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Sarasota County, Florida Zoning Ordinance Revision

Issue Identification Paper

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I. INTRODUCTION

A. EVALUATION CRITERIA

The intent of this Issue Identification Paper is to identify weaknesses and deficiencies in the County's existing zoning ordinance. To accomplish this objective, we conducted two levels of analysis, one from a broad community-wide perspective and the second from a detailed analysis of key strengths and weaknesses of the existing ordinance.

First, it was essential to determine the important issues relating to content insufficiencies and implementation problems of this code in the past. This was accomplished through the gathering of input received during interview sessions held with County planning and engineering staff; public officials consisting of the Board of County Commissioners, the Planning Commission and the Board of Zoning Appeals; and citizens; and developers and builders in August of 2000.

Second, our evaluation was guided by the belief that County officials, private developers and all citizens are best served by regulations that are easy to interpret, use, administer and enforce. Vague, conflicting, repetitive and cumbersome ordinances can pose an obstacle to achieving established community objectives. The final product must be legally sufficient, especially in regard to possible issues where federal and state case law as well as state statutes have recently established new requirements and trends.

B. BASIS OF OBSERVATIONS

This technical analysis of Sarasota County's regulations is based largely on (1) the consultant team's independent analysis of the zoning ordinance, as well as existing and draft County plans and policies; (2) County staff comments; (3) public official comments; and (4) comments received during stakeholder interviews. The approach we use in such a technical review is to read existing provisions very literally. In short, the technical review focuses on what existing provisions actually "say," not on how they have been interpreted or applied over time. While this approach may result in occasional misinterpretations of regulatory intent, such miscues themselves provide insight into provisions in need of reworking.

It is also important to note that criticisms of existing regulations are in no way intended to reflect poorly on the drafters of previous regulations or upon public officials and staff charged with administering them. The problems highlighted here are common across the country.

C. INCORPORATION OF ULI RECOMMENDATIONS

At the outset of this project, much discussion was held about implementation of the Urban Land Institute (ULI) recommendations from the recent Advisory Services Panel report. This report covers a wide variety of issues, but most important to the revision of the zoning ordinance are two core ideas:

- Urban enhancement; and
- Smart growth east of I-75

The County is working on an accelerated program to implement the Board of County Commissioners' direction regarding urban enhancement, villages, greenways and other components of the proposed "Resource Management Area" system. Review of proposals for development of these components by a County technical committee and subsequent contract negotiation are ongoing at the time of this report.

II. GENERAL COMMENTS

A. USE OF INCENTIVES

A successful zoning ordinance will set the tone for development in the community. At its best, the ordinance clearly invites the development community to “put its best foot forward” and respond to the community’s desire for quality development. We suggest the County try to use more “carrots” than “sticks,” encouraging the desired end result through incentives that stimulate creativity, rather than regulating with a heavy hand. Such incentives might include the following:

- Reduced application processing time;
- Greater predictability of likelihood of approval;
- Flexibility in the application of standards; and
- Incentives related to development standards, such as additional density or intensity.

B. ALTERNATIVE COMPLIANCE TECHNIQUES

Modern ordinances provide for a variety of alternative compliance techniques. For example, an alternative to basic zoning districts is often permitted through the planned unit development process. As another example, the current County ordinance provides alternative landscaping options (narrower width buffers are permitted provided that additional plant material is used). These methods for complying with the strict requirements of the zoning ordinance, while providing development flexibility and assurances to the general public about the character of future development, are one key to improving the ordinance.

Alternative compliance standards can be used for parking, signs, landscaping and other standards that are normally imposed as strict requirements.

C. RECENT DEVELOPMENT ACTIVITY AND THE EAST AREA

While we heard verbal presentations on development activity in North Port, the real differences in activity between unincorporated Sarasota County, North Port, and Manatee County were very evident from the air. A helicopter overview of the County provided a vivid image of the threats to the County’s land use plan. Sarasota County’s multi-year comprehensive planning effort (APOXSEE) is often characterized by its determination to preserve land east of I-75 for rural uses and to contain urbanization within the urban growth boundaries. As evidenced by development activity east of I-75 in Manatee County, by the ULI panel recommendations (and the prior efforts at reconciliation of plans for the east area), that effort is now at a critical juncture.

The helicopter over-flight of the County vividly brought home the potential for the County comprehensive plan to be compromised if there is a failure to adequately address the pressure for development in the east area. The development north of University Parkway in Manatee County is in tremendous contrast to the activity in Sarasota County. However, it shows the kind of development pressure that is on the County. Similarly, the recent annexation efforts are a portent of what may happen if the County continues on its previous course and does not move rapidly to create opportunities for development of this area.



Sarasota-Manatee County Line

III. DEVELOPMENT REVIEW

A. NATURE OF EXISTING DEVELOPMENT REVIEW SYSTEM

The development process in Sarasota is often adversarial, pitting residents against developers despite the fact that the County has an award-winning Comprehensive Plan that is a model for sound planning and growth management. How did the development process become so contentious? A good plan should have support of developers and citizen groups alike. Without this support, bitter land use and zoning wars ensue that consume the time and resources of developers, citizen groups, and elected and appointed officials – all locked in continual battles over plan amendments, rezonings, and special exceptions.

Everybody has commented on the adversarial nature of the development review system in Sarasota County – developers, citizens, and officials. The current level of disagreement over development is very time consuming. The system requires a continual, intensive effort on the part of all groups. Developers are often savaged by the process, even when proposing development that is advocated by the County's plans. Citizen groups feel the strain of having to remain ever-vigilant. Elected officials are suffering from long agendas, heated hearings, and threats of litigation. The nature of the County's process makes both redevelopment (infill) and economic development difficult.

And, an overly adversarial system does not necessarily lead to good decisions. It does not make sense under Florida's planning system, where implementing regulations must conform with mandated comprehensive plans. Mandatory consistency means that many basic land use decisions are made at the plan (future land use map) stage. Both general use and density are set at this level. Zoning must be consistent with the plan and future land use map. Where zoning is consistent with the plan and map, then processing of most development permits should be a simple function that flows smoothly and quickly. That appears not to be the case in Sarasota County.

B. REZONING

One point where contentious situations can be expected to arise is during rezoning. There are many areas where the comprehensive plan permits a variety of possible zoning districts to be used to achieve the plan's objectives. When a zoning change is requested, it warrants review for compatibility of the proposed zoning with the broader policies of the plan. Citizens often have sound reasons for objecting to the application of a specific zoning district.

Unfortunately many applicants have realized that it is often easier to amend the text of the zoning ordinance to achieve their ends than it is to openly request a rezoning of the affected property. The text amendment does not necessarily receive the same neighborhood scrutiny that a rezoning application and public hearing would, often making it a quicker and cheaper solution.

However, once zoning is granted, the developer should be able to proceed without further adversarial hearings or meetings. Zoning implements the County's comprehensive plan. Citizens should be focused on plan amendments and periodic updates. Developers and landowners who fail to get what they want at the plan amendment stage should not be able to continue the fight through proposed text amendments that simply readdress the same issues decided in the rejected rezoning.

C. IMPROVED STANDARDS

Uses that are common, such as fast food, gas stations, and convenience stores should have performance standards designed to eliminate the potential for nuisances. For example, lighting, trash storage, noise from speaker boards or vehicle traffic, signs, litter, roadway access, location,

and other real issues can be addressed with performance criteria or criteria that are specific to that use. These performance standards are all designed to eliminate the potential for nuisance – making the use a compatible neighbor.

Unfortunately, the existing standards force development review to focus on appeasing citizen concerns rather than implementing the plan. While permitting citizens to comment on developments that will be built next door is desirable, it should not be the process for review of every aspect of every development proposal. And it is especially important that the process not hinder achievement of planning goals – specifically, where the plan calls for set densities and intensities, the community should not be permitted to undermine such broader decisions through case-by-case decision-making. If the overall intensities in the Plan are incorrect, the response should be to modify the Plan.

The starting point for such standards for our purposes will be the stipulations and conditions that the County has imposed on such development in the past. A review of this material shows many areas of deficient standards in the existing ordinance which can be easily remedied during this revision process.

It is important to note that expanding the use of standards and approving more uses by right implies additional work for the Zoning Administrator. In addition, it will be important to support the Administrator with staff with planning or design skills, due to the increasing complexity of the approvals that will be before him. With the current physical separation of these uses, we encourage the County to work to establish an innovative mechanism to more closely knit the Growth Management and Development Services departments together to address this need.

D. STREAMLINING

For a development code to be effective, the development review process must be efficient, and the community's substantive planning and development goals must be embedded in the development review standards.

Efficient development review is achieved when the framework for permitting is not redundant, the procedures and review standards result in a reasonable degree of certainty, and the review process for each permit type is streamlined to the greatest degree possible. Streamlining of review procedures is accomplished in a number of ways, including:

- Consolidation of permit processes;
- Reduction of review steps;
- Concurrent review; and
- Administrative review instead of discretionary review

It is important to note that determining the appropriate level of review for specific types of proposals must be integrated with the revision of standards in the ordinance. The way to ensure that broader administrative review is acceptable to the community is to assure them that their goals will be implemented through the application of uniform standards. We hope this process will evolve during review of revised ordinance language – neither procedures nor standards are the sole answer.

E. SUMMARY OF EXISTING REVIEW AUTHORITY

The following table summarizes the existing development review authority in the County.

Procedure	Planning Staff	Zoning Administrator	Board of Zoning Appeals	Planning Commission	Board of County Commissioners	Circuit Court
Certificate of Zoning Compliance		DM	A			
Written Interpretation		DM	A			
Zoning Map Interpretation		DM	A			
Sign Permit		DM			A	
Temporary Use Permit		DM			A	
Administrative Appeal			DM			A
Variance			DM			A
Planned Development District Review	R			R	DM	A
Special Exception	R			R	DM	A
Temporary Use Permit w/ Public Hearing	R				DM	A
Map Amendment (Rezoning)	R			R	DM	A
Text Amendment	R			R	DM	A
Transfer of Development Rights	R			R	DM	A

KEY: R=Review/Recommendation DM=Decision-Making Body A=Appeal Body

F. SPECIAL EXCEPTION AND PUDS

Special exceptions and planned unit developments (PUDs) are intended to provide more precise control of development through a process that provides the decision-makers with greater participation in approving the design of development proposals. When the special exception and PUD were first introduced in this country, they were more strictly construed than today.

- Special exceptions were intended to be applied to certain uses that might be acceptable on some, but not all, sites within a zoning district.
- PUD was a device intended to provide relief from overly rigid dimensional and use regulations in order to allow for improved development design. As originally envisioned, a PUD might provide flexibility on lot size to enable a development to protect a natural resource (or the neighboring property) without losing density.

As currently practiced in the County, both special exceptions and PUDs involve negotiation. The first rule in negotiation is to never enter a negotiation without something to concede. This means that each development plan is submitted with enough density that some of it can be negotiated away. Thus, *the best plan is never put forward initially*. Such a process cannot be predictable, nor does it lead to the best design of future development.

The County can sharply reduce its dependence on special exceptions and PUDs. First, revisions to the ordinance will bring the regulations in line with the Comprehensive Plan, keeping the County from having to implement the Plan through PUD instead. Second, there are approaches that can provide the protection that citizens desire, without the uncertainty of a negotiated process. These techniques commonly rely on replacing negotiated processes with the certainty of standards.

And the best possible standards are those with flexibility inherent in them, such as the use of general performance standards for landscaping, lighting, signs, bufferyards, and resource protection. For specific uses that have nuisance potential, standards can be designed to address that particular use. In fact, there are a large number of conditions that have been regularly applied to special exceptions in the County that should simply be codified. These performance standards can be used to better protect the public interest and neighboring uses without creating an adversarial process.

G. REZONING FOR INFILL DEVELOPMENT

In Sarasota County, the future land use map sets a density range for each land use category in the plan. The range has a minimum and maximum density for that land use category. Zoning districts are then applied within one or more of the comprehensive plan categories. Under Florida law, the zoning must be consistent with the comprehensive plan. The plan can only be effective in guiding growth if development is actually within the range of anticipated densities set forth. If the County consistently builds near the bottom of the range, or worse yet, at densities below the range, it will force an early expansion of the urban growth boundary.

Citizens take advantage of the rezoning process to seek lower densities for infill projects. For the most part, they are successful: densities of infill development approvals are less than those indicated in the Comprehensive Plan, and often below the district density. As a result, the County is falling far short of its infill goals. As developments in the urban growth area build out at less density than the Plan calls for, pressure to extend the urbanized area builds.

Infill development should achieve at least the mid-range of the comprehensive plan categories on average. The stipulations placed on rezoning petitions are resulting in densities that are sometimes below the minimum for the land use plan category or very near the minimum. This appears to be counter to the comprehensive plan. In some cases it, where the density is below the range, this is inconsistent with the plan.

There are tremendous battles over infill development if it requires a rezoning or special exception permit. No group we interviewed (staff, developers, or citizens) is happy with this situation.

The County should consider using absolute minimum densities that must be achieved in each zoning district, at least in areas qualifying as “urban enhancement” (these areas are not yet defined). The only exceptions to this would be for sites that have such severe natural resources constraints as to make the minimum density infeasible, or where a developer insists on building out a project where concurrency standards set a cap on development that is below the district minimum. The second aspect of the solution is better development options that provide developers flexibility to work with constrained infill sites while respecting the needs of neighbors, protecting the environment, and meeting concurrency standards.

The other area of most concern to neighbors is “compatibility.” It is important to codify compatibility (buffers, screening, setbacks and other protections) as clearly as possible so that landowners will feel satisfied by the end result of development without having to monitor its progress through the entire development approval system.

H. TEXT VERSUS MAP AMENDMENTS

Many of the obligations (for hearings and notice) are different for text amendments versus map amendments (rezoning). The new ordinance should set forth a separate procedure for each type of amendment. In addition – text amendments should NOT be used in place of map amendments to subvert the intent of the zoning ordinance.

I. SITE PLAN REVIEW

The County should codify the existing site plan review procedures in the ordinance. Site plans associated with special exceptions are legally binding, and the ordinance should state this clearly. In codifying this issue, a decision regarding the appropriate level of detail for special exception site plans must also be made (conceptual or bubble plans versus detailed plans). In addition, the extent of changes permitted should be laid out in as detailed a fashion as possible.

J. ADMINISTRATIVE CHANGES TO CONCEPT PLANS

The County should consider formalizing the extent to which concept plans may be modified administratively during the course of development. Due to the number of years many developments require to build out, and the uncertain nature of the marketplace, changes to concept plans are often necessary. When such changes are significant, they should be reviewed (as they are now) by the original approving body. However, where such changes can be agreed to be minor, or where such changes result in lowering the intensity of the development, there should be a mechanism for approving changes administratively.

K. ADMINISTRATIVE ADJUSTMENT

It is common for zoning ordinance provisions to allow for modest changes at the administrative level. Often the process allows for a specified set of numerical standards to be varied without requiring a more formal variance through the Board of Zoning Appeals. This would commonly include parking standards, yard setbacks, signs and other elements that often clog up the Board's agenda over variations of inches from the standard. We recommend the County add such a process, however it must be clear that the intent is to correct errors during construction, not to provide for variations during the approval process prior to development. Where additional assurance is necessary, affidavits from abutting property owners agreeing to the proposed adjustment can be a requirement of such an administrative approval.

L. VARIANCES

The revised ordinance should seek to reduce the number of applications for variances. This can be accomplished through increasing flexibility in development standards, providing for alternative compliance mechanisms, and expressly setting some standards that would not be subject to variance (often landscaping and signs are treated in this way). The Board of Zoning Appeals should focus on true "hardship" cases that are unique to specific sites. Review criteria for the Board should ensure it makes the findings required by the Florida courts in developing its decisions.

M. ORDINANCE INTERPRETATIONS

The County has made a variety of ordinance interpretations over the years. Very few of these have been documented effectively, and none are distributed with the zoning ordinance itself. In fact, if the public chooses to appeal an interpretation, as is its right, it is difficult to know that an interpretation even exists under the current system.

Future interpretations of the ordinance should follow a procedure set forth in the ordinance itself. Such interpretations should be set forth in writing and a copy should be attached to copies of the zoning ordinance as they are distributed to the general public. A copy should also be available in the County Attorney's office. Periodically, every year or so, the interpretations should be incorporated by the Board of County Commissioners into the ordinance as text amendments, and the attachments eliminated.

N. REVIEW FEES AND APPLICATION REQUIREMENTS

Many newer ordinances replace the specific fee schedule with one adopted “from time to time” by the Board of County Commissioners. We would propose to replace the existing Section 23 in similar fashion. Application requirements (“applicant’s name, property address . . .”) are often found in separate application packets, an administrative manual, or an appendix to the ordinance. Where possible, we propose to eliminate the application requirements from the ordinance itself.

O. ALTERNATIVE REVIEW TECHNIQUES

1. Hearing Officer

Throughout Florida, communities have moved to de-politicize the development review process by hiring a hearing officer or other special master to conduct development review, provide rezoning recommendations, or (as in Sarasota County), enforce the County’s codes.

In Hillsborough County, they are called “Zoning Hearing Masters,” and hear rezoning requests, special use requests, and variance requests. They are quasi-judicial, and make findings of fact and conclusions of law.

In Manatee County, they are called “Zoning Hearing Officers,” and hear concurrency requests, special permit applications, and variance requests. As in Hillsborough County, they are quasi-judicial, and can make findings of fact and conclusions of law.

Sarasota County has considered this mechanism in the past, but it does not appear to have gained favor. As the ordinance is further developed, this idea can be explored again, if necessary.

2. Special Exception

Sarasota County’s existing special exception process places the burden of proof completely on the applicant. Many communities treat a special exception as a use that *must* be approved if the conditions of the ordinance have been met. This is different from the County’s existing scheme, in which the Board retains the right to “just say no.”

One expansion of the County’s development review structure would allow for public review of uses with modest anticipated impacts through a process that includes a public hearing, and allows the imposition of additional conditions on a use, but substantially curtails the ability of the review body to turn the use down when it met the standards of the ordinance.

The addition of this type of process would be used to reduce the number of uses that are permitted by special exception, and to expand the possible uses that could be permitted in many districts. If successful, this process would also reduce the need for rezoning.

As we begin to develop the ordinance itself (specifically the use table and revised districts), a further review of whether or not such a process may be helpful should occur.

P. PROPOSED ORDINANCE STRUCTURE

1. Create Two New Articles

The revised zoning ordinance will establish and prescribe the basic duties and operating procedures of the administrative entities responsible for administering and enforcing the ordinance. We propose that the County consolidate development review material into two Articles; the *Development Review Bodies*, which will consolidate and contain the composition and the powers and duties of the various development review bodies, and

Development Review Procedures, which will incorporate the review procedures found in the various articles and provisions of the existing ordinance.

2. Compile Common Review Procedures

The first part of the Development Review procedures Article should cover elements that are common to a number of different review procedures, including:

- Application Form, Contents and Fees
- Pre-Application Conference
- Submission and Staff Review of Application
- Public Notice
- Public Hearings

The individual procedures would follow this common procedures section. This keeps the ordinance from duplicating material which can be stated just once.

Q. CODE ENFORCEMENT

In any community across the country, even the best-drafted ordinance language, if poorly administered or enforced, is useless. This is an important point because a community that does not enforce its existing standards will not see substantial improvements due to the adoption of new standards.

It is important to note that enforcement of existing codes in Sarasota County is seen by many we spoke with as uneven and slow. Unfortunately generalized language (staying all pending actions during review by the Board of Zoning Appeals) has enabled some landowners to drag the system out through waiting to file with the Board of Zoning Appeals until just before the hearing on a violation before the special master, and if not satisfied with the decision by the Board of Zoning Appeals, often another appeal to the Board of County Commissioners is made, continuing the violation again . . . While it is common practice to stay proceedings related to permitting during an appeal to the Board of Zoning Appeals, this practice should not extend to code enforcement activity.

While code enforcement often lies outside the zoning ordinance itself, there are several techniques worth considering. The first is for the County to refuse to process applications for those applicants with existing violations, unless the application is intended to correct the violation. Clarifying what constitutes a violation may also help by empowering citizens, who will more clearly understand when a violation has occurred. In addition, clarifying the powers of the hearing masters used in code enforcement may be appropriate. Finally, a separate mechanism for enforcement may be appropriate for particularly severe or persistent violations.

One enforcement problem appears to be internal to the County, and that is the separation of the Zoning Administrator and the planning functions. In fact, the County's Zoning Administrator, who is charged by code with the zoning ordinance's enforcement, is no longer involved in enforcement. If the County intends to retain its existing internal structure, it is important that the new ordinance accurately reflect the existing responsibilities, and minimize the effect of separating these responsibilities to the maximum extent feasible.

While the Zoning Administrator does issue interpretations, they are not appended to the ordinance, or otherwise generally available (and are often unwritten). Future effectiveness of the ordinance will be enhanced if interpretations are written and available to all affected parties. We recommend attaching them to the ordinance, and amending the text annually, as necessary, to incorporate the interpretations. Copies of the interpretations should be filed in the County Attorney's office as well.

IV. ZONING DISTRICTS

A. INTRODUCTION

As we heard a number of times during our reconnaissance, Sarasota County is the “. . . biggest City in the County.” The County jurisdictional area encompasses traditional rural agricultural and ranching areas, urbanizing large lot areas, suburban communities, and truly urbanized areas. This breadth in potential land uses has meant the County has a wide variety of zoning districts intended to accommodate the specific characteristics of these various areas.

The most significant concern with the zoning districts is the substantial amount of material reproduced over and over in each district. This is common in older zoning ordinances. The fact that the districts themselves are in a separate Appendix to the ordinance does not help either. And many of the standards that apply in the districts are found in the document prior to the districts themselves! We recommend the County incorporate the districts into the zoning ordinance document, and reduce the material by preparing a consolidated use table. See the Chapter IX. for further discussion of this issue.

B. MATCH DISTRICTS TO PLAN CATEGORIES

Most communities in Florida have revised their zoning districts to more accurately reflect the anticipated densities that might occur under their future land use map designations. Sarasota County should revisit zoning densities so that the plan and zoning ordinance are a better match. This will ease the transition between plan and implementation, and perhaps reduce some of the friction (and subsequent stipulations) encountered during rezoning. In addition, as regional or other off-site stormwater solutions become available, the revised districts need to be calibrated to keep from providing a density “windfall” to developers utilizing such techniques.

C. CONSOLIDATION OF ZONING DISTRICTS

The County should consider the consolidation of some of its zoning districts. In the existing ordinance, some of the districts differ only minimally from other like districts. By collapsing matching districts, duplication and cumbersome, repetitive language can be avoided in the new ordinance. Altogether, the current zoning map shows 55 separate mapped districts – although only 43 separate districts exist in the text of the ordinance (see Table below).

Several of the County’s districts are already deemed obsolete (no land can be rezoned to these districts). These include the RMF-4 and RC Districts. Consideration should be given to deleting these districts, and rezoning existing sites to appropriate districts under the new ordinance.

The following table enumerates the County's zoning districts:

Residential Zoning Districts	
RE-1,2	Residential Estate
RSF-1,2,3,4	Residential Single-Family
RMF-1,2,3,4	Residential Multi-Family
RMH	Residential Mobile Home
RC	Residential Combination
RTR	Residential, Tourist Resort
RSZ	Residential Sending Zone Overlay
RRZ	Residential Receiving Zone Overlay
HDRRZ	High Density Residential Receiving Zone Overlay
FUD	Future Urban Development Overlay District Overlay
FURRZ	Future Urban Residential Receiving Zone Overlay
Commercial Zoning Districts	
CN	Commercial Neighborhood
CG	Commercial General
CI	Commercial Intensive
CHI	Commercial Highway Interchange
CSC	Commercial Shopping Center
CM	Commercial Marine
EBD	Englewood Business District
OPI	Office, Professional and Institutional
Planned Development Districts	
PRD	Planned Recreational Development District
PCD	Planned Commerce Development District
PID	Planned Industrial Development District
OPI/PD	Planned Office and Professional District
Industrial Zoning Districts	
ILW	Light Industrial and Warehousing
I	Industrial
Special Purpose Zoning Districts	
GU	Government Use
OUA	Open Use Agriculture
OUC	Open Use Conservation
OUE	Open Use Estate
OUM	Open Use Mining
OUR	Open Use Rural
CSZ	Conservation Sending Zone
MP	Marine Park
AOOD	Arts and Office Overlay District
PUD	Planned Unit Development
UDOD	Urban Design Overlay District

D. BASE VERSUS OVERLAY DISTRICTS

As ordinances are modified over time, it is common for additional, specially-crafted districts to appear in the district hierarchy. Often these districts have a very specific target use or problem they resolve. Many times these districts are created as base districts, when in fact, an overlay approach might be more appropriate. When fundamental use issues remain the same, the base district should remain the same, and be overlaid with additional restrictions or flexibility in regard to design or other standards. If the primary intent is to modify the “look and feel” of a given area, the overlay approach is often superior to creation of a multitude of districts that are not applicable in other portions of the County.

Even the overlay concept can often be applied in multiple areas – one example might be a “gateway” district encouraging design features such as construction up to the street with parking behind, minimum height limits, and distinctive architecture. There could be a number of locations within the County where such an overlay would be useful.

E. NEW DISTRICTS

1. TND

Many communities in Florida and throughout the country are implementing pedestrian-friendly, mixed use development using standards often called “traditional neighborhood development” (TND) or “new urbanism.” The concept best applies to larger sites (160 acres or more) where an entire new community is created, although many of the concepts can be applied at a smaller scale. There may be areas outside the existing urban service area that are appropriate for this type of development. However, due to the current County preparation of a plan for the east area (where the majority of eligible sites would lie), it would be premature to define a new district at this time.

There are other areas of the County that may benefit from some or all of the kinds of pedestrian-oriented, mixed use standards that apply in a TND, and we encourage the County to consider adopting such standards as alternatives, even within many of the existing zoning districts.

2. Siesta Key

A new Siesta Key overlay district is currently under way – based on the 1999 community plan. Working with a core group through a series of workshops, County staff has reached some agreement on a series of the most vexing issues for the Key. These include:

- Signs
- Walls and Fences
- Short-Term Rentals
- Dumpster Location
- Commercial Setbacks
- Parking Lot Surfaces
- Nonconforming Lots

Working with County staff, the consultants will prepare a draft overlay district ordinance, which is anticipated to move forward for adoption during spring/summer of 2001.

F. OPEN USE DISTRICTS

There may be districts which can be deleted for lack of use, such as the Open Use Mining (OUM) District. It is our understanding that this district does not currently appear on the official map. Borrow pits as a use are handled in all of the other Open Use districts – and perhaps this district can be eliminated.

Also, the development of uses that may not conform to the character of the district as a whole, and therefore should be considered on a case-by-case basis, would normally occur through the special exception process. Based on focus group comments, the establishment of religious institutions in the Open Use districts should occur only through such a special exception process.

G. DIMENSIONAL STANDARDS

1. Single-Family Residential Dimensional Standards

The following table illustrates the dimensional standards that apply in the County's single-family residential districts:

	RE-1	RE-2	RSF-1	RSF-2	RSF-3	RSF-4
Lot Dimensions						
Lot Area, Min.	2 acres	1 acre	15,000 SF	10,000 SF	7,500 SF	6,000
Lot Width, Min.	150 ft.	100 ft.	100 ft.	80 ft.	75 ft.	60 ft.
Maximum Height	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
Maximum Net DU/Acre	0.5	1.0	2.5	3.5	4.5	5.5

We perceive a number of problems with the residential dimensional standards the County currently imposes. First, the lot widths for larger lots are too narrow (the RE-2 could result in a 100 foot by 435 foot lot, for example). For large lots, the lot width should result in a more common 1:2 or 1:3 ratio.

The maximum net density per acre is a poor measure because maximum gross densities on buildable sites are likely to be much lower. For example, a perfectly buildable site, with no natural resources to protect, still needs at least 15% open space for detention, and roads take up an additional portion of the site. The following sample calculations illustrate the disparity between gross and net densities using the existing minimum lot sizes for each district. Note that both net and gross densities are below the current zoning ordinance standards.

	RE-1	RE-2	RSF-1	RSF-2	RSF-3	RSF-4
Maximum Net DU/Acre (from current ordinance)	0.5	1.0	2.5	3.5	4.5	5.5
Gross Density (15% open space plus roads)	.36	.70	1.80	2.39	3.09	3.87
Net Density (lots and roads)	.42	.83	2.13	2.84	3.69	4.62

The County should consider the a site capacity calculation that automatically adjusts for specific site conditions such as amount of wetlands and other protected resources. The calculation can take into account roads and other required elements of a residential subdivision, giving a much more accurate picture of density than the net DU/acre calculations currently listed in the zoning ordinance.

More accurate calculations should be undertaken in order to effectively calibrate the zoning districts to the overall Plan densities.

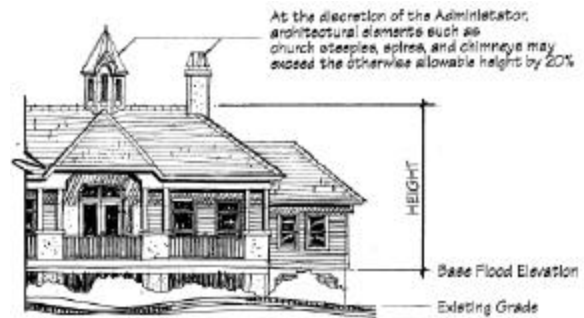
2. Height

Many communities have found that a height restriction of 35 feet (found in most residential districts across the country) no longer effectively defines the correct height for many of the existing neighborhoods. As these neighborhoods redevelop over time, especially those near amenities such as the water, parks or near downtowns, newer houses appear out of scale with the neighborhood.

There are a variety of techniques that can be used to try to soften the effects of new infill residential development. One has recently been implemented by the County – the use of a “daylight plane.” This concept allows development up to 25 feet in height at the side yard setback, but structures taller than 25 feet must fit within a 45-degree slope area above the 25-foot line.

Some communities choose to measure height as an absolute number for the upper roofline of the house. This eliminates the perceived bonus on a taller roof (which the County would measure using the mid-point).

Focus group members also suggested revisiting the height limits in areas allowing multifamily development. Recent trends in “gracious living” have led to taller ceilings in apartments, and the County should consider the multifamily district height restrictions as well.



Measurement of Height – Hilton Head Island

H. OPEN SPACE IN RESIDENTIAL DEVELOPMENT

The County’s current requirements for open space in different residential districts provide unequal treatment of the issue. While planned developments have high open space standards (as they should), residential subdivision in existing districts does not require open space. While open space will occur in subdivisions due to the need for stormwater management areas, this is not what most would consider usable open space. And it seldom provides for recreational opportunities.

The County should adopt standards for required open space in all residential districts. Standards proposed to apply to the existing districts should be reviewed in conjunction with aligning the districts with the comprehensive plan. A calculation of actual residential yields at net density (net of roads, drainage and proposed required open space) should be completed as part of revisions to the residential districts.

I. CLUSTERING

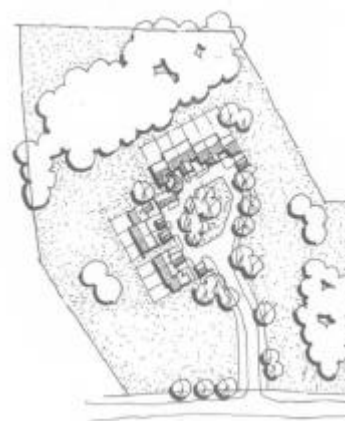
In our review of plans brought in under the County’s clustering provisions, it is clear that the current County standards do not create true cluster developments that differ significantly in appearance from conventional zoning. The environmental conditions in Sarasota County force developers to do two things – respect wetlands and provide stormwater detention. In Sarasota County, 10 to 18% of a site is likely to be needed for detention. The need for detention forces even the conventional cookie-cutter development to provide open space. While the amount of wetlands varies from site to site, many of the infill sites were skipped over in the initial development of neighborhoods because they had significant environmental constraints. The result is that the average open space requirement (detention plus wetlands) of the remaining infill sites would be in

the 30-50% range. There are many examples of cluster development that are below the district density.

The current cluster provisions allow the developer to reduce the minimum lot size below the district minimum. Thus, when compared to a site that had been built on better land and only provided detention, the result is butting smaller lots up to the standard lots for the district. If the development is similar single-family houses, rear yard to rear yard, and if the rear yards have identical setbacks, the lot size would have to differ by 15 to 20% before the change in lot area becomes noticeable. As more Sarasota houses deviate from the one-story, traditional Sarasota County house, an additional factor (building height) is added to the compatibility issue.



In the traditional theory of clustering, a development with no open space was contrasted with one having perhaps 30% open space. The cluster development's open space was meaningful space, often in one contiguous parcel or a network of open space. In Sarasota County, the open space is often unbuildable land. It does not form continuous pedestrian corridors, it is not active recreational land, nor does it provide buffer except by geological accident. This we believe is crux of the battles between existing residents and developers, there is no real beneficial open space being provided.



In order to insure compatibility with neighbors, cluster development should include a requirement for a minimum bufferyard whose opacity is specified. There should also be a minimum open space ratio required of the cluster development plus a requirement that a certain percentage of the open space be buildable land. Finally, the cluster development should be limited to single-family units and have a minimum lot size that permits maximum density to be achieved on infill sites that have common needs for open space.

J. PLANNED DEVELOPMENTS

1. Open Space in Planned Developments

The primary revision necessary for planned development is to fit this scheme into the overall implementation of the Comprehensive Plan and zoning districts. By requiring open space in planned developments and not in standard subdivision, a significant difference has been set up. The ease with which the developer can move forward in the base districts and through the planned development process is very different. We would propose that the County adopt open space standards for all residential districts in order to help level out the requirements.

2. Planned Development by Right

We propose the County consider a technique that would allow a limited type of planned residential development by right. This use is a form of clustering that would permit a variety of housing types at the developer's option. Buffering, open space, and other design controls would protect the character of the area. Maximum and minimum densities would be specified by zoning district, and a minimum amount of the open space would have to be

buildable land. The amount of open space would be higher than that required of a cluster development in any district. Ideally, larger planned developments would have several dwelling unit types. It is also possible to include mixed uses into this approach. This would be done by writing standards controlling the location of these facilities, their design and the relationship to adjoining uses.

3. Planned Unit Development

The PUD would be reserved for larger-scale developments that would take many years to build out and where land uses and intensities across the site should vary substantially. The PUD would be approved conditionally. It is also likely that such a development would also be a DRI in some instances. The intent would be to provide County control on major land use allocation and location, the relationship to adjoining properties, and to insure a high quality design standard. It is also likely that in many cases a rezoning would be involved which would locate major land use allocations. The rezoning is not essential and the County could address this in the developer agreement and preliminary land use plan. PUDs should have a tracking system that provides considerable flexibility in the mix of development while insuring that areas to be protected are protected and that changes in mix and density are tracked to maintain the original mix and density for the project.

4. Tracking of Approvals

Many communities have opted to use computerized tracking of land use approvals like the planned unit development, special exception, variances and other approvals that set different rules for specific properties. We recommend that the County evaluate its options in this regard – such systems make the staff's job substantially easier.

V. USE REGULATIONS

A. LAND USES

One zoning enforcement person characterized the current zoning as having only a quarter of the uses that the staff must address defined or mentioned in the zoning. The current definitions are few and badly out of date. They fail to address modern land uses and mixed land uses. It is clear that land uses need to be defined to include modern land uses and to ensure that all land uses are covered so that staff is not forced to make interpretations as to whether a land use is permitted and as to what it is most similar.

B. USE ISSUES VERSUS SCALE ISSUES

Sarasota, like many communities, struggles with the question of uses to be permitted in Neighborhood (CN) versus Community (CG) or Regional Commercial (CSC) districts. It is nearly impossible to attempt to do this by use. This is because a great many uses are found in a variety of scales. While the corner store has disappeared, specialty or ethnic food can be found in buildings of 4,000 to 150,000 square feet. Similarly, clothing can be found in a small 1,500-foot store or in a big box user with 60,000 square feet. The real distinction is often not use at all, but scale. The neighborhood uses need not be sharply limited by use, but can be successfully regulated by scale.

An easy way to address this concern is to create a new category in the land use table that defines what sort of approval a use needs in the district. We use what is called a "limited use." The limited use is one that is permitted by right, but which has a variety of special limitations. The limitation could be scale as discussed above, it could be minimum lot area, special buffering requirements, design standards, locational or spacing or other criteria. This makes it possible for a very broad definition of retail to be used in the definitions. In the use table, the (neighborhood) and (community) commercial districts would be listed as limited. The limited use section of the code would set the scale of the buildings in these districts. The limitations can address freestanding, shopping center, or multiple story limitations so that it is very precise. In truly neighborhood commercial areas, limitations might also include the exclusion of fuel sales (a convenience store is acceptable, but a convenience store with gas pumps is not).

C. APPROACH TO USE

The existing zoning ordinance structure and layout does not provide an easy way to compare one zoning district with another. Nor is it simple to determine where a particular use might be permitted. Also, the uses are listed separately for each district, leading to significant duplication of material throughout the ordinance. Any standards applied to a use are also repeated. This problem can be alleviated through the creation of a Use Table.

1. Alternative Use Classification

The definition of uses is always a difficult task, and has become substantially more difficult in recent years as uses are undergoing dynamic changes. Gas stations are a case in point. There was a time when gas stations had two pump islands and a few repair bays. Today the repair activities are all specialized and new facilities do not include them. Instead, fast food restaurants, car washes, and convenience marts are found linked to gas services. Industry too has been evolving dramatically. The old heavy industry (smoke stack industries) have all but disappeared.

2. NAICS

In classifying industry, broad categories should be used wherever possible. The use table need not be more than a few pages long. The uses in broad categories need to be defined so as to avoid making interpretations at every turn. The North American Industry Classification System (NAICS) code published by the federal government has some 18,000 codes for non-residential land uses. This code replaces and updates the prior Standard Industrial Classification (SIC) code. These codes permit very strong definitions of land uses.

The codes can be used at a high (generalized) level to include all uses within a two digit category, covering hundreds of uses with a short name and the associated NAICS number. If there are listed uses that need to be excluded, then that language is added. There will also be some land uses that are not separately defined by NAICS – fast food restaurants or adult uses are examples. These also can be exceptions where the NAICS needs to be supplemented with text. There are not that many examples of this type of special definition.

SAMPLE USE DEFINITION

Office. Office uses include:

- Finance, banks, trusts, lending (NAICS 521, 522, 525, 533)
- Security, commodity brokers and services (NAICS 523)
- Insurance carriers, agents, brokers, and service (NAICS 524)
- Real estate (NAICS 531)
- Professional and Technical Services (NAICS 5411-5419)
- Business services (NAICS 55, 5611-5616, 5619, 8139)
- Health services (NAICS 621)
- Social services (NAICS 624) (except care facilities)
- Educational services, such as business schools (NAICS 6114), technological, and trade schools (excluding public and private schools defined as institutional)
- Civic and Social organizations (NAICS 8132 -34)
- Miscellaneous services
- Agricultural support and services (offices only) (NAICS 115)
- Governmental offices (NAICS 92 excluding public service)
- Parking Lots (NAICS 81293)

3. Limited Use Concept

As described earlier, we propose to add “limited uses” to the use table. This is a permitted use type that has additional limitations on location (for example, 300 feet from a school) or design (for example, the buffer must be increased when adjoining residential districts). This is particularly important in making distinctions between commercial districts and between industrial districts. In many cases, the difference between a neighborhood and regional commercial use is totally unrelated to the use. A neighborhood shoe store might have 4,000 square feet, while in a power center, a specialty shoe store might have 20,000 square feet. Scale of the use is often a better standard than use in trying to determine what uses are permitted. The limited use concept allows the use to be permitted, but limited in scale.

This same scale concept is useful in determining what uses are permitted in a business park, light industrial district, or heavy industrial district. The scale of the building, the type of vehicles used to bring in raw materials and ship the finished product are all determining factors. Thus, a small 5,000 square foot stamping forge that ships all products and receives

raw materials by parcel delivery service can be permitted, even though stamping forges would normally be considered to be a heavy industrial use.

D. PROVISIONS FOR UNLISTED USES

The key to flexibility in any use system is the ability to handle new, previously undreamed of uses. We have seen the arrival of the corporate call center, the internet café, and many other previously uncategorized uses. We propose a set of criteria that can be applied to existing and proposed uses to determine which use category they fall into. The criteria should measure a variety of factors:

- Characteristics of the activity
- Floor space and equipment
- Sales, customers and employees
- Hours of operation, vehicles used
- Vehicle trips generated
- How the use is advertised, etc.

The criteria allow use determinations to occur at the staff level through interpretation, as opposed to requiring amendments to the text of the ordinance (which require public hearings and adoption by the Board). As with other interpretations, we propose the County attach any use interpretations to the ordinance during the course of the year, and then annually amend the text of the entire ordinance to accommodate the interpretations.

E. STANDARDS FOR SPECIFIC USES

One common approach to troublesome uses has been to make them special exception uses. This makes all sorts of common uses more difficult to approve and consumes lots of staff time. Signs, vehicle storage, curb cuts, relationship to residential uses, and storage of trash could all be subject to design standards added as conditions during review. We believe that such standards, when effectively drafted, can be administered by staff without significant design training.

Performance zoning is based on using design standards to address the design and location of elements of land uses that are problematic due to the potential for impacts on adjacent properties. The design standards can be written to achieve specific goals, for either the placement of a particular element of a land use on the site, its design, or its landscaping. A trash facility for apartments or small commercial uses is an example that clearly requires standards for its enclosure. Landscaping or fencing can be used to screen the enclosure, making it less obvious to neighbors. Prohibiting its location next to residential uses can also be helpful.

The County has identified some specific problem areas such as outdoor garden centers, drive-through queuing and speakers, lighting standards, loading areas, pump islands, and big box retail. Numerous other communities have addressed these issues, and we have a full range of examples at hand. Our approach will be to look at troublesome uses and determine the types of nuisance potential they pose to the community. Once this analysis is complete, we will evaluate which problems are applicable to a wide range of uses, and which are use-specific. Problems of loudspeakers, lighting, queuing capacity, refuse areas, changes of scale at district or use boundaries, and screening of loading areas are all generic problems that can apply to a wide range of uses. Other concerns such as gas pump islands, garden centers, and automobile display are directed at a single use or small group of uses.

1. Bed and Breakfast

Bed and Breakfasts are only specifically permitted, subject to density, parking and appearance requirements, in the Englewood Business District (EBD) and the Arts and Office Overlay District (AOOD). They are limited to a maximum of twelve guest rooms. The revised zoning code should more completely address bed and breakfasts, and whether or how they are to be permitted in residential areas. At their current size (maximum of 12 rooms), they are incompatible with most single-family districts. We recommend this larger bed and breakfast establishment be considered a bed and breakfast “inn” or some other similar term to connote its larger size. A bed and breakfast establishment proposed for any typical neighborhood is intended to blend with its surroundings. This commonly means that a maximum of four rooms should be available for guest use.

2. Manufactured Housing

A modest revision of the County’s approach to mobile homes will be undertaken to comply with existing Federal and State statutes and case law. We will work closely with the County Attorney and staff to accomplish this revision. The existing definition of “mobile homes” is inadequate to address modern manufactured homes and their regulation.

The existing definition of “mobile homes” includes the following three general requirements: design for long-term occupancy, with complete housing facilities; ability to be transported on its own wheels after manufacture; and arrival on-site as a complete dwelling unit.

Under current Federal law, manufactured homes generally may not be excluded on the basis of whether they were manufactured on or off-site. The revision will seek to accommodate the County’s concern for high-quality housing and compatible appearance that is clear from the existing regulation.

The revisions may be as simple as replacing the term “mobile home” with “manufactured housing” and revising the definitions. Placing these uses (and RV Parks) on a consolidated use table will also help the public understand the regulations more easily.

3. Telecommunications Facilities

We recommend the County retain its separate existing regulations for telecommunications facilities, but improve the cross-references in the existing ordinance.

4. Sexually-Oriented Businesses

We recommend the County incorporate its separate existing regulations for sexually-oriented or “adult” businesses in the revised ordinance.

F. ACCESSORY USES

1. Home Occupations

Under the existing zoning ordinance, home occupations are limited to family-member employees, one identification sign, a maximum of 25-percent dedicated floor space, and traffic, noise and other nuisance regulation. Also, the ordinance specifically prohibits the following 17 uses: beauty shops, barbershops, band instrument or dance instructor, swimming instructor, studio for group instruction, public dining facility or tearoom, antique or gift shops, massage parlors, photographic studio, fortune-telling or similar activity, outdoor repair, food processing, retail sales, nursery school, medical or dental laboratories or kindergarten.

The discussion of home occupations should be moved from “Definitions” to a new section with other use regulations. The County’s regulation of home occupations will also be reviewed for compliance with existing statutory and case law, and updated appropriately. We will seek to ensure that the definition of home occupations is limited to uses that have minimal impact, and are compatible with residential areas.

Some communities allow for two levels of home occupation. The first allows a series of uses that are not visible to the neighborhood (no employees, no signs, no storage, etc.). This type would be allowed by right in all neighborhoods. The second type would require either a public hearing or affidavits of approval from adjacent owners prior to approval. This type would expand to perhaps allow for one additional employee, perhaps a modest sign, and might include more intense uses (single-chair beauty shop or perhaps many varieties of home instruction).

G. TEMPORARY USES

There are a series of uses that occur on a temporary basis – some as short as several days, other for months – that the new ordinance should regulate. These include:

- Concrete or asphalt batch plants (when associated with a specific development)
- Special events (where such events do not take place in the streets or on public land)
- Outdoor sales (including seasonal sales like pumpkins or Christmas trees)
- Model homes, etc.

The ordinance should include standards, and where necessary, an approval procedure for temporary uses.

H. TRANSFER OF DEVELOPMENT RIGHTS (TDR)

The County's TDR program has not been widely used. TDR is a program that offers great promise but has often failed to live up to that promise in practice. The primary constraints on TDR programs are unrealistic economics. A second constraint can occur when the local government seeks to become too involved in TDRs.

Specifically, the team will look at the level of reward for using TDR, asking the question, “. . . is the value of the TDR worth the price being asked?” A related question is whether there is a market (demand) for the product density resulting from TDR transfers. Land owners (supply) will not sell if they do not believe that the TDR is giving them their expected value. Total value of land retained plus TDR sale must equal market value. Many TDR programs have failed because they were designed solely to fend off a taking issue (including Florida’s “Harris Act”). Landowners who can hold out often do so, hoping the system will fail through lack of use. The supply and demand side must also be balanced in mandatory systems with a substantial excess of demand over supply. This balance between supply and demand will be reviewed. In part, the problems in the recent U.S. Supreme Court case, *Suitum v. Tahoe Regional Planning Agency*, 520 U.S. 725 (1997), were the result of a failure to match supply to demand.

There are also zoning constraints that can make the program fail or perform weakly. In the New Jersey Pinelands, it was quickly discovered that the densities some communities indicated were possible were in fact not achievable. Process constraints that make it difficult or involve bureaucracy in the TDR program will reduce or destroy the programs' efficiency. Worse yet, they may result in litigation.

Our recommended approach is to identify the *purposes* for which TDRs should be used. This means identifying target transfer areas. Such areas may be in undeveloped areas with capacity, or perhaps in infill areas where increased density would be desirable. The analysis must also identify the current land value in the sending areas so that a value for the TDRs can be established. There may be areas where legitimate land value expectations exceed that possible under existing (or proposed) zoning densities. Adding up all of these areas provides a maximum set of development rights that might be available for transfer.

Next, receiving areas need to be identified and values based on zoning increase established for the financial yield from the addition of a transferred unit. These sending and receiving area totals may not balance (they often don't). This leads to a series of policy options:

- The sending area may be reduced;
- The density in receiving areas can be increased;
- A voluntary system can be used that makes the option available but does not have to balance. This system must have a legitimate residential development density available for those who do not transfer their rights.
- The use of rights in the same district can be considered.

VI. GENERAL DEVELOPMENT STANDARDS

A. RESIDENTIAL PROTECTION STANDARDS

Many of the County's stipulations applied during rezoning and many conditions placed on special exceptions relate back to the friction created when residential development abuts commercial development. Special care should be taken in these circumstances, and specific standards (incorporating many of the provisions included in stipulations in the past) should be adopted to manage the district boundary areas adjacent to residential development.

Residential protection standards are intended to protect residential properties and neighborhoods from the adverse impacts sometimes associated with adjacent multi-dwelling development and nonresidential development.

1. Applicability

Residential protection standards would typically apply to multi-dwelling and nonresidential development when such development occurs on a site located within 150 feet of any residential district.

2. Site Design

The following site design standards are intended to protect residential zoning districts from the adverse effects of adjacent incompatible land uses:

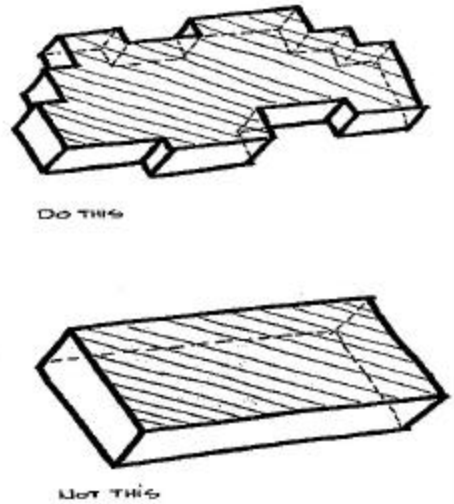
- Additional setback requirements
- Building height restrictions
- Visual screening of dumpsters
- Residential protection buffers
- Operating hours restrictions
- Noise restrictions
- Lighting restrictions

B. RETAIL DEVELOPMENT STANDARDS

Collier County has recently claimed substantial success in improving the "look and feel" of commercial projects through a set of architectural and site design standards. Many of the standards are illustrated – some with "Do This" and "Don't Do This" labels that help designers make decisions in line with the character desired by the County. The following types of standards should be considered as design guidelines for retail development in the County.

- Architectural Character
 - Facades and exterior walls
 - Smaller retail bays
 - Detail features
 - Roof treatments
 - Materials and color
 - Entryways
 - Lighting

- Rear and side facades
- Site Design and Relationship to Community
 - Entrances
 - Parking lot orientation
 - Uniform signage
 - Rear of building
 - Outdoor storage
 - Trash collection
 - Retention areas
 - Pedestrian connections
 - Central features
 - Community spaces
 - Outparcels
 - Delivery/loading operations



Excerpt from Collier County Architectural & Site Design Standards for Commercial Development.

Current design problems that should be tackled through improved standards include poor building orientation (for example, the Discount Auto Parts on Bee Ridge, which turns its back on the community).

C. ACCESS AND CIRCULATION

Many zoning ordinances have not kept pace with requirements often found in the same community’s subdivision regulations in regard to access and circulation. We suggest the County add a set of standards for internal circulation within sites for use in reviewing both planned developments and site plans for other developments. In addition, any access standards currently imposed through policy or the subdivisions regulations should be included here as well.

D. PARKING

There are many aspects of the County’s standards for parking that need revision.

1. Table of Required Ratios

The required parking ratios currently take up several pages in the ordinance, and separate standards are set forth for new development, the Englewood Business District, and expansion of existing development. It would be useful to create an expanded table with these standards, and to match that table to the use table, to the extent possible.

It is also becoming common to provide a maximum parking requirement as well, in an attempt to reduce the excessive paving often requested by large retail stores. This is often handled as a percentage (110% of the requirement, for example) of the standard. Providing parking over this limit requires additional scrutiny, often as a variance.

2. Shared Parking

Shared parking requires a variance under the County’s current scheme (although “combined” parking that is equivalent to the standard for both uses does not). This leave no incentive for providing shared parking facilities. Most communities have found that shared parking can be approved administratively as long as appropriate standards are in place. We suggest standards modeled on the original ULI shared parking standards.

3. Parking Lot Design

Aspects of parking lot design should be specified as minimum standards in the new ordinance, and illustrations of acceptable layout included. The biggest problem with the current ordinance is that parking layout specifications have been supplemented by later landscape provisions. This material needs to be recombined so that layout takes into account required landscaping. Many communities have also begun to require wider islands (the County standard is currently five feet – most call for six feet) in order to ensure longevity of planted trees. Other concerns (such as pull-through spaces to accommodate trailers or RV's) may be appropriate on a district- or use-specific basis.

4. Standards for Drive-Through Facilities

Design standards for drive-through facilities of various types (ATM, fast food restaurant, banking, pharmacy, etc.) should be included as well, along with appropriate illustrations. Where menu boards or other speaker systems are incorporated, their location should be specified to ensure that neighboring uses are not impacted.

5. Pedestrian Circulation Standards

It is important to include pedestrian circulation standards in the new ordinance. Developments with drive-throughs often ignore the need to access the building as a pedestrian by wrapping the entire building with a driveway. Larger parking areas, where pedestrians walk significant distances to gain entrance to the use, should also incorporate provisions for pedestrians other than exclusively in the drive aisles.

6. Bicycle Parking

The City of Sarasota has adopted bicycle parking requirements, and the County should review and consider similar standards.

7. Alternative Compliance

The County should formally establish a mechanism for permitting alternatives to on-site required parking. Such alternatives might include credit for:

- Valet parking
- Van or carpools
- Transportation demand management
- Availability of transit
- Remote parking areas
- On-street spaces, where appropriate

This concept also helps in re-use settings such as older shopping areas, where it is common for a restaurant to replace a modest retail use – often demanding substantial additional parking. The County should encourage such changes in use, but at the same time ensure that adequate parking is being provided.

8. Alternative Surfaces

The County Engineer should be allowed to permit alternative parking surfaces, where appropriate. These may include parking groves, turf block, gravel areas retained by ribbon curbs, or other acceptable solutions.

9. Shade Structures

The County needs to take a position on the acceptability of shade structures, especially impermanent, tent-like structures. If such structures are permitted, then appropriate setbacks should be adopted.

10. Loading Areas

It is becoming increasingly important to provide for loading areas in commercial settings in order to simplify traffic patterns and improve safety. Everyone is familiar with the need to negotiate around vendors delivering to corner convenience stores and gas stations. Additional thought should go into standards that manage this problem effectively.

E. PERFORMANCE STANDARDS

The County's current ordinance provides for a series of "performance standards" that are essentially commonplace, relatively broad industrial standards that attempt to ensure that industrial uses do not have impacts in the community. A review and update should be undertaken.

In addition, if concerns such as lighting, noise and odor are to be incorporated, the County needs to ensure the adopted standards are understandable and enforceable at the neighborhood level (where these conflicts often occur). For example, the current standards require "any activity producing . . . glare" to be imperceptible at the lot line. Yet it is unclear whether or not this standard applies to lighting (it was originally written to protect against welding and other offensive industrial processes).

F. SIGNS

"Too big, too many and too tall . . ." This is what many of the focus group members suggested when we discussed signs. The current code permits both wall and freestanding pole signs for all uses. This has led to a poor quality and cluttered appearance of many commercial areas. Where only monument signs have been built, the appearance is much better. The modern out-parcel development is adapting to better sign control. The most difficult areas are older strip commercial areas where the building may have small frontages. The sign code needs substantial tightening up.

To begin with, the County should consider prohibiting some sign types, such as pylon (pole) signs. Many Florida communities have proven the success of monument (ground) signs instead, which are often more visually appealing. The County should also consider reducing the size of wall signs. Addresses should be mandated at a certain size, to improve wayfinding (and EMS service) throughout the County. Finally, the ordinance needs to provide consistency between the overall requirements, and specific requirements for special subareas (corridors, neighborhood commercial areas, historic areas, etc.).

We propose to provide sample visual material in order to help make these decisions during the development of the ordinance. This may include photo manipulation of existing areas in order to demonstrate the potential improvements and reduction of visual clutter.

Newer off-site sign types should be considered for their appropriateness in the County. Many concerns have been raised over "tri-vision" signs which allow three different messages to be displayed in rapid succession on the same sign structure. Such signs are clearly more visually distracting than static, single-message signs.

Clarifying (and often, limiting) acceptable sign types also allows for easier enforcement. For example, many communities choose to completely ban the kind of fluttering strings of banners or flags that outdoor sales establishments seem to prefer as attention-getting devices. Also, a simpler

table of number of permitted signs normally handles enforcement problems with the “Burma Shave” approach (multiple signs along the right-of-way, each telling part of the same story).

Temporary displays of holiday lighting should be handled somewhere in the ordinance – many communities have chosen to deal with such displays in the sign provisions.

The exemptions for signs actually include sign standards (for hospitals and universities, for example). These standards should be organized more effectively with the other standards.

Any major changes in sign provisions affecting political signs should be coordinated with the City of Sarasota, due to the substantial opportunity for confusion across the multiple jurisdictions.

G. LANDSCAPE BUFFERS

The current bufferyard system is difficult to use. Part of the problem is that the tables are poorly designed – a problem that is easily corrected using modern word processing formatting techniques. The plant unit multiplier is complex to use and should be replaced. Many of the current bufferyards are not illustrated – additional graphics would help.

Lane Kendig's book Performance Zoning put forward a comprehensive bufferyard system in 1980 which has been widely copied (sometimes verbatim, including the Illinois plant list). In the intervening 20 years, numerous advances have been made that allow a simpler and more enforceable standard. Bufferyards are intended to achieve several things, such as reducing noise or preventing materials from moving from one property to another, or feathering out differences in intensity on adjoining properties. However, the most obvious use of a buffer is to screen a use.

The best measure of this screening effectiveness is opacity, and opacity can be subject to a rigorous determination. An opacity of 0.5 hides 50% of a use while an opacity of 1.0 hides all of it. Higher opacities can be used where noise or other factors should be buffered. The opacity is calculated on a model that permits a variety of landscape materials and plants. This leaves a developer the flexibility to select several different planting options, width of buffer, walls or berms. The model (which is distributed as part of the on-line ordinance) permits the landscape designer to know the opacity and staff to confirm the opacity is met. The model also permits the length of buffer to be entered and then provides the planting requirement for the specific proposed planting area.

We will calibrate a model to the landscape materials in Sarasota County to assist in setting opacity levels for specific bufferyards. This enables a bufferyard to be designed to screen a specific building or object to a given opacity, and to be effective for buildings of a particular height. Scale and community character aspects of buffering can also be dealt with in a very controlled manner, with certainty that the buffer achieves a specified goal.

Landscaping includes ground cover, shrubs, understory trees, pines, palms, and canopy trees. The developer should be give flexibility to use all mixes, and the models accommodate this. A series of plant units with different mixes but similar screening potential can be the basis for general landscaping as well as buffer landscaping. Native landscape materials should be mandated and retention of existing vegetation encouraged. In recalibrating the buffer model, additional tree species should be considered. Walls, fences, or berms are components that can be mandated or left optional. A minimum width buffer is needed.

Some plant options may have specific locational options. For example, shrubs and understory are not desired in parking lots and other areas and are ineffective if a fence or wall is used. They enhance the buffer effect where a berm is used. All these elements should be specified in the ordinance.

Bufferyards are generally specified at district boundary lines and along collector and arterial roads. However, limited or special uses or certain activities may require specific additional buffering – this

would normally be included as a “limited use” standard. And it is important to specify *when* the buffer is installed, and by whom. Many current buffer charts specify a portion of the buffer on each side of the affected lot line, plus a standard for when only one side of the line is being installed at the time of development.

One other significant problem is the need for coordination of engineering and planning. Clear rules are needed to insure that drainage easements are not permitted in resource protection areas and bufferyards. The bufferyard prohibition may not be absolute, but the model can accommodate a greater width that does not count as landscaped area. Buffers also need provisions for pedestrian access to adjoining uses and specific design standards may be desired.

Finally, the revised landscaping section should be the sole source for all landscaping information – it needs to be culled from the districts (CHI, for example) and recombined here.

H. SCREENING

Appropriate screening standards should be added to the zoning ordinance. Examples can be found in recently-adopted rezoning stipulations. Such standards should be prepared for refuse areas, off-street loading areas and mechanical equipment.

VII. NONCONFORMITIES

A. EXISTING PROVISIONS

The County's existing nonconforming provisions appear adequate. Unfortunately, as in many other communities, it is difficult for the average ordinance user to determine the category of nonconformity that applies to their property. This section should be re-written and re-organized as plainly as possible, while retaining the fundamental legal basis for the issues being regulated.

Section 13 of the existing chapter (5) deals with expansion of special exceptions (after carefully explaining they are *not* nonconforming) and should be blended into the special exception procedure.

The nonconformities sections of the ordinance must be written after the standards and districts have been revised, because prior to that point, it will remain unclear where and what nonconformities will exist. We will strive to minimize the extent of nonconformities created during development of the revised ordinance.

B. PURPOSE AND INTENT

The County has a policy choice as it develops the nonconforming provision of its revised zoning ordinance. It can choose to:

- Eliminate nonconformities over time;
- Modify the standards of the districts to bring many of the currently nonconforming uses into conformity; or
- Work toward some hybrid response, eliminating the more severe nonconformities (industrial development in residential areas without adequate roadway access, for example), while encouraging changes over time that help eliminate many of the current nonconformities.

Following selection of an appropriate policy thrust for this section of the regulations, a new purpose and intent statement clarifying the selected policy should be prepared.

C. NONCONFORMITY DUE TO ROADWAY EXPANSION

Many communities have chosen to handle areas where nonconformities exist due solely to roadway widening projects separately from other nonconformities. There are many cases where the landowner adjacent to an expanded roadway is compensated for the loss of parking in front of a commercial building. When the landowner has already been compensated, then bending the rules to continue to allow the nonconformity to continue results in "paying" the landowner twice.

D. MITIGATION OF NONCONFORMITIES

One other concept should be considered – the mitigation of nonconforming uses through the issuance of a special use permit. This permits a use that is acceptable to the community (and has often been located there for a substantial period of time) to be placed under strict controls as to use and operation while making the use conforming. This idea can also be used in conjunction with site plan review for nonconformities that are design-related (for example, nonconforming structures) to make the best fit with the site possible.

VIII. DEFINITIONS

A. GENERAL

The process of revision of the ordinance often requires that definitions be developed as we move through the drafting process. New ideas are implemented, and they require new definitions. Our most common approach is to revise any and all definitions following agreement on the general ordinance language. Often entire older portions of the code are modified, eliminating the need for specific definitions. During this review, we will attempt simplify or improve those definitions that are currently complex or confusing.

Illustrations for definitions are commonly moved to the actual topical areas of the ordinance. For example, it is useful to have illustrations of various types of signs – but these are best handled in the sign section, not the back of the document.

B. USE DEFINITIONS

There are many definitions related to use that may no longer be necessary (if we choose to rely on the NAICS, as discussed in V., above). We strive to handle all of the use issues in the use regulations chapter, if possible. The on-line Computerized Zoning Ordinance (CZO) will allow direct hyperlinks between the use table and associated definitions, and where necessary, to the full NAICS code.

C. STANDARDS

Some definitions in the current code actually include standards for uses. The definition of Home Occupation is a good example of this. An actual definition of a home occupation might be as simple as “a business enterprise in a residential use.” However, the existing definition takes up over one page and incorporates standards for both the dwelling and the appropriate uses. These standards need to be moved to the proper portion of the revised ordinance (accessory uses).

D. OBSOLETE DEFINITIONS

Some of the County’s definitions are now somewhat obsolete terms and should be revisited. Some simply need modest revision (ACLF has become ALF, for example). Other definitions should probably be deleted. These definitions include terms like “guest home,” “junkyard,” “home for the aged,” “migrant labor camp,” “mobile home,” or “servant’s quarters.” Others, like “dormitory” and “rooming house,” may benefit from being combined. As described earlier, a broader approach to use using the NAICS code would eliminate many of the required use definitions.

E. UNDEFINED USES

As described earlier, uses that do not appear in the use table should be interpreted by the Administrator as “similar” to a use already handled in the table. Such interpretations should be made a part of the zoning ordinance.

F. MEASUREMENT AND COMPUTATION

Often one section of the definitions chapter allows specifically for definitions that relate to measurement and computation. This section would normally be heavily illustrated.

IX. DOCUMENT FORMAT AND ORGANIZATION

A. DOCUMENT IMPROVEMENTS

There are a series of modest improvements to the existing ordinance that will substantially improve the ability of average users to find what they need to know in the new ordinance. Most of these improvements rely on straight-forward functions of modern word-processing software, including indexing, improved use of fonts and page layout, and the addition of tables and graphics to help illustrate complex zoning concepts.

1. “How to Use This Ordinance”

Many of our recent ordinances have included a page just inside the front cover that provides basic information to users on the organization of the document. This one-page preface commonly sets forth response to a series of questions, such as:

- *If You Own Property and Want to Know What Rules Apply*
- *If You Want to Build or Establish a Particular Use*
- *If You Want to Change Your Zoning District*
- *If You Want to Vary From the Standards That Apply*

This set of questions covers a substantial portion of the users of the zoning ordinance, giving them step-by-step instructions on sections of the ordinance they need to refer to.

2. Table of Contents and Index

The zoning ordinance will contain a clear table of contents and index. The hierarchy of the new ordinance should be self-explanatory once a user has received a simple introduction such as that described above in “How to Use This Ordinance,” as well as a simple, straightforward table of contents. This table of contents will cover the district provisions as well, because we propose to integrate them into the document.

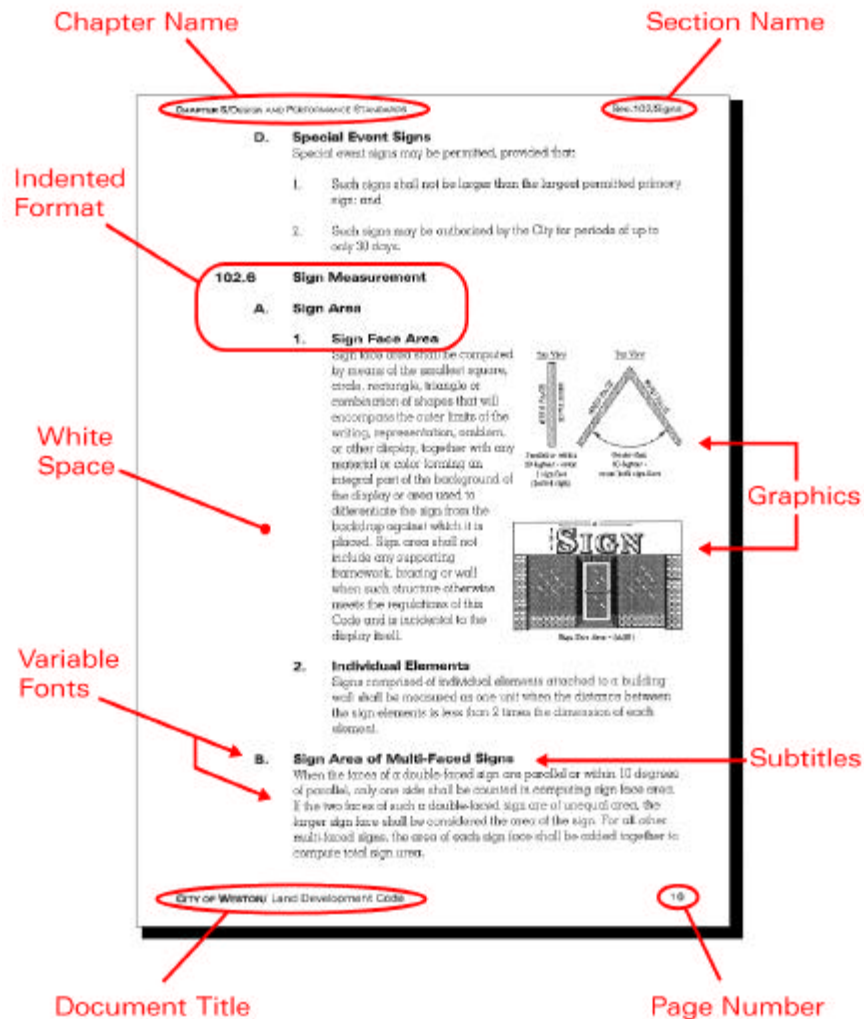
A carefully-crafted index can be extremely useful both to the general public and to staff who use the ordinance on a regular basis. The index must be thoroughly reviewed in order to ensure that the user is directed to the most important instances of use of a particular word or phrase.

3. Page Layout

Modern word-processing gives us the opportunity to publish an in-house ordinance that looks as professional as those once laboriously typeset at the printer, while retaining the ease of update that comes with standard word-processing software. The use of larger, distinct fonts for titles and subtitles, the use of indented text to indicate the level of each paragraph in the document, the use of white space, and the use of graphics and tables all help to improve the visual ease with which we can use the ordinance.

Other “easy-find” features in an ordinance layout include the careful application of headers and footers that include information such as the part or section number (similar to using a dictionary), such that the user can find their way through a large document with relative ease.

We recommend the County create a zoning ordinance with these features, and work with a codifier to retain these features in future published versions.

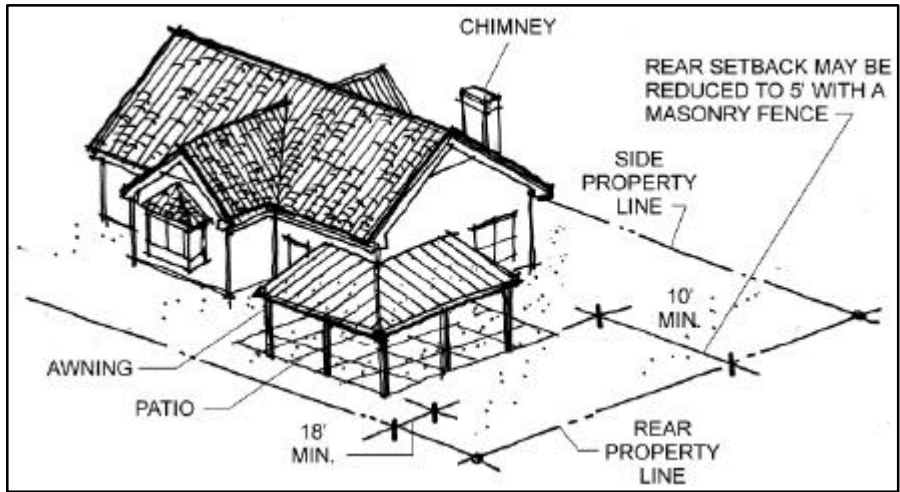


4. Use of Tables

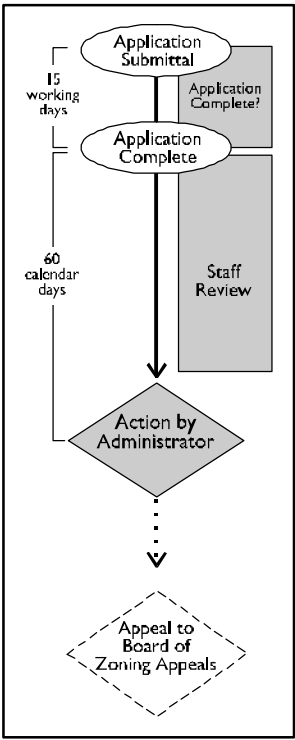
We encourage the inclusion of tables wherever possible. There are a variety of “lists” of standards throughout the ordinance that should be shown in tables instead. Where possible, the County should use larger “matrix” summaries of standards such as use requirements and dimensional standards by district. Samples are included later in this document.

5. Use of Illustrations

Due to improvements in word-processing software, even the average user is capable of adding graphic images to a document. This trend has been slow to materialize in zoning ordinances, where a picture can truly be worth 1,000 words. The zoning ordinance should include as many graphics as possible. One current concept that is poorly understood is the clear sight triangle – a requirement that ensures sight distance at corners and driveways. This standard is easily understood with a simple drawing.



Sample Dimensional Graphic



Sample Flow Chart

B. ORDINANCE STRUCTURE

The structure of the existing zoning ordinance is reasonably laid out. We propose that minor modification occur in the organization of the existing material. For example, the Sarasota County ordinance is organized like many codes, where the establishment, powers and duties for the different review bodies, are spread throughout the code in various sections. We suggest that the relevant provisions be placed in the *Development Review Bodies* chapter near the beginning of the zoning ordinance, making it easier for developers, builders and local residents to determine the review guidelines. By grouping review procedures within a common chapter, this will enable the code user to easily ascertain what applications are needed for each approval.

We propose the following chapters for the new zoning ordinance. The new outline will condense the existing outline system into ten chapters. A detailed outline for the new ordinance is included below. Many of the "Sections" of the existing ordinance are only one paragraph long – the proposed outline tries to more clearly separate issues of equal weight into it's proposed chapters.

One other problem is the tendency of the existing ordinance to return each line to the left margin. This makes it difficult for the average reader to understand where in the hierarchy of sections they are. Using indented margins helps substantially to identify the important heading (closer to the left margin).

- Proposed Zoning Ordinance Structure**
1. General Provisions
 2. Development Review Bodies
 3. Development Review Procedures
 4. Zoning Districts
 5. Use Regulations
 6. District Development Standards
 7. General Development Standards
 8. Nonconformities
 9. Enforcement
 10. Definitions
- Index

C. SUPPLEMENTARY DISTRICT REGULATIONS

In re-organizing the ordinance, we will expressly strive to eliminate “catch-all” chapters like Section 7, Supplementary District Standards. This section contains dimensional details, use regulations, procedures and more. These pieces need to be placed in the appropriate chapters with similar material so that the development community is not caught by the “hidden” provisions of this section.

D. ORDINANCE STRUCTURE COMPARISON

Proposed Zoning Ordinance	Zoning Ordinance
Chapter 1. General Provisions	Section 1. Findings Section 1A. Short Title Section 24. Zoning Regulations Declared To Be Minimum or Maximum Requirements
Chapter 2. Development Review Bodies	Section 2. Establishment of Zoning Districts Section 3. Rules For Interpretation of District Boundaries Section 16 Board of Zoning Appeals Section 19. Planning Commission Section 22. Duties of Administrator, Board of Zoning Appeals and Board of County Commissioners
Chapter 3. Development Review Procedures	Section 10. Temporary Use Permits Section 14 Signs Section 15. Administration and Enforcement Section 16 Board of Zoning Appeals Section 18. Appeals From Decisions of Board of Zoning Appeals Section 19. Planning Commission Section 20. Special Exceptions Section 21. Amendments Section 22. Duties of Administrator, Board of Zoning Appeals and Board of County Commissioners
Chapter 4. Zoning Districts	Section 3. Rules For Interpretation of District Boundaries Section 4. Application of District Regulations Section 6. Schedule of District Regulations Section 7. Supplementary District Regulations
Chapter 5. Use Regulations	Section 7. Supplementary District Regulations Section 10. Temporary Use Permits
Chapter 6. District Development Standards	Zoning Districts
Chapter 7. General Development Standards	Section 8. Manufactured Homes Section 9. Performance Standards Section 11. Planned Development Districts Section 12. Off-Street Parking and Loading Standards Section 13 Landscape Buffer Requirements Section 14 Signs
Chapter 8. Nonconformities	Section 5. Nonconforming Uses
Chapter 9. Enforcement	Section 15. Administration and Enforcement Section 25. Complaints regarding Violations Section 26. Penalties For Violation Section 27. Prosecution Previous Zoning Regulations
Chapter 10. Definitions	Section 28. Definitions
Other	Section 23. Schedule of Fees and Charges

E. PROPOSED ZONING ORDINANCE OUTLINE

Article 1. General Provisions

- 1.1 Short Title
- 1.2 Purpose and Authority
- 1.3 Jurisdiction
- 1.4 Findings
- 1.5 Minimum Requirements
- 1.6 Conflicting Provisions
- 1.7 Effective Date
- 1.8 Severability

Article 2. Development Review Bodies

- 2.1 Board of County Commissioners
- 2.2 Planning Commission
- 2.3 Board of Zoning Appeals
- 2.4 Zoning Administrator
- 2.5 Other County Staff
- 2.6 Summary of Authority

Article 3. Development Review Procedures

- 3.1 Common Review Procedures
- 3.2 Building Permit
- 3.3 Certificate of Occupancy
- 3.4 Certificate of Zoning Compliance
- 3.5 Temporary Use Permit
- 3.6 Sign Permit
- 3.7 Written Interpretation
- 3.8 Text Amendment
- 3.9 Map Amendment (Rezoning)
- 3.10 Planned Development District (PDD)
- 3.11 Special Exception
- 3.12 Transfer of Development Rights
- 3.13 Variance
- 3.14 Administrative Appeal

Article 4. Zoning Districts

- 4.1 Establishment of Districts
- 4.2 Official Zoning Map
- 4.3 Rules For Interpretation of District Boundaries
- 4.4 Residential Districts
- 4.5 Commercial Districts
- 4.6 Industrial Districts
- 4.7 Special Purpose Districts
- 4.8 Overlay Districts

Article 5. Use Regulations

- 5.1 Use Table
- 5.2 Use Categories
- 5.3 Specific Use Standards
- 5.4 Accessory Uses
- 5.5 Temporary Uses

Article 6. District Development Standards

- 6.1 Residential District Standards
- 6.2 Commercial District Standards
- 6.3 Industrial District Standards
- 6.4 Special Purpose District Standards
- 6.5 Planned Development District (PDD) Standards

Article 7. General Development Standards

- 7.1 Landscaping and Buffering
- 7.2 Off-Street Parking and Loading
- 7.3 Access and Circulation
- 7.4 Open Space
- 7.5 Signs
- 7.6 Outdoor Lighting
- 7.7 Outdoor Storage
- 7.8 Performance Standards
- 7.9 Architectural and Design Standards

Article 8. Nonconformities

- 8.1 General
- 8.2 Nonconforming Uses
- 8.3 Nonconforming Structures
- 8.4 Nonconforming Lots of Record
- 8.5 Nonconforming Signs

Article 9. Enforcement

- 9.1 Enforcement by Zoning Administrator
- 9.2 Violations
- 9.3 Penalties For Violation

Article 10. Definitions

- 10.1 Word Usage and Interpretation
- 10.2 Measurement and Computation
- 10.3 Defined Terms

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X. THE CONSULTANT TEAM

Duncan Associates

Duncan Associates is an award-winning planning and growth management consulting firm that specializes in the revision of land development regulations. From its offices in Florida, Texas, Illinois and Indiana, the firm serves a growing public clientele that includes many of the nation's most progressive cities and counties. Since its establishment in Fort Lauderdale in 1977, the firm has successfully revised land development codes for over 75 communities in 26 states. Codes drafted by the firm have received awards from the Florida, Texas and Louisiana chapters of the American Planning Association. Unlike most consultants, Duncan Associates specializes in plan implementation work; drafting regulations is our primary business.

Lane Kendig, Inc.

With over 27 years of experience as a planner in both the public and private sectors, Mr. Kendig has developed many comprehensive plans and zoning ordinances. The author of PERFORMANCE ZONING, he has worked extensively in computerized planning guidance systems. His firm has been developing planning software for over a decade for use in its planning practice. In 1993, the firm began the development of a new line of Microsoft Windows-based software specifically designed to meet the needs of the planning profession. The programs available range from very task specific programs that enhance the ability of planners to address technical issues, to programs intended to automate the planning office.

LDR International

LDR International provides urban design, land planning and landscape architecture services through the country. Established in 1969, the diverse staff of 45 professionals provides consistent high quality and boldness in their design approach – work which has brought the firm more than 70 national and international planning and design awards for excellence. LDR professionals are focused on achieving an effective partnership between people and their surroundings. Whether it's responding to the finiteness of our natural resources or reclaiming derelict land and buildings, LDR works with their clients to provide creative and innovative solutions which are harmonious with the environment.

Nancy E. Stroud, Esq.

Ms. Stroud's practice with Weiss Serota Helfman Pastoriza & Guedes, P.A. includes land use and environmental law, with a special emphasis on the representation of local government. Ms. Stroud has represented clients throughout Florida. Her experience ranges from broad based representation as general counsel to local government, to litigation on state and federal land use matters, to consultation with local governments in the development of land use regulations. She has special expertise in growth management, concurrency, and civil rights litigation.

Dana Gourley

Dana Gourley is president of an independent planning and environmental consulting business in Sarasota. She currently serves on the Sarasota County Board of Zoning Appeals, and previously worked for the County's planning department (until 1990) and Natural resources department (until 1997). In the past several years, she has worked as a planning professional with various developers and consultants in the Sarasota area.