Memorandum

To: Lisa Barrett, Planning Manager
From: Patricia A. Tyjeski, AICP, S&ME Project Manager
Date: January 15, 2019
Subject: Process Improvements/LDC Amendments – Carol Clarke’s Comments

Lisa,

As requested, we have reviewed the comments submitted by Carol Clarke. The following are our responses to each.

1. Administrative Permit vs. Approval (Section 315)

“As I indicated at the hearing, I think that it imposes extremely stringent standards on all uses that need a Final Site Plan, and other approvals that are done administratively. The one circumstance I can think of that probably does need to be addressed is when a new use is being added to an existing building – when an FSP is not needed. How is that handled now for uses with Sec. 531 standards? Could that review be incorporated into Sec. 345, Zoning Compliance Permit? (That has the added benefit of cutting out 2 pages!”)

S&ME Response:

Administrative approval: Administrative Permit was a process used in the past to approve uses that had specific standards attached to them. Since those are “standards” and not criteria, they need to be handled just like any other standard in the LDC and be reviewed in conjunction with a site plan submittal.

Prior to the reorganization of the LDC in 2015, the code included a section called “Conditional Use Criteria” (old Section 704), which listed “standards” for specific uses. The standards ranged from additional parking and/or buffer requirements to additional review requirements (e.g. child care centers require SP if not meeting stated standards). Those uses listed in old Section 704 required “Administrative Permit” (AP) approval.

In conjunction with the reorganization of the code, the standards for the “conditional uses” were placed in Section 531, and the section name was changed to “Standards for Specific Uses.” The requirement to obtain an Administrative Permit was maintained. During the Process Improvements effort, it was determined that AP and P uses go through the same type of review. In both cases, the applicant is required to submit a site plan demonstrating consistency with the requirements of the LDC (including the specific use requirements of Chapter 5, if the use is listed). The Department Director is not allowed to attach conditions, to waive or modify the requirements of the Code, rule on the compatibility of proposed uses, or exercise any other discretionary authority except as specifically authorized in the Code. Therefore, the term Administrative Permit is no longer relevant. Section 315 is therefore proposed for deletion.

Section 315. Administrative Permits.
315.1. Purpose.
This Section is established to provide for the granting of Administrative Permits by the Department Director for certain activities, which by their scale, duration or nature, would not generally have an adverse impact on their surroundings when controlled in accordance with the standards set forth in this Code.

315.2. Administrative Permit Required.

Those uses listed in the schedule of uses in Chapter 4 as AP may be established in that district only after issuance of an Administrative Permit in accordance with this section. The issuance of an Administrative Permit does not waive the requirements for a building permit or other required approvals.

315.3. Approval Authority.

The Department Director is hereby authorized to decide all applications for Administrative Permits but shall not have the authority to attach conditions, to waive or modify the requirements of this Code, rule on the compatibility of proposed uses, or exercise any other discretionary authority except as may be specifically authorized pursuant to this Code. The Department Director may, however, include terms in Administrative Permits that impose time limitations, limitations on transfer, and restrictions on renewals or extensions of such permits.

315.4. Application Requirements.

The Department Director shall establish administrative procedures setting forth the requirements for information to be submitted with any application for an Administrative Permit.

315.5. Review Procedures.

All applications for Administrative Permit shall be reviewed and processed for completeness and sufficiency pursuant to this Chapter. Within a reasonable time after receipt of the sufficiency review comments, the Department Director shall approve or deny the application and shall furnish the applicant a written statement (if requested in writing by the applicant) of the reasons for any denial.


All Administrative Permits shall be reviewed under the standards set forth in this Code, including, without limitation, Chapter 5. No Administrative Permit shall be issued unless found to be in compliance with such provisions.

315.7. Appeals.

See Part X of this Chapter.

315.8. Effect of Approval.

Administrative approvals authorize the applicant to proceed with a Building Permit application (if not processed concurrently), or Certificate of Occupancy if no building permit is required.

315.9. Expiration.

An Administrative Permit approval without a site plan approval (general development, preliminary or final) shall expire automatically without notice in one (1) year unless, before that time, the applicable Building Permits or Certificate of Occupancy or Certificate of Completion have been issued or the use has been otherwise legally established in accordance with this Code. Administrative permit approvals with a site plan approval shall be valid for the life of the site plan approval.

315.10. Abandonment.

An Administrative Permit for any use that is discontinued for longer than one (1) year shall be deemed abandoned, and rendered invalid. Such use may be reestablished only through the approval of a new
Administrative Permit pursuant to this section.

315.11. Extension.
An extension of this time period may be requested by filing, prior to the expiration, a letter requesting an extension with the Department Director. The letter must state the reasons for the request. No more than one (1) extension may be granted under the provisions of this subsection. Such extensions may not exceed a period of one (1) year from the original date of expiration of the Administrative Permit.

315.12. Alterations to Approved Administrative Permits.
Modifications to a development approved through the AP process shall be handled as follows:

A. Site plan layout modifications and changes to the use require a new Administrative Permit.
B. Building additions of less than 1,000 square feet, which do not affect the site plan layout, do not require Administrative Permit approval.

New uses in existing buildings: Propose changing "chapter" to "code" in Section 345.1 to ensure all provisions of the LDC are complied with.

345.1. Zoning Compliance Permit Required. Except as otherwise specifically provided in this chapter, it shall be unlawful to make a change of use, as the term is defined in Chapter 2 of this Code, of any land or structure until the Department Director or designee has issued a zoning compliance permit confirming that such activity complies with the applicable provisions of this code.

2. Chapter 1
   a. “106.4.8 Appeals of Stop Work orders governed by Florida Statutes. This may be what Commissioner Baugh was talking about. What does this mean? Are statutory provisions applicable to both Building and Development issues?”

S&ME Response: Commissioner Baugh’s question was if the code was being amended to refer appeals of administrative decisions to the Courts instead of the Board. Appeals of Hearing Officer decisions go to the courts; appeals of administrative decisions still go to the board.

County staff had recommended the change referencing Florida Statutes and the County Attorney’s Office requested the change regarding work continuing after a stop work order has been issued. The reference to the Statutes will be deleted as it does not apply to stop work orders issued for LDC violations.

B. Stop Work Order. The Department Director may issue a Stop Work Order on a premises, lot or parcel that is in alleged violation of any provision of this Code, or is being done in a dangerous or unsafe manner. A Stop Work Order may be issued in place of or in conjunction with the actions and procedures identified in this Chapter. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Department Director shall not be required to give a written notice prior to stopping the work. Upon receipt of a Stop Work Order, all work associated with the violation shall immediately cease. Any work that continues after the issuance of a Stop Work Order shall constitute an irreparable or irreversible violation of the Stop Work Order. Therefore, any person (i.e., owner, lessee, principal, agent, employee, or other person) who continues to work after the Stop Work Order has been issued shall be in violation of this Code and upon conviction, may be punished as provided by law. The issuance of a Stop Work Order may be appealed in accordance with Chapter 3, Part X, Appeals, by any aggrieved person. An inspection fee shall be paid before any reinspection is conducted. Stop Work Orders may be issued by the Department Director pursuant to the Manatee County Building Code.
b. “107.8 — what date is being used for effective date of this Code; why eliminate reference to my 1981?”

**S&ME Response:** Subsection A states that a use may be established on a non-conforming lot if the lot was created legally (that means it complied with the Code that was effective at the time). Subsection B says the same thing but referring specifically to the 1981 code (the lot was created consistent with the 1981 code). Part of Subsection B can be deleted as A already covers both.

a. **Was a legally created lot on the effective date of this Code; and**
b. **Was not created in violation of this Code; and**

3. **Chapter 2**

a. “Acute Care Medical — Some Assisted living only provides same level of care as Group homes. Not sure acute care is enough, maybe acute and chronic care. Acute care is a branch of secondary health care where a patient receives active but short-term treatment for a severe injury or episode of illness, an urgent medical condition, or during recovery from surgery. In medical terms, care for acute health conditions is the opposite from chronic care, or longer term care. (Wikipedia definition)”

**S&ME Response:** The reason why a definition was added to the LDC is because “acute care medical” facilities are prohibited in the CPA and CHHA overlays. The main reason for this prohibition is the mobility of the patients/residents of such facilities. Therefore, we didn’t see the need to expand on the details of care provided in such facilities but focus on the types of uses it encompasses.

b. “Dwelling Definitions - - p.2-17 It seems that something can be multi-family and single-family attached. I think single-family attached generally applies to townhomes on individual lots. SF attached does not discuss lots.”

**S&ME Response:** If there are more than 2 units on a site, regardless of ownership (rental or owned), the development is deemed to be multi-family. Proposing to add “on adjoining individual lots” to the SF Attached definition.

*Dwelling, Multi-Family shall mean any building or group of buildings containing three (3) or more residential dwelling units (attached or detached) on a single lot. Examples include groupings of detached dwelling units, duplexes, triplexes, quadruplexes, condominiums and apartments.*

*Dwelling, Single Family Attached shall mean three (3) single family dwellings or more on adjoining individual lots but attached to one another by a common wall. This term includes townhouse development.*

c. “District, Non-Residential refers to Non-residential district, but that is eliminated.”

**S&ME Response:** Deleted.

d. “Landfill — there are landfills operated privately. Not sure of implications of this — how would a private one be regulated? How are construction and demolition disposal facilities regulated?”

**S&ME Response:** Restored to current language and will address at a later date.

e. “Replat — If there is a recorded plat in the A district having 10-acre lots, they can be split without doing a replat? How will someone know that such a split has occurred?”
S&ME Response: Section 1001.1.B.3 of the LDC allows ingress/egress easements in several zoning districts, including A, A-1, RSF, RDD, RMF and VIL, in lieu of public or private streets, subject to meeting the requirements of the Public Works Manual. Section 3.1 of the Public Works Manual, however, states that those easements are not allowed on lots that are part of a new or existing subdivision. That combination of requirements prohibits new lot splits of 10-acre lots into 5-acre lots, mainly in the Pomello and Waterbury Grapefruit Tracts subdivision where the plat was recorded in 1926. Numerous landowners in that neighborhood already hold title to 5-acre lot splits. Also, research has found some building permits appear to have been issued in error by allowing access by easement in these subdivisions. Staff have no objection to allowing ingress/egress by easement in established “A” zone subdivisions platted prior to 10/30/26 where the parcels within the subdivision have 10-acre lots.

Public Works staff are processing Resolution R-19-001 amending the Public Works Standards Section 3.1.2.F(6), Ingress and Egress Easements, to correct this. The following proposed amendment to the LDC definition of replat will achieve consistency with those changes.

Replat shall mean the further division of lots or the relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law that increases the density of any such subdivision or the alteration of any streets or the establishment of any new streets within any such subdivision, but shall not include conveyances made so as to combine existing lots by deed or other instrument. Replat shall not include the division of lots that were platted prior to October 30, 1926, into parcels that are 5 acres of larger in lot area.

4. Modification of Standards (Section 365.6.G)

“Section 365.6.G reads as follows: The strict application of the requirement would be technically impractical or effectively deprive the owner of all reasonable use of the land to be subdivided, due to its unusual size, shape, topography, natural conditions or location; Provided, such effect upon the owner is not outweighed by a valid public purpose in imposing the requirement in this case. Also, the unusual conditions involved are not personal to, nor the result of actions of the developer or property owner which occurred after the effective date of this Code.”

- It is not clear whether this only applies to property in the process of being subdivided;
- Regardless, this is an incredibly difficult standard to meet – not sure anyone could meet it, particularly those in 10 – 30% category
- The determination of valid public purpose should probably not be part of any administrative decision.”

S&ME Response:

This is current language that has been used to approve modifications administratively without a cap on how much can be approved by staff (current section 365). In conjunction with the Urban Corridors project, the County adopted a section on Modifications of Standards with a measurable limit on how much could be approved by staff and the Board. With the current amendment packet, we are proposing to combine the two sections into one to apply the caps to all modifications. Given the confusion regarding the current language, we propose deleting that provision and instead using the language that had been used for modifications within Urban Corridors (current section 365.4.F.4):

G. The strict application of the requirement would be technically impractical or effectively deprive the owner of all reasonable use of the land to be subdivided, due to its unusual size, shape, topography, natural conditions or
location; Provided, such effect upon the owner is not outweighed by a valid public purpose in imposing the requirement in this case. Also, the unusual conditions involved are not personal to, nor the result of actions of the developer or property owner which occurred after the effective date of this Code. Compliance with the requirement is technically impractical or undesirable based on site conditions, or approval of the waiver will result in superior design.

5. Miscellaneous Comments – Chapter 3

a. Section 312.7: “Still do not know what Section 312.7.B.1.c means. So are all condo owners notified – even if in a part not within 500 feet? (by virtue of common ownership?)”

S&ME Response: The LDC originally required notices be sent to condominium and manufactured home owners within 500 feet, as well as the owners of common property (old section 502.7.3.1). In 2015 the wording was changed to refer to all “dwellings” instead of just condo and manufactured home owners. We are now proposing to simplify the language (see below). Note that in addition to code requirements, County Staff sends notices of development applications to all those who have requested to be notified as part of the neighborhood registry.

c. All property owners, including homeowner associations, within five hundred (500) feet of the boundaries of the development site.

b. Section 312.10: “312.10.B. Not sure what provisions of Chapter 1 would apply.”

S&ME Response: Section 106, Enforcement and Violations. We will add the specific reference.

B. When a Development Order is issued through administrative error, the error shall be called to the attention of the applicant as soon as possible after it is discovered. If the error is not voluntarily corrected within fourteen (14) days, the matter shall be processed pursuant to the provisions of Chapter 1 Section 106.

c. Section 316.2: “If Special Permit standards are not reviewed with Planned Development process what happens?”

S&ME Response: The applicant has the option to submit the SP application separately. Rewording as follows for clarity:

Those uses listed in the schedule of uses in Chapter 4 as SP, and other development activities noted in other chapters of the LDC as requiring SP, may be established only after issuance and recordation of a Special Permit in accordance with this section. The issuance of a Special Permit does not waive the requirements for a building permit or other required approvals. Whenever the LDC requires Special Permit approval for an activity proposed in a Planned Development, the SP review may be conducted in conjunction with the Planned Development application, provided that the criteria for both are met (see Sec. 316.6 for SP criteria and 342.4 for PD criteria).

d. Section 322.3: “I find this section a bit confusing. 322.3.D – says that if the PSP does not involve a rezoning to Planned Development it is reviewed by DRC and approved by Director. I think if the applicant rezones with a GDP – a PSP approved by the Board is still required. Conflicts with last part of 322.3.C. Maybe change first part of sentence to ‘PSP applications not associated with a Planned Development are reviewed by the DRC.’”.

S&ME Response: If the Board approves a GDP, a PSP is not required to be approved by the Board unless specially stated in the GDP approval. They are reviewed administratively. This has been the case since the PD process was originally established.
Section 322.3.D addresses Planning Commission review. Section 322.3.C addresses PSPs that are not tied to a Planned Development. If they are not tied to a Planned Development, there is no GDP involved. It is, however, ok to change as requested.

C. **Development Review Committee Review.** PSP applications *not associated with a that do not involve a rezoning to Planned Development* are reviewed by the DRC in accordance with the provisions of this Chapter. The Department Director shall be the final approving authority of such PSPs. Preliminary Site Plans not submitted in conjunction with a PD.

D. **Planning Commission Review.** Preliminary Site Plans submitted in conjunction with a Planned Development shall be reviewed by the Planning Commission. Upon issuance of the written comments of the DRC and the staff report, the Preliminary Site Plan shall be scheduled for a quasi-judicial hearing before the Planning Commission. The Planning Commission shall submit a recommendation to the Board to approve, approve with modifications or deny the application.

e. **Section 342.4.D.2:** “this seems to say a PSP may not be necessary with PD, by saying approval of a PD authorizes submittal of Preliminary or Final site plan.”

**S&ME Response:** That is correct. After the GDP is approved, the applicant has the choice to submit a PSP or do a combination of PSP/FSP.

2. **Approval of a PD entitles the applicant to proceed with Preliminary or Final Site Plan review for the entire development or individual phases.**

f. **Section 345:** “Is there a formal process for this Zoning Compliance Permit? Could not find anything on website.”

**S&ME Response:** Not a formal process. Part of administrative procedures (e.g. off-street parking plans, zoning verifications, administrative determinations)

g. **Section 367:** “Variances

1) Should there be a reference to list of items in 365.3

2) 367.2.C – says can’t relate to a non-conformity, but list of items on p-3-99 includes nonconformities

3) Prohibits increase in density in intensity above zoning district max – but density is being eliminated from zoning district charts (Table 4-5)”

**S&ME Response:**

1) Agree. Will add a cross-reference to Section 365.3, which lists the sections of the code that can be modified through a variance. Yes

*The purpose of a variance is to provide limited relief from the requirements of this Code in those cases where strict application of those requirements will create a practical difficulty or unnecessary hardship, or where the requirements of this Code render the land difficult to use because of some rare and unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested. Section 365.3 contains the list of code requirements eligible for variance. Floodplain elevation variances are addressed in Section 802, Floodplain Management.*

2) Recommend prohibiting both.

3) Recommend changing “zoning district regulations” to read “future land use category”
Results in an increase in density or intensity above that permitted by the future land use category of the site;

h. **Section 320.2.D:** Previously Approved Plans section – “Are there none?”

**S&ME Response:** A previous code referred to GDPs as Conceptual Development Plans. The provision is not needed. If an applicant comes in with an approved PD, it is assumed it is the equivalent to a GDP.

i. **Section 321.2.B:** GDP Application Submittal – “Is enough info available at GDP?”

**S&ME Response:** Revised language for clarity.

**B. Application Submittal.** The application shall be submitted per this Chapter. If the proposed development also requires Special Permit approval, the SP review may be conducted in conjunction with the GDP application, provided that the criteria for both are met (see Sec. 316.6 for SP criteria and 321.3 for GDP criteria).

j. **Section 367.5.I:** Enforcement and Administrative Errors – “Is this consistent with 312.10.B?”

**S&ME Response:** Proposing the following change to connect the two sections.

367.5.I: A variance may be issued if it is found that it will correct a bona fide staff error that has led to construction that does not comply with the Code.

312.10.B: When a Development Order is issued through administrative error, the error shall be called to the attention of the applicant as soon as possible after it is discovered. The applicant may request a variance per Section 321.2.B, which addresses variances for administrative errors. If the variance is denied, the applicant shall correct the error within fourteen (14) days.

6. **Chapter 4**

a. **Section 401.2:** "I don’t’ understand the last paragraph about the entire mixed use site being reviewed through SP process. I may be making this too complicated, a common occurrence, but if a development proposes a commercial use requiring an SP, the rest of the project is residential and both parts of the project have appropriate zoning – why would the rest of the project need to go through SP review and there are criteria for that. Also, reference to Planned development may not be appropriate in section on standard districts."

**S&ME Response:** This refers to a single development site proposing the mix of uses. Mixed-use developments need to have a unified design and the approval of one use may affect the other.

Mixed-use developments may only include uses that are specifically allowed in the applicable zoning district. If any use in a proposed mixed-use development requires SP approval, the entire mixed-use site must be reviewed under the SP process, unless it is reviewed through the Planned Development process.

b. **Section 401.3.A:** “Unless I have missed it – the residential districts no longer have maximum densities associated with them. Also an error in that first para ‘approval of any application for development approved’”

**S&ME Response:** The agriculture and single family districts have minimum lot size, width and depth standards to control density. Developments within these districts would still be required to comply with the densities adopted in the comprehensive plan. Fixed typo.
In no instance shall the maximum density specified for a given zoning district be exceeded in the approval of any application for development, except where bonuses are permitted pursuant to the Housing Program (Chapter 5) and/or within Urban Corridors.

c. **Section 401.3.C.2:** "New yards must meet minimums herein – but can be modified administratively"

**S&ME Response:** Yes, but there is no need to mention it, or we would have to mention it in every section of the LDC that could be subject to a variance or modification.

2. **Reduction of Lot Size or Yards; Subdivision.** No existing lot or yard shall be reduced in size, dimension, or area below the minimum requirements set out herein, except by reason of a portion being acquired for public use in any manner, including dedication, condemnation and purchase. New lots or yards shall meet the minimum requirements established herein. Only a lot that exceeds the minimum provisions of this Code may be subdivided to create more lots, and only then where the resultant lots shall themselves meet such minimum provisions; however, this limitation shall not bar the replat of lots for the alteration of dimensions or boundary locations where each lot conforms to the zoning requirements and the total number of lots is not increased.

d. **Section 401.3.D.5:** "Don’t really know much about this, are these standard heights? Would this possibly make some structures non-conforming?"

**S&ME Response:** Yes, they are standard and yes, they may create some non-conformities.

e. **Section 401.4:** "Last para on 4-24 Provisions for modification appears to allow more than anticipated in this para"

**S&ME Response:** This paragraph could be trimmed to avoid conflicts.

*Permitted variations (See Chapter 3, Part IX of this Code for modification of standards and variances) shall result from peculiar shapes of land, the necessity of extending streets, or other unusual circumstances, but shall not be permitted simply because the existing lots, mobile home spaces, streets, buffers, etc., do not meet these standards. Improvement of nonconforming conditions in existing developments may be required as a precedent to expansion of such developments when such improvement is feasible.*

f. **Table 4-5:** "eliminates density for single family districts, table 4-6 retains it for Duplex and Multi-family"

**S&ME Response:** The density in single family districts can be regulated by lot size provisions. Density caps are needed for duplex and multi-family.

g. **Section 402.4.D:** "elimination of language regarding expansion or increase in intensity – is that OK, no exceptions – or prohibited completely? I could read either way."

**S&ME Response:** Revised to require approval as part of the GDP.

*D. Agricultural property rezoned to Planned Development may continue in agricultural use. No expansion or increase in intensity of the agricultural use shall be permitted, unless specifically addressed in the GDP.*

h. **Section 402.5:** "I will share suggestion on 402.5 after I run language past client."

**S&ME Response:** Ok.

Uses of land or structures not expressly listed in the table are prohibited and shall not be established in that district. If there is any uncertainty as to the classification of a use, the Department Director shall determine the classification, if any, within which the use falls, based on its characteristics and similarity to other uses in the district. If a use has characteristics similar to more than one classification, the use shall
be construed as the classification having the most similar characteristics. In the event that a particular use is determined not to be within an allowed defined use, then the particular use shall be prohibited.

i. **Page 4-47:** “note seems to say that a rezone to PDR can also include PDI uses, for example. Maybe it could be, ‘An applicant may request all uses permitted in the requested PD district.”

**S&ME Response:** Modifying as follows to avoid confusion.

Except as specifically provided in this Code, regulations governing the use of land, water and structures within the PD districts shall be as shown in the following table. All uses listed require the approval of a General Development Plan. PD zoning in itself does not constitute approval to develop or establish a new use.

j. **Page 402.7.D.9:** “don’t know why there would be a limit on maximum height in PDR. Next sentence talks about increases adjacent to sf residential. You could have 4 story apartment buildings I’m sure LWR has more than 3 story residences."

**S&ME Response:** Not adding a maximum, just changing from 35 feet to 3 stories. The Board can still approve additional height.

Building Height. The maximum height in the PDR District is three (3) stories. Requests to increase height above three (3) stories may be approved by the Board and shall comply with the requirements of Section 401.5.A if the development is adjacent or directly across the street from a single family residential zoning district and Section 401.5.B. 1 through 5 if adjacent to other uses. Telecommunication towers shall not exceed a maximum height of 150 feet.

k. **Section 402.8.B** “I haven’t checked all the districts, but I think it sometimes gets muddy between what the district permits, what the applicant asks for, and what the Board approves. A use in PD is not allowed unless the use is approved by the Board. The approval can say, All PDR uses, for example. Maybe the language should be ‘Permissable uses’”

**S&ME Response:** There is a footnote under Table 4-12 explaining what the P means and noting that it requires review through the PD process.

l. **Section 402.11.B** “PDC – outdoor storage – does this mean it needs to comply with outdoor storage as if it were a principal use?”

**S&ME Response:** Outdoor storage is allowed as a principal use in PDC per table 4-12. The original code included that cross-reference to outdoor storage standards in the PDC section, but since the cross-reference is now part of the table of uses, the sentence is no longer necessary and could be deleted. Similarly, accessory outdoor storage is subject to the standards contained in Section 311.8.

**B. Permitted Uses.** The uses permitted in PDC are listed in Table 4-12. Outdoor Storage in PDC shall comply with the standards of Section 531.36, Outdoor Storage.

7. **Affordable Housing**

“My only comments in this section are related to Affordable Housing. I am having some difficulty working through it.

a. I have property in UF-3. (Example only). Table 5-6 says I can achieve a Gross Density of 9 Units per acre; with a net density of 12. Item #3 says in order to receive the density bonus, the site must already have, or be rezoned to, a zoning district designation that allows the requested density as listed in
Table 5-6. Also refers to Board’s regular criteria for rezoning. To get to 9 DU per acre — it would require rezoning to RSF-9 or RMF -9. Right? However, looking back at Table 4-1 RS 9 and RMF-9 are not listed among the districts one can rezone to in UF-3.

**S&ME Response:** We are changing the affordable housing bonus density in UF-3 back to 6 units per acre. But if we use RES-6 instead, the bonus density would allow up to 12 units per acre. Table 5-6 lists the potential zoning districts. We are proposing to use the regular districts within each FLUC (e.g. RSF-6 in RES-6) but allowing the additional density. That way if the development is abandoned it doesn’t have to be rezoned back to a lower intensity.

b. #5 says that single-family lot sizes may be reduced to 3,500 sq. ft. for the units designated affordable. So, the rest of the project can’t get 3,500 sq. ft. lots?

**S&ME Response:** Correct.

c. 4,000 square foot lots cannot yield 9 du's per acre — unless it is located where no roads need to be built, stormwater is on individual sites (don't think that can happen). Even at 3,500 square feet I’m not sure you would get to 9 dus. per acre. Maybe — but not certain. That would mean lots 40 X 87.5.

**S&ME Response:** Correct, not every site will achieve the maximum. Incentive to offer more affordable units.

d. Do not understand reference to Table 4 10. That seems to only apply to Urban Corridors.

**S&ME Response:** The cross-reference was supposed to be to the zoning district tables. Changing language to read, “The minimum side and rear building setbacks for those lots abutting a single-family residential zoning district shall be as required by the zoning district or the same required setback of the adjacent single family residential district, whichever is greater”.

e. #7 says the zoning designation should be “H” and if it is destroyed it goes back to regular zoning district. If something happens — but the property has been platted — that will not work.

**S&ME Response:** It is the same situation we have today requiring rezoning to PD. Once abandoned, the lots are already there. At least the subdivision can be replatted to meet lot sizes, but once the units are built, they are staying at that density regardless of what happens to the affordable units. The Land Use Restriction Agreement approved by the Board will determine the minimum amount of time the units must remain affordable.

f. J says that a project rezoned to Planned Development that provide may opt to use zero-lot line. And that privacy walls should be required on the common walls.

  o I don’t know what this means. There should not be a requirement to rezone to PD to use zero-lot line development. That should be allowed in all districts. It especially makes sense when there are small lots – allows folks to get a more usable side yard. Don’t know what common wall language is referring to. Generally, I think there are limitations on windows etc on the zero setback line. (Again, not a designer)

  o Also, if something is PD — this isn’t the place to limit lot size.

  o I really think it would be a good idea to have some designers sit down with this and see what their thoughts are. One of the reasons I always heard folks rezoned to PD, was that they could not get the lot sizes they wanted without it.”
S&ME Response: That is current language (Ordinance 12-08). The scope of this project didn’t include changes to the PD sections. It will be addressed separately from this scope.

8. Clustering

a. First thought is that Chapter 8 — Engineering Design and Utilities may not be the best location. I only found it because I was looking at the summary in the staff report.

S&ME Response: We debated that too. Had it in Chapter 5 until recently, but that chapter includes use standards and cluster developments are not a “use” but a type of development. Chapter 8 addresses the design of subdivisions and sites.

b. The provisions of the Cluster subdivision can significantly change the dimensional standards for standard zoning district. There should likely be at least some reference to this section in Tables 4-5 and 4-6.

S&ME Response: Added a cross-reference in Section 401.3.E

10. Residential Cluster Development. See Section 800.11 and 800.12.

c. “I did 2 single family examples. I am going to assume that developer wants to do 75 units. In RSF-3, 75 units would require if my math is correct, 750,000 square feet (75 X 10,000) or 17.22 acres. Using the cluster provisions, 75 units would require 375,000 square feet (75 X 5,000) or 8.6 acres. Would the difference 8.61 acres be required as ‘Protected Open Space’? In RSF-6, 75 units would require 10.33 acres for the lots; if clustered, 6.887 acres would be needed. Does the 3.44 acre difference become protected open space?

S&ME Response: Yes, the difference (8.6 and 3.44 acres) would have to be set aside as open space. Section 800.11.B.6.b.iii states, “The acreage of land saved by applying reduced lot sizes shall be added to the “Protected Open Space” area (see Subsection D, below), which is the area to be protected in perpetuity as a result of the clustering.”

d. 800.11 B.6.b refers to 701 for buffering and screening. I did not find anything other than standard 15 foot greenbelt. It does note that clustered projects in A or A-1 do require greenbelt.

S&ME Response: Correct.

e. Is the Protected Open Space in addition to the minimum 20% required in the districts?

S&ME Response: Added a statement to that effect in Section 800.11.B.6.b: “The protected open space may count toward the minimum open space requirement of the zoning district provided it meets the definition of open space in Chapter 2.”

f. Have these standards been tried on real sites?

S&ME Response: No.

g. 800.12. Short Term Ag. I am not sure how this works. It is limited to short-term uses only – which means there will be a transition at some point. If the portion of the site proposed for short-term ag is used to determine overall number of lots, what will be left?


9. Arrangement of Streets
a. 1001.2: What makes the figures preferred, allowed and prohibited? Does it have anything to do with the non-residential in upper-right?

   **S&ME Response:** Chapter 10 has been restored and will be addressed separately at a later time.

b. What is the link to node ratio of each example?

   **S&ME Response:** Chapter 10 has been restored and will be addressed separately at a later time.