of development area

NOTE
[1] Existing waterbodies within the development area will not be included in the calculation for general tree standards.

C. Offsets and Credits

1. *Credits*

The credits identified in Table 5-405.C.1: Offsets and Credits Against General Tree Standards, shall be provided against the general tree standards for preserving the following types of existing trees.

TABLE 5-405.C.1: OFFSETS AND CREDITS AGAINST GENERAL TREE STANDARDS

On site tree preservation activity	Minimum size	Credit (Number of required general trees that may be offset)
One indigenous native tree preserved in place	Trunk diameter of four inches measured at 4.5 feet above the ground (dbh)	Five
One Champion or heritage tree preserved in place	20-inch caliper dbh	Five
One native palm preserved in place	Eight foot clear trunk	Three
One sabal palm retained in a dedicated indigenous preserve area	Eight foot clear trunk	Three
One sabal palm relocated onsite	Eight foot clear trunk	Two

4. *Street Trees*

Development constructed with street trees on both sides of all streets, to the maximum extent possible, may count the street trees toward the general tree planting requirements of this section, subject to the following requirements.

A. A street tree plan shall be submitted at time of review that demonstrates compliance with sight triangles and line of sight at intersections and driveways.

B. On-center spacing for street trees shall be an average of 50 feet, with a maximum of 70 feet.

5-406. PERIMETER BUFFERS

A. Purpose

The purpose of perimeter landscape buffers is to provide screening and buffers between parcels on which there are incompatible land uses, and to provide screening and buffering along road rights-of-way.

B. Perimeter Buffer Standards

1. *Buffers Required*

A buffer area is required along the entire perimeter of a proposed development when it abuts a different use category. The existing use category of the development or, where vacant, the permitted uses allowed by the zoning district of abutting vacant land determines the type of buffer area required for the proposed development. Buffer areas shall not be located on any portion of an existing or dedicated street right-of-way or road easement except a buffer may be located within slope easements, as long as appropriate planting soil is provided on the slope.

2. *Use Categories*

In applying the standards of this section, uses are classified into the use categories identified in Table 5-406.B.2: Uses.

TABLE 5-406.B.2: USES

Use Category	Uses
SF-R	Single-family 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
IND	Industrial use
STP	Sewer treatment plant or water treatment plant
ROW	Public road right-of-way or roadway easement
REC	Public active recreational park
PRE	Public preserve lands for conservation and/or passive recreation

3. *Buffer Type*

Table 5-406.B.3: Buffer Types (Per 100 Linear Feet), establishes the required composition and dimension of the different buffer types required by this subsection.

TABLE 5-406.B.3: BUFFER TYPES (PER 100 LINEAR FEET) [1]

Standard	Buffer Types					
	A	B	C	D	E	F
Minimum Width in Feet	Five	15	20	20	30	50

TABLE 5-406.B.3: BUFFER TYPES (PER 100 LINEAR FEET) [1]						
Standard	Buffer Types					
	A	B	C	D	E	F
Minimum Number of Trees (per 100 linear feet)	Four	Five	10	Five [4]	10	15
Minimum Number of Shrubs (per 100 linear feet)	—	Hedge [3]	30	Hedge [3]	30	Hedge [3]
Wall Required [2]	—	—	Eight feet in height, solid fence	—	Eight feet in height, solid fence	—

NOTES

[1] All landscape buffer designs should complement adjacent project buffers to help in establishing a continuous landscape theme within the Village.

[2] A solid masonry or concrete wall, berm, or wall and berm combination shall be at least eight feet in height. All trees and shrubs required in the buffer shall be placed on the residential side of the wall (if applicable). The height of the wall shall be measured from the average elevation of the road or roads abutting the property, as measured along the centerline of the roads, at the points of intersection of the roads with the side lot lines (as extended) and the midpoint of the lot frontage. Walls shall be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with SFWMD requirements.

[3] Hedges shall be planted in double staggered rows and be maintained to form a 36-inch high (F type buffers shall be 48 inches at installation and be maintained at 60 inches high) continuous visual screen within one year after time of planting. In situations where the elevation of the ROW is higher than the elevation of the adjacent property, the effective plant screen shall have an elevation of 36 inches as measured from the highest elevation within the buffer area resulting from the combination of the berm and/or plants. Clustering of shrubs that would not create a continuous visual screen, but would add interest to the landscape design, is allowed, subject to review by the Director.

[4] Trees within the ROW buffer shall be appropriately sized in mature form so that conflicts with overhead utilities, lighting, and signs are avoided. The clustering of trees and use of palms within the ROW buffer will add design flexibility and reduce conflicts.

[5] Deviations are allowed for a reduced or eliminated roadway buffer where a building is designed within 15 feet of the right-of-way in an urban context, subject to the same review and approval process identified for alternative landscape betterment plans.

[6] Deviations are allowed for a reduced or eliminated roadway buffer where a lake is along a right-of-way, to accomplish strategic views with clustering or placement of plantings around the lake. This is subject to the same review and approval process identified for landscape betterment plans.

4. *Buffer Type Required*

Table 5-406.B.4: Buffer Type Required, identifies the buffer type required when a proposed use will abut an existing use or, in the absence of an existing use, vacant land in a zoning district.

TABLE 5-406.B.4: BUFFER TYPE REQUIRED										
Proposed Use	Abutting Permitted or Existing Use									
	SF-R	MF-R	COM	ROW[6]	IND	STP	AG	WOR	REC	PRE
SF-R	A	A	A	D[4]	—	—	—	—	B	F[5]
MF-R	B	A	B	D[3]	A	A	—	—	B	F[5]
COM	C/F[1]	C/F[1]	A[2]	D[3]	A	—	A	A	A	F[5]
WOR	B	B	A	D[3]	A	A	C/F	A	A	F[5]
IND	E	E	B	D	A	A	A	B	—	F[5]
STP	E	E	E	C	C/F	A	C/F	C	—	F[5]

TABLE 5-406.B.4: BUFFER TYPE REQUIRED

Proposed Use	Abutting Permitted or Existing Use									
	SF-R	MF-R	COM	ROW[6]	IND	STP	AG	WOR	REC	PRE
REC	C/F	A	A	D	—	—	—	A	F	F[5]
PRE	F	F	—	—	—	—	—	—	F	—

NOTES

[1] Commercial projects that are part of mixed-use developments are not required to provide buffers between uses within the project. They are required to provide buffers adjacent to development and adjacent lands on the perimeter of the project.

[2] Type "A" buffers required between commercial uses shall be designed to allow for pedestrian, bicycle, and automobile connections through adequate spacing between required trees. Palms may be used where COM abuts COM on a 1:1 basis, if they are clustered as defined.

[4] All Residential Planned Developments adjacent to I-75 are required to plant a buffer 40 feet in width that shall contain 15 trees, 50 shrubs, and 60 ground cover plants per 100 linear feet. If a berm is constructed, the 40-foot setback shall include a minimum of eight feet from the toe of the berm to the right-of-way to allow for both state and private property maintenance of the edge of the right-of-way and for maintenance of the berm.

[5] The required buffer shall be 100 percent native.

[6] Parking areas located along public rights-of-way shall be adequately screened from pedestrian and vehicular travel along the fronting road with a continuous wall, hedge, or combination, with a minimum height of three feet.

5-407. BUILDING PERIMETER PLANTING STANDARDS

A. Purpose

Standards for plantings around commercial building perimeters help to provide integration of landscaping with the built environment, complement the building's architecture, and contribute to the Village's character and appearance.

B. Applicability

All new development in commercial zoning districts and commercial components of planned development districts and DRIs shall provide building perimeter plantings equal to ten percent of the proposed building gross ground level floor area, in accordance with this subsection.

C. Building Perimeter Planting Standards

The planting areas for building perimeter plantings shall be located abutting three sides of a building, with emphasis on the sides most visible to the public (not including the loading area). The perimeter planting area shall consist of landscape areas, raised planters, or planter boxes that are a minimum of ten feet wide. These planting areas shall include shrubs and ground cover plants with a minimum of 75 percent coverage of the planting area at the time of planting. Trees and shrubs shall comply with the size standards of this subsection. Groundcover plants shall be a minimum one-gallon container size at installation and spaced not less than 24 inches on center. General trees may be planted within the building perimeter planting area; especially effective are clusters (three or more) of palms. Turfgrass is considered acceptable for compliance with minimum Building Perimeter Plantings. Water management areas may not be a part of the planting area. Pedestrian accessways may cross and loading areas may be placed in the perimeter planting area, but may not be used to meet minimum planting area or open space requirements.

D. Shopping Centers

An enlarged perimeter planting area is required in the front of shopping centers and freestanding retail development uses that constitute a large development (a project of ten acres or more in land area or two acres or more in impervious area). An area that is at least five percent of the size of the parking area shall be developed as green space within the front of shopping centers and other retail establishments and be an enlargement to the front building perimeter planting area. It is not a requirement that this area directly abut the front of the building. The enlarged perimeter planting areas shall consist of landscape areas, raised planters, or planter boxes that are a minimum of ten feet wide. These enlarged perimeter planting areas shall include trees, shrubs, and ground cover plants with a minimum of four trees per 100 linear feet of building and 75 percent coverage of the

landscape area at the time of planting. The trees placed around the building shall be applied to the general tree requirement. Trees and palms may be installed in clusters and do not need to be located within a 100 linear foot segment. Clusters of trees and palms at the corners of buildings or framing entrances are especially effective. Trees and shrubs shall comply with the size requirements of this subsection. Groundcover plants shall be a minimum one-gallon container size. Taller palms (16-to 20-foot clear trunk) shall be used when building height is greater than 35 feet. Turfgrass is discouraged and is limited to ten percent of the landscape area. Water management areas shall not be a part of this enlarged planting area. Decorative paving areas incorporating courtyards, walkways, water features, plazas, covered seating and outdoor eating spaces may be used to meet up to 20 percent of the required building foundation planting area.

E. Wall and Trellis

In addition to required building perimeter plantings, buildings may incorporate live plant material growing immediately on the building, shrubs or vines trained to grow upright on wire or trellises next to blank walls, or window boxes, planter boxes, or hanging flowers.

5-408. OPEN SPACE AND STORMWATER MANAGEMENT AREAS

A. Purpose

Minimum standards for open space and the design of stormwater management areas enhance the appearance of development.

B. Applicability

All new development shall comply with the open space and the stormwater management design standards of this subsection. Sufficient open space shall be provided for the use of the occupants of the development. Every effort must be made to locate required open space to protect archaeological sites.

C. Open Space Standards

Development subject to the requirements of this subsection shall comply with the open space standards in Table 5-408.C: Open Space Standards.

TABLE 5-408.C: OPEN SPACE STANDARDS

Type of Development	Open Space as Percentage of Development Area [1]	
	Small Project [2]	Large Project [2]
Residential		
Single-family or mobile home dwelling on a single lot where minimum lot size is 6,500 sq. ft.	None	None
Two-family dwelling on a single lot where minimum lot size is 7,500 sq. ft.	None	None
Two-family attached each on an individual lot where minimum lot size is 3,750 sq. ft. per unit	None	None
All other Residential, including ALF, independent living, continuing care, and multifamily	35	40
Schools	30	30
Other: All other uses including, but not limited to commercial, industrial, places of worship, recreational vehicle parks, community facilities, etc.	30	40
Planned Developments	30	40

NOTES:
[1] Multiple use sites with conventional zoning shall comply with each corresponding use percentage in this table.
[2] A Large project is ten acres or more in land area or two acres or more in impervious area.

D. Open Space Calculation

The following features on a site shall count toward the open space standards of this subsection, if the minimum dimensions are met:

1. Native and indigenous preservation areas, where such vegetation is onsite. No

landscape area at the time of planting. The trees placed around the building shall be applied to the general tree requirement. Trees and palms may be installed in clusters and do not need to be located within a 100 linear foot segment. Clusters of trees and palms at the corners of buildings or framing entrances are especially effective. Trees and shrubs shall comply with the size requirements of this subsection. Groundcover plants shall be a minimum one-gallon container size. Taller palms (16-to 20-foot clear trunk) shall be used when building height is greater than 35 feet. Turfgrass is discouraged and is limited to ten percent of the landscape area. Water management areas shall not be a part of this enlarged planting area. Decorative paving areas incorporating courtyards, walkways, water features, plazas, covered seating and outdoor eating spaces may be used to meet up to 20 percent of the required building foundation planting area.

E. Wall and Trellis

In addition to required building perimeter plantings, buildings may incorporate live plant material growing immediately on the building, shrubs or vines trained to grow upright on wire or trellises next to blank walls, or window boxes, planter boxes, or hanging flowers.

5-408. OPEN SPACE AND STORMWATER MANAGEMENT AREAS

A. Purpose

Minimum standards for open space and the design of stormwater management areas enhance the appearance of development.

B. Applicability

All new development shall comply with the open space and the stormwater management design standards of this subsection. Sufficient open space shall be provided for the use of the occupants of the development. Every effort must be made to locate required open space to protect archaeological sites.

C. Open Space Standards

Development subject to the requirements of this subsection shall comply with the open space standards in Table 5-408.C: Open Space Standards.

TABLE 5-408.C: OPEN SPACE STANDARDS

Type of Development	Open Space as Percentage of Development Area [1]	
	Small Project [2]	Large Project [2]
Residential		
Single-family or mobile home dwelling on a single lot where minimum lot size is 6,500 sq. ft.	None	None
Two-family dwelling on a single lot where minimum lot size is 7,500 sq. ft.	None	None
Two-family attached each on an individual lot where minimum lot size is 3,750 sq. ft. per unit	None	None
All other Residential, including ALF, independent living, continuing care, and multifamily	35	40
Schools	30	30
Other: All other uses including, but not limited to commercial, industrial, places of worship, recreational vehicle parks, community facilities, etc.	30	40
Planned Developments	30	40

NOTES:
[1] Multiple use sites with conventional zoning shall comply with each corresponding use percentage in this table.
[2] A Large project is ten acres or more in land area or two acres or more in impervious area.

D. Open Space Calculation

The following features on a site shall count toward the open space standards of this subsection, if the minimum dimensions are met:

1. Native and indigenous preservation areas, where such vegetation is onsite.

3. If contained within a lake, the PLS shall function as a typical freshwater marsh in ponds with slopes from 6H:1V to not more than 4H:1V.

C. *Shelf Configuration*

1. The PLS shall be designed to include a minimum 20-foot-wide littoral shelf extending waterward of the control elevation, at a depth of no greater than two feet below the control elevation.
2. A detailed cross section of the PLS shall be depicted on the approved development order or limited development order, as applicable.

D. *Plant Selection*

1. Herbaceous plants shall be selected based on the expected water level fluctuations and maximum water depths in which the selected plants will survive. The PLS areas shall be planted with at least four different native herbaceous plant species.
2. The required number of herbaceous plants is calculated based on placement spaced two feet on center for the total area encompassed by the PLS. The PLS shall be planted with a minimum two-inch liner container of herbaceous plants.
3. The total number of plants for the PLS shall be calculated by taking the total linear feet of shoreline multiplied by 25 percent, then multiplied by the 20-foot-wide shelf and divided by four to obtain the two-feet on-center spacing.
4. Native wetland trees may be substituted for up to 25 percent of the total number of herbaceous plants required. One tree (minimum ten-foot height with a two inch caliper, with a four-foot spread) may be substituted for 100 herbaceous plants. Trees shall meet the minimum standards set forth in this section.
5. The design elevation of the PLS shall be determined based upon the ability of the PLS to function as a marsh community and the ability of selected plants to tolerate the expected range of water level fluctuations.

6. *Bulkheads, Riprap Revetments, or Other Similar Hardened Shoreline Structures*

Bulkheads, riprap revetments, or other similar hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline. A compensatory littoral zone equal to the linear footage of the shoreline structure shall be provided within the same lake and meet the following standards:

A. A five-foot wide littoral shelf planted with herbaceous wetland plants that provides 50 percent coverage at time of planting and not less than liner size material planted not more than 18 inches on center or one-gallon material above the mean high water line not more than 36 inches on center. To calculate the littorals for this shelf design, the number of linear feet of shoreline structure shall be indicated, multiplied by five feet for the littoral shelf width, multiplied by 50 percent for the plant coverage at time of planting;

B. An 8:1 slope littoral shelf with herbaceous wetland plants that provide 50 percent coverage at time of planting; or

C. An equivalent littoral shelf design approved by the Director.

7. *Restoration of Existing Approved Bank Slopes and Littoral Designs*

A. Restoration of existing bank slopes that have eroded over time and no longer meet the minimum slope design standards applicable at the time the lakes were excavated will be strongly encouraged to use the slope protection measures identified above. Restoration activities will require review and approval through the limited development order process. As part of this review, the previously approved littoral plants and deep lake management plan requirements shall be included on the development or limited development order, as applicable. If the lake shoreline to be restored is either owned or controlled by a property owners association, CDD, or similar maintenance entity, the application for approval shall be filed by the association and encompass the entire lake shoreline in order to avoid slope restoration in a piecemeal fashion by individual lot owners.

B. The use of an appropriate geosynthetic turf reinforcement mat (TRM), a cellular confinement system, or similar shoreline stabilization technique that does not include hardened structures, such as those identified in subsection 6 above, is allowed. Use of hardened structures for

slope restoration is discouraged, but may be approved by the Director, based on the following standards:

1. The application for the hardened structure demonstrates it is the most appropriate and minimum stabilization technique necessary, as designed and sealed by a licensed professional engineer.
2. The application also demonstrates compliance with subsection 5 above for compensatory littorals, as well as previously approved littoral and deep lake management plan requirements.

8. *Lake Maintenance Plan*

A lake maintenance plan shall be submitted for the long-term maintenance of a lake and lake shoreline areas. The plan shall be included as part of the application for development order. Once approved, the lake maintenance plan shall be recorded in the public records of Lee County as part of the property owner's or homeowners' association documents. The lake maintenance plan shall include the following elements:

A. Identification of the entity responsibility for the maintenance of the lake area, including the lake shoreline.
B. Identification of the methods to remove and control exotic and nuisance plants, in perpetuity.
C. Requirements that ensure littoral vegetation and palms remain in a healthy and vigorous state, in perpetuity. (The use of trimming, mowing, and herbicides to remove littoral plants are prohibited.)
D. Demonstration about how surface water runoff quantities and flow velocities will be controlled to prevent bank erosion, including but not limited to routing roof drains away from lake shorelines.
E. Requirements that educational materials be provided to residents describing the purpose and function of the bank slope and littoral areas. The materials shall also explain the individual property owner's responsibilities with respect to compliance with bank slope and littoral area management plans. Educational materials may take the form of signs and brochures.

9. *Excess Spoil Removal*

Removal of spoil shall only be in accordance with Sec. 7-206.G.2.A, Approval of an Excess Spoil Removal Plan.

5-409. LANDSCAPING OF PARKING AREAS, AND VEHICULAR ACCESS

A. Purpose

The purpose of this subsection is to establish standards for the landscaping of parking areas to provide visual relief and cooling effects, and to channelize and define logical areas for pedestrian and vehicular circulation.

B. Applicability

The standards of this subsection apply to:

1. New parking areas;
2. To the maximum extent practicable, existing nonconforming landscaping in parking areas that are enlarged or substantially modified (except for restriping of lots/drives); and
3. Landscaping in parking areas where 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.

C. Standards

1. Development subject to the requirements of this section shall comply with the standards in Table 5-409.C: Landscaping Standards for Parking Areas. (See also Figure 5-409.C: Example of Parking Area Landscaping.)

TABLE 5-409.C: LANDSCAPING STANDARDS FOR PARKING AREAS	
Landscape Elements	**Standards**
Minimum Landscape Area (Percent) (on the parking area perimeter or within internal islands)	Shall equal or exceed a minimum of 10 percent of the total paved surface area. Fountains, seating areas, and similar features within a vehicular use area are allowed, and the space occupied by such feature(s) is allowed to off-set the required landscape area.
Minimum Landscape Area Dimension	Ten feet by ten feet for projects less than ten acres 18 feet by 18 feet for projects ten acres or larger
Minimum Number of Trees and Palms	One canopy tree or a cluster of three single trunk palms shall be planted or retained for every 250 square feet of required internal planting area. One tree or palm per planting island or planting area. Canopy requirements shall be met with existing indigenous native trees whenever such trees are located within the vehicular use area (parking area). Trees for parking lots shall not interfere with the visibility and movement of vehicles or pedestrians, or cause pavement or other hard surfaces to heave. Material selection shall be designed to survive the effects of building or large paved areas in terms of heat, shade, wind, etc.
Maximum Number of Uninterrupted Parking Spaces between Landscape Areas	Average of 10 spaces, not to exceed 13 spaces where ten-foot wide landscape islands are used, unless optional divider medians are provided. 20 parking spaces where 18-foot-wide landscape islands are used, unless optional divider medians are provided.
Optional Divider Medians	Minimum width of a divider median shall be 18 feet, with one tree every 40 linear feet planted singly or in clusters. Maximum tree spacing shall be 60 feet.
Terminal Islands	A minimum ten-foot-wide terminal island is required at the end of all parking rows. Curbing is required.
Landscape Area Coverage	Internal landscape areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with ground cover, ornamental grasses, shrubs or other approved landscaping materials. Turf grass is not acceptable for internal landscape areas. This shall be noted on the landscape plans. A maximum of ten percent can be sod. Sand, gravel, rock, shell, or pavement are not appropriate landscape materials.

Figure 5-409.C: Example of Parking Area Landscaping



2. Parking areas located along public rights-of-way shall be adequately screened from pedestrian and vehicular travel along the fronting road with a continuous wall, hedge, or combination, with a minimum height of three feet.
3. Vertical trellis or other landscaping shall be incorporated in parking garage designs.

5-410. SCREENING OF TRASH RECEPTACLES, STORAGE, SERVICE AREAS AND GARDEN CANTERS

A. Purpose

The purpose of this subsection is to establish standards for the screening of trash receptacles and storage and service areas, to obscure their view from the public realm.

B. Standards

1. *Shielding*
   A. All loading areas and docks (including delivery truck parking), outdoor storage, trash collection, heating/air conditioning and other similar mechanical equipment, solid waste disposal facilities, trash compaction, recycling, and other similar service function areas shall be adequately shielded by a landscaped screen or solid fencing along at least three sides. Use of chain link fencing to meet this requirement is prohibited.
   B. These areas shall be fully shielded from adjacent properties and road rights-of-way when viewed from ground level. The shielding shall extend vertically a distance equal to or greater than the items, delivery trucks, or facilities being shielded. Shielding material and design shall be consistent with design treatment of the primary façades of the building or development and the landscape plan.
   C. Garden centers located in shopping centers or associated building materials sales establishments or department stores etc., shall shield all materials (except plants) from adjacent properties and road rights-of-way from view at ground level.
   D. Rooftop mechanical equipment shall be shielded from view at ground level by a parapet or similar architectural features. See Sec. 5-707.C, Rooftop Mechanical Equipment and Other Utilities.

5-413. IRRIGATION STANDARDS

A. Purpose

The purpose of this subsection is to improve the survivability of landscaping through efficient irrigation systems.

B. Applicability

All development with cultivated landscape areas shall include an automatic irrigation system that complies with the standards of this subsection. At time of development permitting, non-conforming irrigation shall be brought into compliance with this subsection to the greatest extent practicable. Where existing irrigation systems are modified requiring the acquisition of a permit, automatic activation systems and overriding moisture detection devices shall be installed.

C. Design Standards

1. All required irrigation systems shall be designed to eliminate the application of water to impervious areas, including roads, drives, and other vehicle areas.
2. Required irrigation shall also be designed to avoid impacts on existing native vegetation.
3. Systems shall include a controller set to conserve water. Devices such as rain switches, soil moisture sensors, and moisture detection devices shall be installed in all automatic sprinkler systems to override the sprinkler activation mechanism during periods of increased rainfall.
4. Water shall be conserved by allowing differential operation schedules based on hydrozone.
5. Soil, slope, and other site characteristics shall be considered in order to minimize water waste, including overspray or overflow to impervious surfaces.
6. Low trajectory spray heads and/or low volume water distributing or application devices shall be used.
7. Reuse water shall be used where approved systems are available.
8. The use of drought-tolerant site-specific and shade producing plants is encouraged to diminish irrigation demands.
9. All required underground sleeves shall be shown on the development order site drainage plan.
10. All irrigation systems will be designed to separate low and high watering demand areas into separate zones.

SECTION 5-5. FENCE AND WALL STANDARDS

5-501. PURPOSE AND INTENT

The purpose and intent of this section is to establish standards for the location, height, and appearance of fences and walls in the Village to:

A. Maintain Visual Harmony

Maintain visual harmony within neighborhoods and throughout the Village;

B. Protect Adjacent Lands from Unsightly Fences and Walls

Protect adjacent lands from the indiscriminate placement and unsightliness of fences and walls; and

C. Ensure Safety, Security, and Privacy of Lands

Ensure the safety, security, and privacy of land.

5-502. APPLICABILITY

The standards in this section shall apply to all construction, reconstruction, or replacement of all fences, walls, and entrance gates at least 25 inches in height in the Village.

5-503. GENERAL LOCATION STANDARDS

A. Fences or walls shall be located outside of the public right-of-way.

B. Fences or walls are allowed on the property line between two or more lots held in private ownership.

3. Painted wood, pressure treated wood, or rot-resistant wood;
4. Decorative aluminum;
5. Iron or steel;
6. Chain link painted black or bronze;
7. Composite materials designed to appear as wood, metal, or masonry; or
8. Any material demonstrated by the applicant to have a similar or equal appearance and durability as a material listed in this subsection.

B. Prohibited Materials

The following fence types or materials are prohibited:

1. Tires, mufflers, hubcaps, and similar materials.
2. Fabric, plastic, metal, or vinyl sheets, nets, or slats as part of a fence or attached to a fence for the purpose of effecting privacy or screening.
3. Barbed wire, spire tips, sharp objects, hog wire, game fence, horse wire, or other similar materials, or electrically charged fences except:
   A. Barbed wire or electrically charged fences may be used to control livestock on bona fide agricultural uses in the AG district.
   B. The use of hog wire as permitted on land owned, for purposes of conservation, by the Village, Lee County, the state, or other governmental entities.

C. Perimeter Fences and Walls Abutting Street Right of Way

Fences or walls shall be constructed to present the finished side of the fence or wall to the adjoining lot or any abutting right-of-way. The Director may waive this requirement where an existing fence, wall, or continuous landscape hedge is already present on the adjoining parcel.

5-506. APPEARANCE

Fences and walls on each property shall be of uniform materials, design, and color. Additions to existing fences or walls shall maintain uniformity of materials, design, and color with the existing fence or wall.

5-507. CONSTRUCTION

Fences or walls shall comply with the Florida Building Code, shall receive the proper permits prior to construction, and shall be constructed in accordance with the proposed finished grade elevation.

5-508. GATES

A. All gates shall have hardware to secure the gate in a closed position.

B. All unattended gates and gates opening onto a public sidewalk area shall be self-closing, self-latching, and locked when not in use.

5-509. MAINTENANCE

Fences or walls and associated landscaping shall be maintained in good repair and in a safe and attractive condition, in perpetuity. Maintenance of fences or walls shall include, but not be limited to, the replacement of missing, decayed, or broken structural or decorative elements and the repair of deteriorated or damaged fence and wall materials, including but not limited to, weathered surfaces visible from the public right-of-way, sagging sections, and posts. Fences and walls shall be maintained as to appear vertical to the unassisted eye.

5-510. RESIDENTIAL PROJECT WALLS

For purposes of this subsection, a residential project fence is a wall or fence erected around a residential subdivision (but not individual lots) or a development of ten or more dwelling units. A residential project fence:

A. May be up to eight feet in height around the perimeter of the project if the Director determines the fence does not interfere with vehicle visibility requirements at traffic access points.

B. May include architectural features such as columns, cupolas, fountains, or parapets at a height not to exceed twice the fence or wall height, provided they are compatible with the project form and design and with adjacent development.

C. Shall be landscaped on the exterior side (between the wall or fence and the adjacent property or street right-of-way) with a minimum of five trees per 100 lineal feet and shrub hedges, within a minimum plantable area that is at least seven and one-half feet wide located on the exterior side of the fence or wall.

1. Hedges shall be planted and maintained to form a 36-inch-high continuous visual screen within one year after time of planting.
2. Trees adjacent to a right-of-way shall be appropriately sized in mature form so that conflicts with overhead utilities, lighting, and signs are avoided. (The clustering of trees and use of palms adjacent to the right-of-way will add design flexibility and reduce conflicts.)
3. Where decorative aluminum railing type fencing is applied, 50 percent of the required landscaping can be placed on the inside of the fence for aesthetic purposes.

D. Shall be designed to ensure that historic water flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with SFWMD requirements.

E. Shall not be permitted until legally sufficient documents are recorded in the public records of Lee County providing for the maintenance of the project fence and landscaping.

SECTION 5-6. EXTERIOR LIGHTING STANDARDS

5-601. PURPOSE AND INTENT

The purpose and intent of this section is to regulate exterior lighting to:

A. Ensure all exterior lighting is designed and installed to maintain adequate lighting levels on site;

B. Assure that excessive light spillage and glare are not directed at adjacent lands, neighboring areas, and motorists;

C. Curtail light pollution, reduce skyglow, and preserve the nighttime environment for the enjoyment of residents and visitors;

D. Conserve energy and resources to the greatest extent possible; and

E. Provide security for persons and land.

5-602. APPLICABILITY

A. General

Unless exempted by subsection B below, the standards of this section apply to:

1. All new development;
2. Any individual expansion or alteration of a building if the expansion increases the build's floor area by 50 percent or more, or the alteration involves 50 percent or more of the building's floor area (including interior alterations); and
3. The replacement of any existing outdoor lighting fixture.

B. Exemptions

The following types of lighting are exempted from the standards of this section:

1. Lighting exempt under state or federal law;
2. FAA-mandated lighting associated with a utility tower;
3. Lighting for public monuments and statuary;
4. Lighting solely for signage (see Chapter 6: Signage);
5. Temporary lighting for circuses, fairs, carnivals, and theatrical and other performance areas, provided such lighting is discontinued upon completion of the performance;
6. Temporary lighting of construction sites, provided such lighting is discontinued upon completion of the construction activity;

7. Temporary lighting for emergency situations, provided such lighting is discontinued upon abatement of the emergency situation;
8. Security lighting controlled and activated by motion sensor devices for a duration of 15 minutes or less;
9. Underwater lighting in swimming pools, fountains, and other water features;
10. Outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene and gasoline;
11. Holiday or festive lighting, provided such lighting does not create unsafe glare on road rights-of-way; and
12. Outdoor lighting fixtures in use as of January 27, 2021 that do not comply with provisions of this section, so long as they are not replaced.

5-603. PHOTOMETRIC PLAN REQUIRED

Development applications subject to this section shall include a photometric plan that illustrates compliance with the standards of this section, including the angle of cut-off and other characteristics of the light emissions including references to the standards of this section. The photometric plan shall designate the number, location, height, and type of illuminating devices, fixtures, lamps, supports, reflectors and other devices, and include manufacturer's catalog cuts and drawings with pictures, sections, and proposed wattages for each fixture, as appropriate.

5-604. GENERAL STANDARDS

A. Hours of Illumination

1. All uses (except for those listed in subsection 2 below) that are adjacent to existing residential development shall extinguish all exterior lighting—except lighting necessary for security or emergency purposes—by 10:00 P.M. or within one hour of closing, whichever occurs first. For the purposes of this subsection, lighting "necessary for security or emergency purposes" shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, illumination of exterior walkways, or illumination of outdoor storage areas. Lighting activated by motion sensor devices is strongly encouraged.
2. The uses that are not subject to these restrictions are:
   A. Residential dwelling uses (not including mixed-use sites that incorporate dwelling uses);
   B. Recreational facilities, outdoor; and
   C. Agriculture uses, including accessory agricultural uses.

B. Illumination Levels

1. Illumination requirements for specific uses are established in Table 5-604.B: Illumination Level Requirements. Except for the specific standards included in Table 5-604.B, the standards contained in the latest edition of the Illuminating Engineering Society of North America (IESNA) Handbook shall apply.

TABLE 5-604.B: ILLUMINATION LEVEL REQUIREMENTS [1, 2, 3]

Use/Task	Initial Actual Foot-candles (minimum)	Initial Uniformity
Parking, multi-family		
Low vehicular/pedestrian activity	0.3	4:1
Medium vehicular/pedestrian activity	0.8	4:1
Parking, industrial/commercial/ institutional, municipal		
High activity, e.g., shopping centers, fast food facilities, major athletic/civic, cultural events	1.2	4:1
Medium activity, e.g., office parks, hospitals, commuter lots, cultural/civic/recreational events	0.8	4:1

TABLE 5-604.B: ILLUMINATION LEVEL REQUIREMENTS [1, 2, 3]		
Use/Task	**Initial Actual Foot-candles (minimum)**	**Initial Uniformity**
Low activity, e.g., neighborhood shopping, industrial employee parking, school, church parking	0.3	4:1
Other		
Non-residential walkways and bikeways	0.3	5:1
Canopy, drive-thru, fuel pumps, overhang	6.0	5:1

NOTES:

[1] These specified illumination level criteria are the initial actual levels to be measured at the time of final inspection for a certificate of compliance. The outdoor lighting shall be maintained so the average illumination levels do not increase above the specified values. The minimum illumination levels may decrease over time consistent with the Light Loss Factor associated with the installed fixtures.

[2] Average illumination shall not exceed the product of the initial actual foot-candles and the specific ratio. For example, for Low vehicular/pedestrian activity multi-family parking facilities, the maximum average illumination is 1.2 (0.3 x 4).

[3] Where all-night safety or security lighting is to be provided, the lighting intensity levels shall provide the lowest possible illumination to discourage crime and undesirable activity and to effectively allow surveillance but may not exceed 50 percent of the levels normally permitted for the use as specified in this section.

2. Except for street lighting, all exterior lighting and indoor lighting visible from outside shall be designed and located so that on property in the RSF district, a residential development in a planned development, or other residential development, the illumination does not exceed 0.0 foot-candles measured 10 feet onto the residential property from the property line. The maximum illumination shall not exceed 0.5 foot-candles at ground level at a lot line if the adjoining property is in any other zoning district, or includes any other type of development.

C. Maximum Mounting Height

Except for street lighting, the height of exterior light fixtures, whether mounted on poles, walls, or by other means, shall comply with the standards in Table 5-604.C: Maximum Mounting Height for Exterior Lighting.

TABLE 5-604.C: MAXIMUM MOUNTING HEIGHT FOR EXTERIOR LIGHTING	
Zoning District	**Maximum Mounting Height (feet)**
Agricultural, Residential, and Special Purpose Districts	15
Commercial Districts	25
Within 100 feet of a Residential District or Residential Development	15

D. Full Cut-Off and Fully Shielded Fixtures Required

All exterior luminaries, including security lighting, shall be full cut-off fixtures that are directed downward and fully shielded, consistent with Figure 5-604.D: Full Cut-Off Fixtures. In no case shall lighting be directed above a horizontal plane through the lighting fixture.

Figure 5-605.C.2: Examples of Pedestrian Bollard Lamps



D. Wall Pack Lights

Wall packs on the exterior of the building shall comply with the following standards:

1. Be fully shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward;
2. Not exceed 1,600 lumens for any single fixture; and
3. The top of the fixture not exceed the height of the parapet, the roof, or 25 feet, whichever is lowest.

E. Canopy

1. Areas under a canopy shall be designed so as not to create glare off-site. Acceptable methods to address this include one or all of the following:
   A. A recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy that provides a full cutoff or fully-shielded light distribution;
   B. A surface mounted fixture incorporating a flat glass that provides a full cutoff or fully-shielded light distribution; or
   C. Indirect lighting as long as all direct illumination is focused exclusively on the underside of the canopy and no bulb is visible.
2. The sides of a canopy shall not be illuminated.

F. Decorative and Landscape Lighting

Outdoor light fixtures used for decorative effects shall comply with the following standards:

1. Decorative lighting intended to enhance the appearance of a building and/or landscaping shall be located, aimed, and shielded so that light is directed only on those features.
2. Decorative lighting fixtures shall not exceed 1,600 lumens for any single fixture.

5-606. STREET LIGHTS

A. All street lights shall be located inside full cut-off fixtures with recessed bulbs and flat lenses mounted on non-corrosive poles served by underground wiring.

B. The light structure and light color of street lights in an individual subdivision or development shall be consistent throughout the subdivision or development and comply with the standards in Sec. 5-604.E, Standards for LED Luminaries.

C. The maximum height of street lights shall be 15 feet in Residential districts and 25 feet elsewhere.

5-702. APPLICABILITY

A. General

Unless otherwise expressly stated to the contrary in this section, the following shall comply with the standards of this section:

1. All exterior façades of buildings shall be treated as primary façades and employ the architectural, site, and landscaping design elements outlined herein, including colors and materials, to provide a unified architectural theme.
2. All new, redevelopment, renovation, or change in use of commercial, light industrial, multi-family, institutional, religious, public, and mixed-use development or projects.

   A. *Renovation and Redevelopment*

   In the case of additions or renovations to, or redevelopment of, an existing building, where the cumulative increase in total floor building area exceeds 30 percent of the square footage of the existing building being enlarged or renovated, the provisions of this section shall apply. Where there are inherent problems retrofitting existing buildings, the Director may waive some or all requirements if other equivalent enhancements are provided.

   B. *Change of Use*

   Where there are inherent problems retrofitting existing buildings when there is a change in use, the Director may waive some or all requirements if other equivalent enhancements are provided.
3. Provisions apply at time of development order, limited development order, building permit, or zoning action, as applicable.
4. Compliance with the standards set forth in this section shall be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required. This will not prevent simultaneous applications for a development order and building permit on the same parcel. However, the development order approval shall precede the building permit approval.

B. Review

Compliance with the standards in this section shall be demonstrated on the pattern book, drawings, or site development plans submitted in conjunction with an application.

5-703. ARCHITECTURAL STYLES AND CHARACTERISTICS

A. Primary Architectural Styles

Mediterranean Revival and Florida Vernacular styles are designated as the Village's primary architectural styles. The application of these styles is dependent on the context of the intended development.

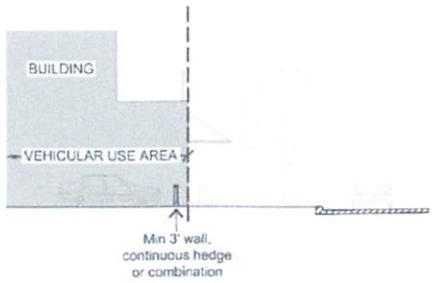
1. *Mediterranean Revival*

   The Mediterranean Revival architectural style includes these sub-styles within the Village as further described in Sec. 5-703.A.1.E: Mission Revival, Italian Renaissance Revival, Italian Countryside, Spanish Revival, and Spanish Colonial.

   A. The Mediterranean Revival style is articulated with varied massing and architectural features. Towers, balconies, loggias, porticos, chimneys, trellises, and exterior staircases are assembled to form picturesque buildings. The result is buildings that are rich in shade and shadow, with multiple building volumes and setbacks, and varied building heights.

   B. Building composition is typically asymmetrical. Base, middle, and top are defined by moldings, changes in window pattern and size, and cornice lines. Arcades and loggias are also commonly used to reinforce the base, middle, and/or top of the building.

   C. The Mediterranean Revival building is typified as asymmetrical and eclectic. Columns, posts, wooden and masonry balustrades, and brackets are contributing elements of the style. It is common to have multiple building volumes and varied interior and exterior spaces. Building massing tends to be irregular with a variety of shapes and heights; however, the appearance of solidary and permanence is critical.

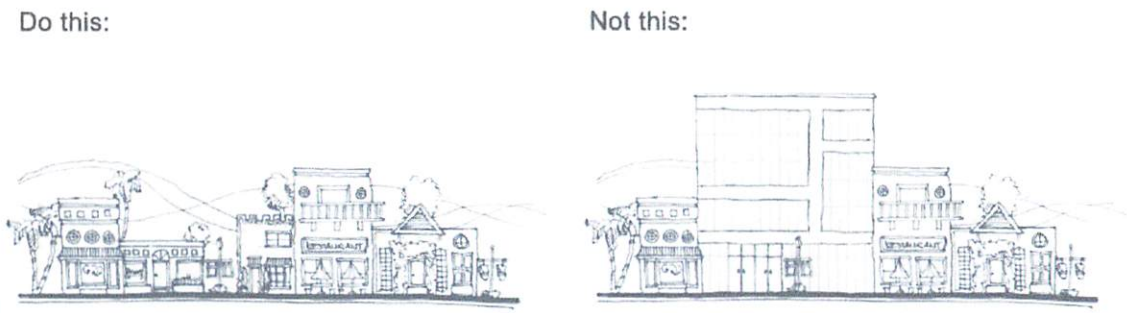
TABLE 5-705.C.1: PLACEMAKING STANDARDS	
Placemaking Amenity	**Basic requirement for integrated horizontal or vertical mixed-use development sites**
	the public shall be provided through an access easement or other equivalent means. (Non-residential uses meant for use by residents of the project and only accessible to the public by rent, lease, or membership (uses such as meeting rooms, banquet halls, fitness centers, or golf courses) do not qualify as gathering space.)
Multimodal and integrated Mobility	Development, to the maximum extent practicable, shall be served by an integrated system of sidewalks, roads, accessways, and other facilities designed to provide for multiple travel modes (vehicular, transit, bicycle, and pedestrian), as appropriate to the development's size, character, relationship to surrounding development and development patterns, and existing and planned community transportation systems.
Connectivity	The internal road circulation system shall be well connected and integrated, with an appropriate classification of roads, sidewalk on both sides of the road, and street trees. Where site conditions are appropriate, a block layout is encouraged. Cross-access between the development and those on adjoining parcels shall be established, where appropriate. Roads shall be designed to integrate with and connect to existing roads external to the site, and where appropriate, provide for future extension of the development's road network to provide the maximum number of interconnections and points of ingress and egress.
Roads	Roads shall not end in dead ends, cul-de-sacs, hammerheads, or other forms that do not connect with other roads, except in instances where connections are not reasonably feasible. Where appropriate, alleys shall be designed to absorb parking and service loads. To the maximum extent practicable, the outer faces of blocks shall be pedestrian in nature with sidewalks a minimum of six feet wide on both sides of streets, street trees, and pedestrian level lighting. Traffic calming features shall be used, where appropriate, in the design of streets and driveways. Features may include roundabouts or rotaries, rumble strips, chicanes, speed tables, raised crosswalks, etc.
Parking	 A minimum of 50 percent of the off-street parking shall be placed to the side of buildings or behind the buildings, subject to the landscape requirements of Sec. 5-409, Landscaping of Parking Areas, and Vehicular Access.
Transit	Where LeeTran provides or plans to provide service, the development shall include a transit stop or shelter in the project design, subject to LeeTran approval. Where LeeTran does not provide service, space shall be dedicated for a transit stop or shelter to be developed in the future.
Community identity	A gateway monument shall be provided at the primary vehicular entrance or entrances to the project.
Community heritage	The development shall, to the maximum extent practicable:

B. Complementary Design Transitions

Development shall be designed to relate to adjacent structures in a complementary manner. Transitions from adjoining development to the subject site shall be provided by incorporating:

1. Building massing that relates to the existing adjacent building heights that are in compliance with the requirements of the LDC.
2. Patterns of roof structures, colors, cornices, and other architectural elements that relate to adjacent buildings that are in compliance with the requirements of the LDC. See Figure 5-706.B: Building Transition.

Figure 5-706.B: Building Transition



C. Building Entries and Façades

1. The main entrance of the structure shall be oriented toward the public right-of-way on which the structure fronts. On a corner lot or site, the main entrance may be oriented to either the road or the corner.
2. For compliance with building design standards, exterior façades of out-parcel buildings shall be treated as primary façades and employ architectural, site, and landscaping design elements that are common to the theme used in the main development on site, including colors and materials associated with the main building. The purpose of this requirement is to assure a unified architectural theme and site planning between out-parcels and the main buildings on site, enhance visual impact of the buildings, and provide for safe and convenient vehicular and pedestrian access and movement on site.
3. For compliance with building design standards, all sides of a building are subject to architectural design elements.
4. Overhead doors facing a public right-of-way are prohibited.
5. Blank wall areas shall be interrupted with an opening or relief work including one or more of the following:
   A. Recessed or clearly defined entryways (a minimum of six feet applies to recessing of entryways);
   B. Varying rooflines, pitches, and shapes;
   C. Dormers, balconies, and staircases;
   D. Transparent window or door areas or display windows that provide visibility into the building interior. (No reflective or darkly tinted glass may be used at ground level);
   E. Overhangs, awnings, and marquees;
   F. Building ornamentation and varying building materials, colors, decorative tiles, edifice detail such as trellises, false windows, or recessed panels reminiscent of window, door, or colonnade openings and wall murals;
   G. Shrubs or vines trained to grow upright on wire or trellises next to blank walls;
   H. Architectural features such as cornices, articulated roof parapets, porticos, towers, or other details that alter the building height;
   I. Application of a contrasting base that is a minimum one-foot high and extends along the entire front of the building and at least ten feet along the sides of the building.

E. Three-dimensional cornice treatments which are a minimum of ten inches in height with a minimum of three reliefs.

3. The following roof types and materials are prohibited:
   A. Roofs utilizing less than or equal to a 2V:12H pitch unless utilizing full parapet coverage or mansard;
   B. Mansard roofs, except roofs with a minimum vertical distance of eight feet and an angle between 45 and 70 degrees from horizontal; and
   C. Asphalt shingles, unless utilized in Old Florida style architecture.

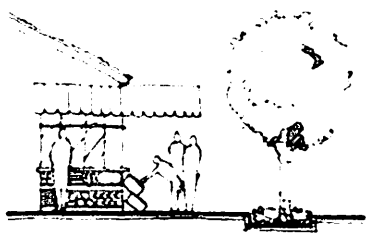
G. Windows

1. Windows shall not appear to be false or applied.
2. Along roads, 60 percent of the nonresidential ground floor façade shall be designed with windows to provide some visual interest for pedestrians and to support the crime prevention principle of eyes on the street.

H. Awnings

1. Awnings and similar overhangs may encroach in rights-of-way as long as a minimum six-foot width of clear sidewalk is maintained and a minimum clear distance of nine feet above the sidewalk is maintained.
2. The design, materials, and color of the awnings shall complement the architecture of the building and not obscure its features.
3. Materials shall be durable and weather resistant. Plastic or shiny materials are prohibited. Fabric awnings shall not turn corners and shall be associated with a window, group of windows, or other openings. Fabric awnings shall not exceed 14 inches beyond a window or door in the horizontal direction and three feet in the vertical direction. Fabric awnings are prohibited as roof structures.
4. Awnings shall be consistent with the visual scale of the building.
5. Awnings shall be placed at the top of openings. The awning shape shall correspond with the shape at the top of the opening. Flat canopies are discouraged except in circumstances where it is accompanied by a valance. See Figure 5-706.H.5: Awning Placement.

Figure 5-706.H.5: Awning Placement



I. Columns, Posts, and Piers

1. Aesthetic details are encouraged to be created using columns, posts, piers, or pillars, where appropriate.
2. Columns may be either round or square.
3. All columns shall include a capital and a base.
4. Column, post, and pier materials shall be durable and weather resistant, and limited to the following:
   A. Wood or wood alternatives;
   B. Stone or faux stone materials;
   C. Stucco;
   D. Precast; or
   E. Any combination of the above.

Figure 5-707.F.11.G: Primary and Secondary Accent Colors Diagram

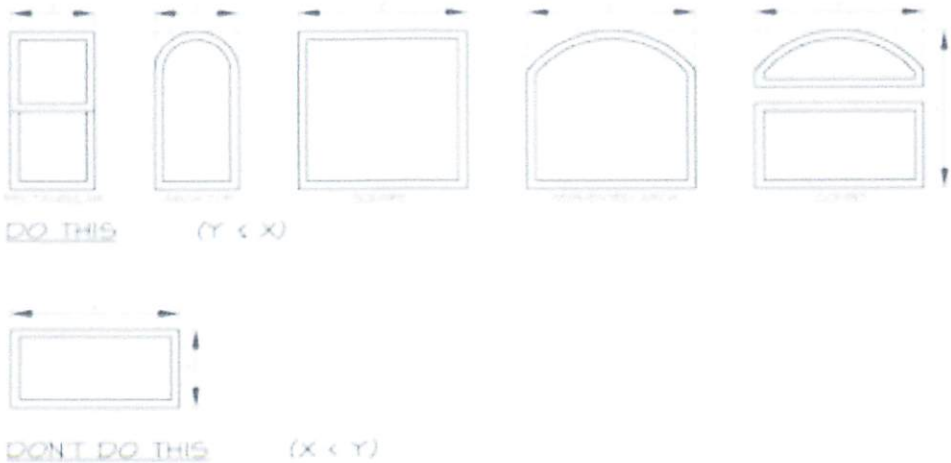


12. *Big Box Commercial Windows, Doors, and Other Openings*

A. *Openings*

Windows, doors, arcades, and other openings in the façade shall be squared or vertical in proportion. Arched windows may be approved by the Director as a window or door type if they are square or vertical in their overall proportions. See Figure 5-707.F.12.A: Window Proportions.

Figure 5-707.F.12.A: Window Proportions



B. *Windows and Doors*

1. "Non-motorized" sliding glass doors and sliding windows are prohibited at ground level.

More than 25,000 sf, or more than 25 dwelling units	216 sf for first 25,000 sf or 25 dwelling units, plus 8 sf for each additional 1,000 sf or dwelling unit

5-1202. A minimum overhead clearance of 22 feet is required. A 12-foot wide unobstructed access opening shall be provided to accommodate all storage areas/containers.

5-1203. All storage areas/containers shall be shielded on three sides in accordance with Sec. 5-410, Screening of Trash Receptacles, Storage, Service Areas and Garden Canters.

5-1204. Developments using a compactor for garbage collection shall provide sufficient space for the compactor (including receiver) in addition to the space required for recyclable collection.

5-1205. Container space shall not be located within or encroach into the required perimeter landscape buffer (see Sec. 5-406, Perimeter Buffers). Concrete wall enclosures shall not be located within a public utility or drainage easement.

SECTION 5-13. RESIDENTIAL IMPACT STANDARDS

5-1301. PURPOSE

The purpose of these residential impact standards is to ensure that residential uses are not adversely impacted by noise, parking, and other impacts from nearby commercial activity.

5-1302. APPLICABILITY

A. General

Except as provided in subsection B below, standards of this section apply to all development orders and planned development rezonings that relate to the establishment, expansion, or intensification of a commercial use on land that:

1. Contains residential uses;
2. Is located within 300 feet of land containing residential uses; or
3. Is located within 300 feet of land within the RSF, RM-2, MH, or RV zoning districts, or land zoned to a planned development district that includes or permits residential uses.

B. Exemptions

The following activities are exempt from the standards of this section:

1. The routine maintenance, repair, or replacement of building components, mechanical equipment, or appliances.
2. The installation of ancillary features such as fences, landscaping, landscape features, lawn furniture, apparatus, or building components that do not increase the intensity of the use on a site.

5-1303. STANDARDS

The following standards apply to development subject to this section:

A. Off-Street Parking, Access, and Connectivity

1. Notwithstanding the limitations in Sec. 5-202.B, Existing Development, all development shall provide the off-street parking required for the uses on the site in accordance with Sec. 5-204, Off-Street Parking Standards, and Table 5-204.B.1: Minimum Number of Off-Street Parking Spaces.
2. Off-street parking areas shall be placed to minimize impact on adjacent residential properties.
3. Access points shall be arranged to avoid conflict with traffic in residential areas.
4. Parking lots that abut residential uses shall be screened from view by a perimeter buffer in accordance with Sec. 5-406, Perimeter Buffers, to mitigate their impact.
5. Pedestrian connections to public sidewalks and nearby residential areas are encouraged.

B. Perimeter Buffers

Based on the project design and surrounding development patterns, the PZDB may require development to provide additional landscaping and screening in addition to the requirements of Sec.

5-406, Perimeter Buffers if needed to adequately screen the development from nearby residential uses.

C. Noise

1. Development shall be designed to ensure that noise levels will not exceed the limits established in the County Noise Ordinance, Ordinance No. 82-32, as amended by Ordinance No. 83-22, and as subsequently amended.
2. Businesses with external noise generators such as outdoor live entertainment, drive-through facilities, and vehicle and boat rental and sales shall direct the noise sources away from nearby residences. The noise generated by these noise generators shall not be plainly audible more than 25 feet onto adjacent lands that contain residential uses or are zoned for residential use.

D. Other Hazardous or Adverse Impacts

Development shall develop a mitigation plan to minimize or eliminate potential hazardous or adverse impacts to nearby residential uses or lands zoned for residential uses. The Village reserves the right to require additional mitigation when it finds the identified impacts are not adequately addressed.

E. Operational Standards

Hours and days of operations of development subject to this section may be limited to minimize detrimental impacts to nearby lands that contain residential uses or are zoned for residential use.

SECTION 5-14. CLEARING, GRADING, AND FILLING OF LAND STANDARDS

5-1401. GENERAL

No land may be cleared, graded, excavated, filled, or otherwise altered except in conformity with the regulations contained in this LDC and other Village ordinances.

5-1402. SITE GRADING AND SURFACE WATER MANAGEMENT STANDARDS FOR SINGLE-FAMILY RESIDENTIAL AND DUPLEX LOTS

A. Site Grading During Construction Activities

The building site shall be graded and maintained during construction to:

1. Prevent erosion of soil onto adjacent or abutting properties and road rights-of-way or improved drainage conveyances;
2. Control surface water runoff to ensure that no surface water in excess of the preconstruction discharge flows onto developed adjacent or abutting properties; and
3. Maintain the flow capacity and function of existing drainage conveyances on or abutting the site including adjacent road rights-of-way / easements or improved drainage conveyances.

B. Final Site Grading

1. Final grading of a lot shall:
   A. Control and direct surface water runoff to ensure that surface water discharge is directed into an existing surface water management system or other offsite drainage conveyance; and
   B. Preserve or relocate existing drainage conveyances necessary to maintain preconstruction flow capacity and function.
2. Final site grading plan features shall be maintained in perpetuity by the property owner. A property owner may not alter or modify the lot grading in a manner that will prevent continued drainage of the site in accordance with the lot grading plan in effect at the time the certificate of occupancy was issued.

C. Lot Grading Plan

1. A grading and drainage plan demonstrating compliance with the performance standards outlined in subsections A and B above shall be submitted with the application for building permit approval.
2. Prior to issuance of a certificate of occupancy, the building site shall be graded in accordance with the grading and drainage plan and a final inspection shall be approved by the Village.

C. Habitat Protection for Additional Listed Species

1. *Purpose and Intent*

   The purpose of this subsection is to provide standards, guidelines, and requirements to protect listed animal and plant species identified in Appendix G: Protected Species List, by safeguarding the habitat in which these species are found from the impacts associated with land development.

2. *Development Application Requirements*

   The following requirements shall be followed:

   A. Except as set forth in subsection D below, a survey shall accompany all planned development applications and all development order or limited development order applications, as applicable, where the Florida Land Use, Cover and Forms Classification System codes for the property indicate a possible presence of a species listed in Appendix G: Protected Species List:

      1. The survey shall be prepared using survey methods which are set forth in the Administrative Manual, except that an alternative method may be approved by the Director.
      2. The survey shall include the presence of listed species in the Village (sightings, signs, tracks, trails, nests, evidence of feeding, etc.), population estimates, and occupied habitat boundaries.
      3. A map and narrative shall describe the methodology, as applied, and the findings. The mapped information shall be at the same scale as the development order or limited development order, whichever is applicable, and include an aerial map at a scale of one inch is less than or equal to 400 feet.

   B. Approved species surveys are valid for five years from the date of approval. If the subject parcel has habitat that is significantly altered, the Director shall determine whether a partial or complete re-survey is required.

   C. A management plan shall be submitted with all planned development applications. A management plan shall be required for all development orders or limited development orders, whichever is applicable, if listed species are found on the property, except as set forth in subsection D below. The management plan shall meet the requirements of Sec. 7-201.C.3, Management Plan, and is subject to final approval by the Director. If the master concept plan on land approved as a planned development is vacated, a species survey and management plan will be required, unless the Director determines that prior surveys and management plans are adequate.

   D. Surveys and management plans are not required for:

      1. Projects less than ten acres in land area and less than two acres in impervious area; or
      2. Lands approved as a planned development (PD) prior to September 1, 1989 that are developed.

3. *Management Plan*

   A. *Components of Plan*

      The management plan required under this subsection shall include:

      1. A one inch equals 200 feet aerial map and a map at the scale of the development order, limited development order, or plat, whichever is applicable, and drawings that include the following:
         (a) Habitat classifications depicted using the Florida Land Use, Cover and Forms Classification System;
         (b) The location of individuals, nest sites, dens, burrows, feeding locations, roosting and perching areas, and trails, as appropriate; and
         (c) Areas to be preserved, including habitat and buffers;
      2. Recommended management activities; and
      3. An action plan with specific implementation activities, schedules, and assignment of responsibilities.

B. *Occupied Habitat Buffer Areas Established*

Occupied habitat buffer areas shall be established for occupied habitat and shall extend at a distance appropriate for the listed species as set forth in Appendix G: Protected Species List, except where off-site mitigation is permitted in accordance with Sec. 7-201.C.4, Off-Site Mitigation. If the FWC has established the size and dimensions of an occupied habitat buffer area, those boundaries will supersede the distances shown in Appendix G: Protected Species List.

C. *Development and Occupied Habitat Areas*

The occupied habitat buffer area shall remain free of development, except for development that will not degrade species existing on the site. Occupied habitat buffer areas may be impacted by development if off-site mitigation is utilized in accordance with Sec. 7-201.C.4, Off-Site Mitigation. These buffer areas shall be identified on all associated applications, as applicable. Buffer areas shall not be divided by lot lines unless the Director determines that the division of these buffer areas by lot lines is consistent with the protected species management plan. A conservation easement or similar property interest shall be granted to the Village for the preserved property as a condition of the development order, limited development order, or final plat approval, whichever is applicable, unless the Director determines it is not logistically or economically feasible for the Village to maintain the easement. Encroachments into occupied habitat and habitat buffer are permissible only after the incentives set forth in Sec. 7-201.C.3.E, Occupied Habitat Buffer Area Incentives, are exhausted or off-site mitigation is permitted in accordance with Sec. 7-201.C.4, Off-Site Mitigation.

D. *Conservation Easements*

If adjacent parcels include conservation easements or other public interest in the land, diligent effort shall be made to connect the easements.

E. *Occupied Habitat Buffer Area Incentives*

The Village allows specific development incentives for the preservation of occupied habitat areas under this subsection. This incentive system applies only to those areas where other incentives have not been utilized and that are not preserved in accordance with Sec. 7-201.C.4, Off-Site Mitigation. Occupied habitat buffer area incentives include the following:

1. Allowing required occupied habitat buffer areas to be used to address any applicable minimum open space standards at a ratio of one unit habitat and habitat buffer to one and one half unit required open space. In no event shall this credit be interpreted to reduce any required occupied habitat buffer area.
2. Single-family developments consisting solely of conventional single-family dwellings on lots 6,500 square feet in area or greater that do not have an open space requirement shall be exempt from Section 5-4, Landscape Standards, except for the minimum buffer requirements, so long as the applicant preserves occupied habitat buffer areas consisting of no less than ten percent of the development area.
3. To the extent that occupied habitat buffer areas exceed applicable minimum open space requirements after the use of the above-described ratio in subsection 1, above, or as in subsection 2, above, exceeds ten percent of the development area, the Village shall allow encroachment into the occupied habitat.

F. *Consideration of State Guidelines for Listed Species*

In cases where FWC has guidelines for a listed species, those guidelines shall be considered in the preparation of the management plan.

G. *When Determination Made Without State Expertise*

If the FWC fails to review any plan in conjunction with the Village's allotted time schedules, determinations may be made without the benefit of FWC expertise.

H. *Responsibility for Implementation of Management Plan and Monitoring Report Review*

Management plan implementation is the responsibility of the development owner and operator. A monitoring report on the condition of the habitat and management techniques applied to the habitat shall be submitted to the Director for review annually for five

3. Each contractor shall be required to be familiar with the manufacturer's safety data sheet supplied with each material containing a regulated substance and to be familiar with procedures required to contain and clean up any releases of the regulated substance. Any tools or equipment necessary to accomplish such containment and cleanup shall be available in case of a release.
4. Upon completion of construction, all unused and waste-regulated substances and containment systems shall be removed from the construction site by the responsible contractor and disposed of in a proper manner as prescribed by law.

J. Cease to Dewater Notice

If, as a result of monitoring, investigation, or analysis, the Village determines that groundwater resources have been adversely affected by dewatering activity, the Village may issue a cease to dewater notice. The notice may be issued to all persons involved in any dewatering activity. The existence of a permit does not prohibit the issuance of this notice.

K. Aquifer Storage and Recovery Wells

The installation of a water supply well is prohibited within 2,640 feet of an existing or permitted aquifer storage and recovery well, unless confinement exists between the production zone of the water well and the storage/production zone of the aquifer storage and recovery well.

L. Penalty for Violation of Chapter – Additional Remedies

The violator of any provision of this Sec. 7-202, Wellfield Protection, will be subject to the following penalties upon conviction:

1. Criminal penalties that are available under law.
2. Civil penalties, as instituted by the Village Council in any court or before any administrative board of competent jurisdiction, in order to prevent, restrain, correct or abate any violation of Sec. 7-202, Wellfield Protection, or of any order or regulation made in connection with its administration or enforcement, and the court or administrative board will adjudge such relief by way of injunction, or any other remedy allowed by law, or otherwise, to include mandatory injunction, as may be proper under all the facts and circumstances of the case, in order to fully effectuate the regulations adopted under this subsection and any orders and rulings made.

M. Retroactive Application to Existing Activities

The requirements and provisions of this subsection apply to all existing activities regulated under this subsection within the Village, and relate back to September 1, 1989. Existing activities include all activities that were approved by the Village under a valid building permit or occupational license, or by Lee County prior to Village incorporation.

7-203. WETLANDS PROTECTION

A. Purpose

The purpose of this section is to incorporate state-approved wetland regulations.

B. Applicability

The provisions of this section apply to all development in the Village.

C. Permits Required

An environmental resource permit (ERP) is required prior to any development that will impact wetlands. The ERP is issued by either the Florida Department of Environmental Protection (FDEP) or the South Florida Water Management District (SFWMD) in accordance with Ch. 373, Fla. Stat. and Ch. 62, F.A.C.

D. Incorporation of State Permits into Local Permits

The Village shall incorporate the terms and conditions of all state authorizations relating to wetlands, including ERPs, into any applicable development permit.

E. Compliance Enforcement

1. The Village may enforce the provisions of any state authorization relating to wetlands, including ERPs, issued and incorporated into an applicable development permit.

2. The Village may prosecute violations of state wetland regulations and ERP applicable conditions or requirements incorporated into local permits in accordance with Ordinance 2015-14.

7-204. MANGROVE PROTECTION

A. Purpose and Intent

1. The purpose of this subsection is to establish restoration standards and enforcement procedures for violations of FDEP mangrove protection rules, and to supplement and enhance FDEP enforcement efforts.
2. The intent of this subsection is to discourage the illegal alteration of mangrove trees by improving enforcement of FDEP mangrove protection regulations and to ensure that adequate restoration is provided within the Village. It is not the intent of this subsection to diminish any mangrove protection requirements set forth in Sec. 7-203, Wetlands Protection.

B. Applicability

This subsection applies to all development in the Village.

C. State Permit Required

No person or development activity shall directly or indirectly alter any mangrove tree without first obtaining a permit, where applicable, from the FDEP in accordance with the requirements of Sec. 403.9327, General Permit for Mangrove Trimming, Fla. Stat., and Sec. 403.9328, Individual Permit to Trim or Alter Mangroves, Fla. Stat.

D. Mangrove Identification

Figure 7-204.D: Mangrove Identification, demonstrates how to identify different types of mangroves.

Figure 7-204.D: Mangrove Identification

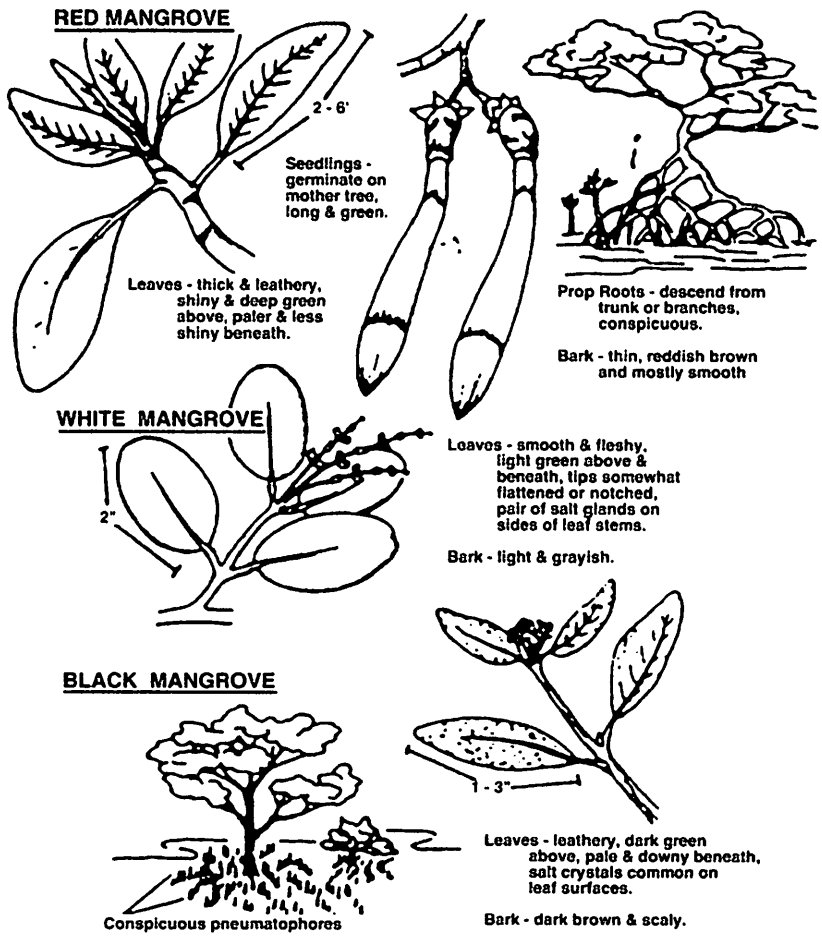


TABLE 8-102.B: ROAD IMPACT FEE SCHEDULE		
Land Use Type	**Unit**	**Road Impact Fee Due**
Residential		
Single-family residence (Detached)	Dwelling Unit	$9,966
Multi-Family, Low Rise (including two-family attached and townhome 1-2 story)	Dwelling Unit	$7,750
Multi-Family, Mid-Rise (3-10 stories)	Dwelling Unit	$5,760
Multi-Family, High-Rise (11+ stories)	Dwelling Unit	$4,700
Mobile home/RV park	Pad/Park site	$5,293
Assisted Living Facility (ALF)	Dwelling Unit	$2,138
Continuing Care Retirement Community	Dwelling Unit	$2,540
Hotel/Motel or timeshare	Room/unit	$4,497
Retail Commercial		
Shopping Center	1,000 sq. ft.	$11,476
Bank	1,000 sq. ft.	$25,579
Car wash, Self-service	Stall	$6,112
Convenience store with gas sales (<10 fuel positions)	Per Fuel Position	$18,979
Convenience store or super convenience store with gas sales (10+ fuel positions)	Per Fuel Position	$13,565
Golf course (open to public)	Acre	$2,277
Cinema or theater	1,000 sq. ft.	$26,985
Restaurant, Standard	1,000 sq. ft.	$22,019
Restaurant, Fast Casual	1,000 sq. ft.	$39,277
Restaurant, Fast Food	1,000 sq. ft.	$48,912
Office/Institutional		
Office	1,000 sq. ft.	$7,614
Hospital	1,000 sq. ft.	$7,920
Nursing Home	1,000 sq. ft.	$4,907
Place of Worship	1,000 sq. ft.	$4,712
Day Care Center	1,000 sq. ft.	$10,345
Elementary/Secondary School (private)	1,000 sq. ft.	$3,893
Industrial		
Industrial park or general industrial	1,000 sq. ft.	$3,380
Warehouse	1,000 sq. ft.	$1,749
Warehouse/High-Cube	1,000 sq. ft.	$1,409
Mini-Warehouse (Self-Storage)	1,000 sq. ft.	$1,085
Mine	Cubic Yard	$0.04

NOTES:

[1] Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.

[2] Impact fees for a golf course (i.e., tees, fairways, greens, accessory structures such as golf cart houses, etc.) are due and payable prior to the issuance of the first building permit for the golf course. The golf course clubhouse and related clubhouse facilities will not be included in the impact fee calculation for the golf course. Impact fees for the clubhouse and related facilities will be calculated separately, at the time of building permit issuance for these facilities, based upon the uses encompassed by the clubhouse facility.

[3] If a building permit is requested for a building with more than one principal use, then the fee will be determined according to the schedule set out in this subsection by apportioning the total space within the building according to the space devoted to each principal use. A shopping center will be considered a principal use; however, when located within a shopping center, a fast-food restaurant or convenience store with gasoline sales will be considered a principal use.

TABLE C-(A)4.D: MINIMUM EDGE OF PAVEMENT RADIUS AT INTERSECTING ROADS			
Road Type	Intersecting Road Type	Minimum Radius (feet)	
		Local Road	Access Road
Local	Local	25	30
	Collector	30	35
	Arterial	40	45
Collector	Collector	40	50
	Arterial	50	60
Arterial	Arterial	50	60

2. The values in Table C-(A)4.D apply to a road type having two lanes without a median. Whenever the road type is divided by a median, the minimum pavement width shall be 14 feet on each side of the median and the edge of pavement radius shall be determined by a special study using a WB-40 vehicle that negotiates the turn without encroaching on the median. Greater radii may be required where school buses will be routed or if an engineering study determines that traffic conditions warrant a larger radius.
3. The property line radius shall follow the curvature of the inside edge of pavement and be offset a minimum distance equivalent to the pavement/property line offset used on the roadway design section.

5. *Conformance with State Standards*

   All construction materials, methods, and equipment shall conform to the requirements of the FDOT Standard Specifications for Road and Bridge Construction, current edition, and such other editions, amendments, or supplements as may be adopted by FDOT.

6. *Horizontal Curve for Changes in Direction*

   Horizontal curves shall be used for all changes in direction consistent with AASHTO and FDOT standards.

7. *Cul-de-Sacs*

   A. A road intended to be a permanent dead-end road shall be closed at one end by a circular turnaround for vehicles constructed to the following standards:
      1. The diameter of pavement to inside edge of curb or edge of pavement shall be a minimum of 90 feet outside diameter, and a maximum of 45 feet inside diameter;
      2. The diameter of right-of-way for the curb-and-gutter section shall be 130 feet; and
      3. The diameter of right-of-way for ditch and swale drainage shall be a minimum of 130 feet.

   B. The island in the center of the circular turnaround shall be unpaved to preserve existing vegetation, or enhanced with additional vegetation, provided that vegetation does not cause a visual obstruction between two feet and seven feet in height above grade, and provided further that proper maintenance agreements are filed with the Village.

   C. The transition from the cul-de-sac pavement to the regular approaching pavement width shall be as shown in Appendix D: Illustrations and Cross-Sections, Section H.

   D. All roads ending in cul-de-sacs that are over 250 feet long shall have a standard "No Outlet" traffic sign installed at the street entrance that is paid for by the developer.

8. *Roundabouts*

   Roundabouts shall be designed in accordance with the publication Roundabouts: An Informational Guide, current edition, as modified by AASHTO and FDOT.

9. *Roads and Driveways in Wetland Areas*

   Notwithstanding other provisions of this section, new roads or driveways permitted in wetland areas shall be culverted or bridged to maintain the pre-development volume, direction, distribution, and surface water hydroperiod.

Figure 10-301.C-1: Flat and Mansard Roof Building Height Measurement

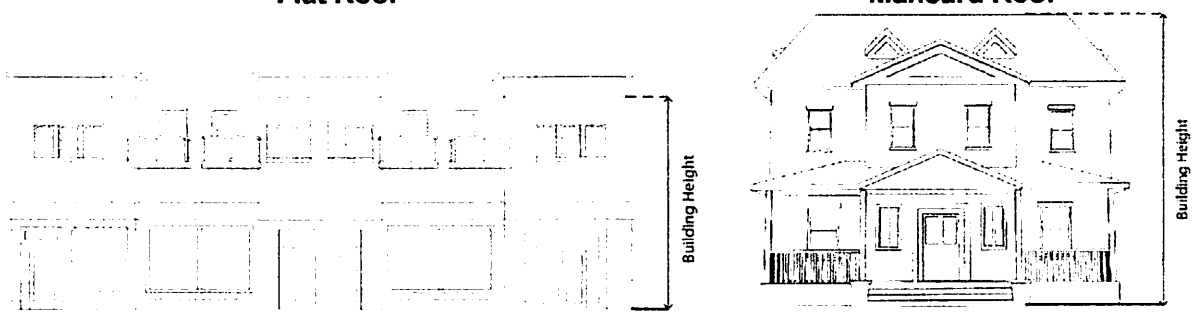
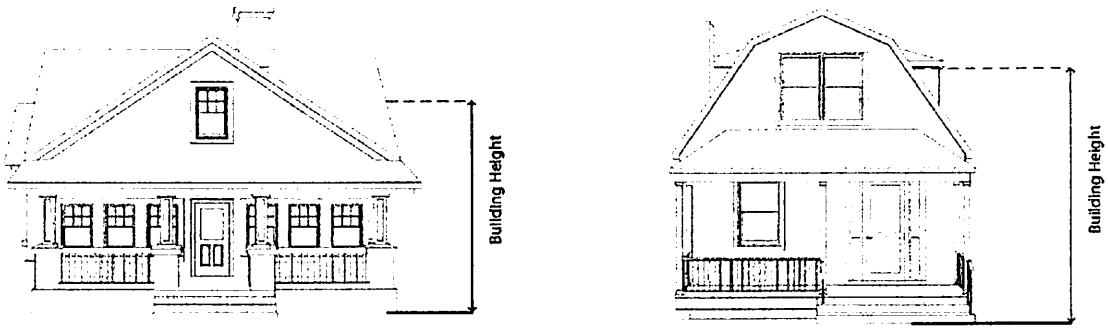


Figure 10-301.C-2: Gable, Hip, and Gambrel Roof Building Height Measurement



D. Building Line

The line beyond which a building shall not extend, except as specifically provided by law, and which is determined from the extreme support of the roof of the main structure or appurtenance thereto.

E. Highest Adjacent Grade

See Sec. 7-303, Definitions.

F. Lowest Floor

See Sec. 7-303, Definitions.

10-302. DENSITY AND AREA

A. Density

The number of dwellings or housing units calculated per gross residential acreage (du/acre), except that for all vertical mixed use developments and developments in areas designated Village Center Tiers 2, 3 and 4, density shall be calculated per gross acre including non-residential land contained within the boundary of the development unless otherwise specified in this LDC.

B. Density Equivalents

1. *Applicability*

The density equivalents set forth in this subsection will be used in situations where it is necessary to convert permissible uses to residential dwelling unit equivalents. When permitted by the use regulations in a zoning district that permits dwelling units, the permissible density equivalents may not exceed the density limitations set forth in the zoning district or land use category (whichever is less) in which the property is located.

2. *Equivalency Factors*
   A. Where health care, social service, adult living facilities (ALF), continuing care facilities, or other "group quarters" are provided in dwelling units, wherein each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.
   B. Except as may be specifically set forth elsewhere in this section, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters" are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of two beds equals one dwelling unit.
   C. A planned development, for which the Planned Development Master Concept Plan or PD adopting ordinance states the number of persons that may occupy an approved adult living facility (ALF) or continuing care facility (CCF), may request an amendment to the approved Master Concept Plan or PD adopting ordinance to reflect the increased number of occupants based upon the equivalency factor set forth in this section (if applicable). Such amendment will be considered a minor amendment that will be deemed to not increase density and may be approved pursuant to Secs. 2-501.D.2.E and F as long as existing floor space is not increased to accommodate the increased number of occupants. If increased floor space is required, then a public hearing will be required.
   D. Notwithstanding subsection B above, no density equivalency calculation is required for a bed and breakfast in an owner-occupied single-family dwelling accommodating four or less lodgers. If the bed and breakfast will accommodate more than four lodgers, then the equivalency will be calculated as four lodgers equals one dwelling unit.
   E. Notwithstanding subsection B above, no density calculation is required for a hospital, prison, jail, boot camp, detention center, or other similar type facility owned or operated by a county, state or federal agency.
   F. Where dwelling or living units have "lock-off accommodations," density will be calculated as follows:
      1. Hotels or motels: "Lock-off units" will be counted as separate rental units regardless of size.
      2. Determination of permitted density. The maximum permitted density shall be determined by multiplying the number of dwelling units permitted (see subsection 1 above) by the appropriate equivalency factor.

C. Floor Area

The total area of each story of a building, or portion thereof, within the exterior walls of the building or structure.

D. Floor Area Ratio

A measure of intensity expressing the maximum allowable floor area permitted on a lot. The FAR is equivalent to the total floor area of a nonresidential building divided by the total area of the lot (less wetlands), expressed in square feet. The FAR represents the relationship of the developed square footage of the lot to the square footage of the site.

E. Gross Residential Acreage

Acreage of a development includes those lands to be used for residential uses, and includes land within the development proposed to be used for streets and street rights of way, utility rights-of-way, public and private parks, recreation and open space, schools, community centers, and facilities such as police, fire and emergency services, sewage and water, drainage, and existing man-made waterbodies contained within the residential development.

10-303. LOTS AND YARDS

A. Lot

A parcel of land considered as a unit.

FLKathy21@outlook.com

From: Robert Eschenfelder <Rob@cityattorneys.legal>
Sent: Monday, October 16, 2023 2:38 PM
To: ralfbrookes@gmail.com; records@estero-fl.gov; Nancy Stroud
Cc: Kathy Wyrofsky
Subject: RE: Public Records Request - Notices of Atty Client Executive Sessions (aka Shade Meetings) re Town Center Apartment Litigation

Mr. Brookes,

The Village Council did not conduct a litigation "shade" meeting related to this matter. There are therefore no records responsive to your request.

Regards,
Robert M. Eschenfelder, Esquire
Board Certified in City, County and Local Government Law
Rob@cityattorneys.legal
TRASK DAIGNEAULT, LLP
Harbor Oaks Professional Center
1001 South Fort Harrison Avenue, Suite 201
Clearwater, FL 33756
(727) 733-0494 Phone
(727) 733-2991 Fax



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From: Ralf Brookes <ralfbrookes@gmail.com>
Sent: Monday, October 16, 2023 1:39 PM
To: records@estero-fl.gov; Nancy Stroud <nstroud@nstroudpa.com>; Robert Eschenfelder <Rob@cityattorneys.legal>
Cc: Kathy Wyrofsky <FLKathy21@outlook.com>
Subject: Public Records Request - Notices of Atty Client Executive Sessions (aka Shade Meetings) re Town Center Apartment Litigation

Dear Public Records Custodian

Please provide links to any and all

Notice of Attorney Client Executive Session(s) (commonly referred to as Atty Client Shade Meetings

for the following circuit court cases

21-CA-006004 : LONG BAY PARTNERS LLC et al Plaintiff vs VILLAGE OF ESTERO Defendant

21-CA-006046 : LONG BAY PARTNERS LLC et al Plaintiff vs VILLAGE OF ESTERO Defendant

These are the two cases that involved the Apartment project at the Town Center and associated Settlement Agreement (attached).

Ralf Brookes
Ralf Brookes Attorney
P.O. Box 100238 Cape Coral Florida 33910
1217 East Cape Coral Parkway #107, Cape Coral Florida 33904
Phone/Text (239) 910-5464
Fax (866) 341-6086
RalfBrookes@gmail.com
Ralf@RalfBrookesAttorney.com

375 So. 2d 578, *; 1979 Fla. App. LEXIS 15349, **;
5 Media L. Rep. 2172

LEXSEE 375 So. 2d 578

ROBERT N. BLACKFORD and MARGARET H. HARRISON, individually and for the use and benefit of CHEROKEE JUNIOR HIGH SCHOOL PARENT-TEACHER ASSOCIATION, Appellants, v. THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, Appellee

No. 78-1748/NT 4-6

Court of Appeal of Florida, Fifth District

375 So. 2d 578; 1979 Fla. App. LEXIS 15349; 5 Media L. Rep. 2172

August 15, 1979

CASE SUMMARY

PROCEDURAL POSTURE: Appellants, individuals and parent-teacher association, challenged a judgment from the trial court (Florida), holding that successive meetings between a school superintendent and individual members of his school board did not violate the Government in the Sunshine Act, *Fla. Stat. ch. 286.011 (1977).*

OVERVIEW: A school superintendent met with individual members of defendant school board in succession to develop a plan to address a major redistricting problem involving the transfer of students between schools. Following the individual meetings a public announcement of the final proposed resolutions was made, and the resolutions were placed on the agenda of a public meeting to be held 11 days later. Upon a challenge by plaintiffs, individuals and parent-teacher association, the trial court found that these individual meetings did not violate the Government in the Sunshine Act (Act), *Fla. Stat. ch. 286.011 (1977).* On appeal, the reviewing court found that the superintendent admitted the meetings were scheduled as they were in an attempt to avoid an uproar at a publicly held meeting. The court held that because official acts were taken at the privately-held meetings, these meetings violated the Act's mandate that all meetings of any board at which official acts were to be taken were declared to be public meetings open to the public at all times. Judgment for defendants was therefore reversed and the cause was remanded.

OUTCOME: Judgment for defendants holding their actions did not violate the Government in the Sunshine Act (Act) was reversed and the cause was remanded. Meetings between a school superintendent and individual members of the defendant school board wherein official business was conducted were in violation of the Act.

LexisNexis(TM) HEADNOTES - Core Concepts

Administrative Law > Governmental Information > Public Meetings
[HN1] See *Fla. Stat. ch. 286.011 (1977).*

COUNSEL:
[**1]

David B. King, of Peed & King, P.A., Orlando, for appellants.

William M. Rowland, Jr. of Rowland, Bowen & Thomas, Orlando, for appellee.

JUDGES:
Before LETTS, GAVIN K., Associate Judge. DOWNEY, JAMES, C., Associate Judge, concurs. MOORE, JOHN H., II, Associate Judge, dissents without opinion.

OPINIONBY:
LETTS

OPINION:

[*579]

This appeal stems from the circuit court's decision that scheduled successive meetings between a school superintendent and individual members of his school board did not violate the Government in the Sunshine Act. We reverse.

We are again asked to rule on the applicability of [HN1] chapter 286.011 of the Florida Statutes (1977), the pertinent language of which is deceptively simple:

"(1) All meetings of any board ... at which official acts are to be taken are declared to be public meetings open to the public at all times ...."

The Orange County school board's staff was faced with a major redistricting problem involving the transfer of some 6000 students to other schools. The superintendent candidly admitted that he wanted to avoid the uproar which would unquestionably attend the public airing of each possible alternative, until his staff had [**2] a crystallized plan to offer for approval. In addition, he was equally forthright in confessing that he "was quite aware of the Sunshine Law and ... very diligent in fulfilling (his) responsibility in meeting (its) requirements ...."

To solve the dilemma, information was adduced to the effect that conversation between staff and a single board member would Not be a "meeting" under decided [*580] case law. We agree there is law to this effect. See *Mitchell v. School Board of Leon County, 335 So.2d 354 (Fla. 1st DCA 1976); Hough v. Stembridge, 278 So.2d 288 (Fla. 3d DCA 1973),* and *Florida Parole and Probation Commission v. Thomas, 364 So.2d 480 (Fla. 1st DCA 1978).* We also agree that the board's staff (which, of course, includes the superintendent) is not subject to the provisions of the Sunshine Law. See Chapter *286.011(1), Florida Statutes (1977) and Bennett v. Warden, 333 So.2d 97 (Fla. 2d DCA 1976).* Consequently we agree that scheduled discussions between staff and a single member of a board frequently are not "meetings" under the act. This conclusion is supported by, and has even been expanded by, our own Supreme Court in the recent decision of *Occidental Chemical* [**3] *Co. v. Mayo, 351 So.2d 336, 341 (Fla.1977)* wherein the court stated:

"(W)e reject (the) broad-brush argument that all meetings between the commissioners n1 and their staff must be open to the public."

1. We emphasize the plural.

The problem in the case now before us is that this superintendent did much more and devised a plan by which his board members would come visit his office in rapid-fire succession to discuss, exclusively, this major redistricting problem. Thus on January 30, 1978. the board proceeded in convoy. but out of sight of each other, to the superintendent's office, the first at 8:30 A.M., the second at 10:30 A.M. and the third at 12:30 P.M. Two days later three more members did the same. n2 Substantially the same procedure was repeated five times more, ending on April 26th. Public announcement of the final proposed resolutions, which included the reclassification of Cherokee Junior High (from whose ranks the appellants are drawn), was then made two days later, on April 28th. Simultaneously, [**4] the resolutions were placed on the agenda of the board for final action eleven days after that.

n2. The remaining member of the board was strangely uninvited to many of these conversations. Appellant alleged this was because he was opposed to the plan. However no matter the reason, his absence is immaterial to our conclusion.

The superintendent is adamant that he did not act as a go-between during these discussions and denies that he told any one board member the opinions of any of the others. He insists that he only presented and discussed the various options with each member and generally obtained their feedback. He also denies that the board members directed him to make any changes to, or indicated which way they would vote on, the proposals.

Both the memos of the school board attorney and the candid testimony of the superintendent lead us to the conclusion that what transpired here was not so much a willful violation of the Sunshine Law, but rather an attempt Not to violate it, yet keep the various [**5] options secret. We can well believe that premature publication of what were only tentative solutions would have filled the air with vituperation from outraged parents, much of which would turn out in the end to be unjustified. However, that is not the point. School boards are not supposed to conduct their business in secret even though it may all be for the best at the end of the day and notwithstanding that the motives are as pure as driven snow. Moreover of the several tentative secret options, one certainly was Not discarded, namely the re-classification of Cherokee Junior High, a result totally unacceptable to those affected.

While we agree that one swallow a summer cannot make, we are convinced that the scheduling of six sessions of secret discussions, repetitive in content, in rapid-fire seriatim and of such obvious official portent. resulted in six de facto meetings by two or more members of the board at which official action

was taken. As a consequence, the discussions were in contravention of the Sunshine Law. Further, the frank admission as to the reason for this modus operandi leads us to conclude that in effect "the (board) met in secret (and) used staff members [**6] as intermediaries in order to [*581] circumvent public meeting requirements." *Occidental, supra, at p. 341.* "Our duty is to interpret this law as it is written, and, if possible, do so in a manner to prevent its circumvention." *City of Miami Beach v. Berns, 245 So.2d 38 (Fla.1971).*

As for any argument that not all public business can be conducted center stage under the critical glare of the media's spotlights, lest on occasion the publicity reduce the item under discussion to absurdum or cause unnecessary public uproar, we would respond twofold.

First, such arguments should be addressed to the legislature not the courts, for we are "without power to enact law or to pass upon its wisdom or folly ... our duty is to construe or interpret it ...." *Wolf v. Commander, 137 Fla. 313, 188 So. 83, 85 (1939).*

Second, deliberations by a school board on whether a school is to be closed, are very much a matter of public concern, never mind the Sunshine Law. Outcries by adversely affected special interest groups are commonplace whenever any form of legislation is proposed. There is no reason why school boards should be excluded simply because secrecy was necessary to avoid, in the [**7] words of the superintendent, "disfunctional or disruptive ... stress or distress in the community."

As we have suggested, the board, its attorney and the superintendent all appear to have had in mind, not willful violation so much as legal circumvention or, by analogy if you will, legal tax avoidance such as we all engage in. This, coupled with prior case law, causes us to discern no criminal culpability from the record now before us.

By this decision we do not require that Cherokee School be re-opened immediately as a junior high. Indeed we recognize the possibility that the board, upon reconsideration, may decide on the same course of action as before. However, what we Do require is that the entire redistricting problem, and all the supporting data and input leading up to the resolutions which are the subject matter of this cause, be re-examined and re-discussed in open public meetings. The brief eleven days previously allowed for the aggrieved parties to air their objections were totally insufficient to render the error of twelve weeks of secret negotiations, harmless.

REVERSED AND REMANDED IN ACCORDANCE HEREWITH.

DOWNEY, JAMES C., Associate Judge, concurs.

MOORE, JOHN [**8] H., II, Associate Judge, dissents without opinion.

FLKathy21@gmail.com

From: James Dunlap <jdmd0516@gmail.com>
Sent: Wednesday, November 29, 2023 1:09 PM
To: flkathy21@gmail.com
Subject: Re: Fencing

Kathy, thanks for reaching out. No, this topic is not on our board agenda for December 5th as no board actions is warranted. Here is the background.

We researched the boundary survey and the entire length of the area in question is totally on CDD property. We also obtained a fence quote which was, depending on length, ranging from $55,000 - $65,000 to have fenced in behind the development.

It is a vinyl coated fence with concrete posts and topping on each post. It also, as required, is 18 inches off the ground.

So, I forwarded all of that info directly to the CDD staff. At this point, due to property rights, either the CDD itself, or in negotiation with the developer, would have to be the entity to contract for the fence construction.

Hope that helps.

Jim Dunlap

> On Nov 29, 2023, at 8:24 AM, flkathy21@gmail.com wrote:
>
> Hi Jim,
>
> The SWCA meeting on December 5 conflicts with the Singing Brooks concert at the SWCC. As I am in the choir, I will be unable to attend. Please let me know if there will be discussion on securing the perimeter of Magnolia Bend and the Commons Club walkway. Thanks,
>
> Kathy