Memorandum

To: Lisa Barrett, Planning Manager
From: Patricia A. Tyjeski, AICP, S&ME Project Manager
Date: December 12, 2018
Subject: Process Improvements/LDC Amendments – Recent Changes

Lisa,

As requested, we have reviewed the issues brought up at the first hearing of the LDC Amendments. The following is a summary of how each topic and a recommendation on how to address each.

1. **Sanitary Sewer Connection**

   The Definitions chapter was proposed to be amended to include the Florida Statutes definition of “available” to determine when to require connection to the sanitary sewer system. However, while the state exempts subdivisions with less than 50 residential units, the County’s current language requires all subdivisions (residential and commercial) with more than 5 lots to connect. The County is not required to adopt the state definition and may use a modified version of it. Therefore, the following changes are now proposed to continue requiring connection for subdivisions with more than 5 lots:

   **Available**, as applied to the required connection to the Manatee County public sewerage system, shall be defined per Section 381.0065, Florida Statutes, as amended, which states that it means that the public sewerage system is capable of being connected to the plumbing of an establishment or residence, is not under a Department of Environmental Protection moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence; and:

   A. For a residential subdivision lot, a single-family residence, or an establishment, any of which has an estimated sewage flow of 1,000 gallons per day or less, a gravity sewer line to maintain gravity flow from the property's drain to the sewer line, or a low pressure or vacuum sewage collection line in those areas approved for low pressure or vacuum sewage collection, exists in a public easement or right-of-way that abuts the property line of the lot, residence, or establishment.

   B. For an establishment with an estimated sewage flow exceeding 1,000 gallons per day, a sewer line, force main, or lift station exists in a public easement or right-of-way that abuts the property of the establishment or is within 50 feet of the property line of the establishment as accessed via existing rights-of-way or easements.

   C. For proposed residential and commercial subdivisions with more than 50 lots, for proposed commercial subdivisions with more than 5 lots, and for areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within one-fourth mile of the development as measured and accessed via existing easements or rights-of-way.

   D. For repairs or modifications within areas zoned or used for an industrial or manufacturing purpose or its
equivalent, a sewerage system exists within 500 feet of an establishment’s or residence’s sewer stub-out as measured and accessed via existing rights-of-way or easements.

2. Density Bonus in UF-3

The maximum residential density allowed in the Urban Fringe (UF-3) future land use category is 3 units per acre, just as in RES-3. Bonus densities are allowed in most future land use categories for two main reasons: to encourage the provision of affordable housing and to incentivize the establishment of mixed-use activity nodes in residential areas if they meet the commercial locational criteria.

Affordable Housing: The previous comprehensive plan allowed a density bonus of up to 6 units per acre for affordable housing in RES-3 and UF-3. The recent Plan amendments preserved the bonus for RES-3 at 6 units per acre, but increased the maximum bonus in UF-3 to 9 units per acre. The Board questioned the disparity between the two categories, especially given that the UF-3 category is applied to the fringe areas of the County.

Activity Nodes: While RES-3 limits the size of commercial developments meeting the commercial locational criteria to “medium” (150,000 sq. ft.), UF-3 allows “medium” and “large” (300,000 sq. ft.). The purpose of the commercial locational criteria is to potentially allow commercial nodes at certain intersections (if they meet certain criteria) to serve the residents of the surrounding areas. The Plan now allows residential use within those commercial nodes. For the mixed-use to be feasible, the residential densities permitted need to be higher than the current densities allowed. For the RES-3 category, the Plan allows a bonus density up to 6 units per acre within activity nodes as they are limited to medium size. In UF-3, it allows up to 9 units per acre to accommodate the large nodes. While the Plan provides for a maximum density of 9 units per acre, applicants are not guaranteed the approval of a rezoning to the highest density district. Table 5-6 lists the potential zoning districts that could accommodate the nodes and range from NC-S (which limits development to 30,000 sq. ft.) to GC (150,000 sq. ft.).

Given the intent of the density bonuses, one to allow higher density affordable housing developments, and the other one to allow mixed-use activity nodes, S&ME recommends keeping the 9 units per acre but for large activity nodes only, and changing the affordable housing bonus back to 6 units per acre. This change will be reflected in Section 545.2.E of the LDC (see below), but will require a future amendment to the Comprehensive Plan.

Table 5-6: Housing Density Bonus

<table>
<thead>
<tr>
<th>FLUC</th>
<th>Zoning</th>
<th>Gross (units per gross acre)</th>
<th>Net (units per net acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>UF-3</td>
<td>RSF-3, RDD-3, NC-S*, NC-M*, PR-S*, PR-M*, GC*</td>
<td>69</td>
<td>429</td>
</tr>
<tr>
<td>RES-6</td>
<td>RSF-6, RSMH-6, RDD-6, RMF-6, NC-S*, NC-M*, PR-S*, PR-M*, GC*</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>RES-9</td>
<td>RSF-9, RMF-9, NC-S*, NC-M*, PR-S*, PR-M*, GC*</td>
<td>20</td>
<td>24</td>
</tr>
<tr>
<td>RES-12</td>
<td>RMF-12, NC-S*, NC-M*, PR-S*, PR-M*, GC*</td>
<td>24</td>
<td>28</td>
</tr>
</tbody>
</table>
### Table 2-1. SUMMARY OF FUTURE LAND USE CLASSIFICATION SYSTEM

<table>
<thead>
<tr>
<th>Future Land Use Category</th>
<th>Map Symbol</th>
<th>Purpose</th>
<th>Range of Potential Uses</th>
<th>Maximum Gross Potential Density (DU/GA)¹</th>
<th>Maximum Net Density ² (DU/NA)¹</th>
<th>Maximum Potential Intensity (FAR)¹</th>
<th>Commercial Size Limitation (Policy 2.10.2.2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6) Urban Fringe-3</td>
<td>UF-3</td>
<td>***</td>
<td>***</td>
<td>3 (9 for affordable housing and 9 for large activity nodes*)</td>
<td>9 (NA 12 for large affordable housing and activity nodes*)</td>
<td>0.35 (0.5 at activity nodes*)</td>
<td>Medium (Large (see policy 2.2.11.4))</td>
</tr>
</tbody>
</table>

* Activity nodes refer to developments that meet the Commercial Locational Criteria (see Land Use Operative Provisions, Comprehensive Plan)

### 3. Planned Development List of Uses

Section 402.5 introduces the list of permitted uses within the Planned Development districts. Sometimes a proposed use does not specifically match a use listed. A provision was added to note that when an applicant proposes to submit a PD application and the proposed use does not exactly match one of the uses listed the Director will make a determination on whether the proposed use is similar to a use listed or not. Changing a use in an approved PD requires review per Section 324 of the LDC (Changes to Approved Site Plans – GDP, PSP, FSP). The language was intended to reflect current practice, but created some confusion. It will be amended as follows:

#### 402.5. Schedule of Uses for PD Districts.

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Uses of land or structures not expressly listed in the table are prohibited and shall not be established in that district. When accepting PD applications, the Department Director shall determine if the proposed uses are permitted per Table 4-12. 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. Changes in use after a PD has been approved are subject to the provisions of Section 324.
4. Planned Development Determination of Compliance

Section 402.6 contains the design standards for Planned Developments. The introductory sentence notes that compliance with those standards is addressed at the Preliminary Site Plan approval stage. Staff proposed to change “Preliminary” to “Final” as no PD can be approved unless it meets the design requirements. This change was misunderstood. To avoid any confusion, the second sentence should be deleted. Chapter 4 focuses on “standards.” Chapter 3 addresses application review requirements (“criteria”). Section 321.3 states that the criteria for approving a GDP includes compliance with the standards contained in Chapter 4.

402.6. General Design Requirements for all Planned Development Site Plans.

In addition to the specific requirements stated in the following sections for each PD district, planned developments shall meet the following standards. Compliance must be demonstrated at the Preliminary Final Site Plan approval stage.

For consistency purposes, the following sections are also proposed to be amended:

Section 321.3. Review Criteria

In deciding whether to recommend approval, approval with modifications or denial of a proposed GDP, the approving authority shall consider whether the proposed plan is consistent with the Comprehensive Plan and this Code. In making such determination, the approving authority shall consider, including but not limited to the standards approval criteria particular for applicable to each PD district, contained in Chapter 4.

402.6.F. Design Quality. All site plans in Planned Development districts shall be designed in such manner to address all of the standards criteria as set forth in this section and shall generally be superior in design to conventional development site plans, and consistent with all other factors in this Section. All Planned Developments proposing specific approval of requirements for development under standard zoning district regulations shall be designed so as to be sensitive to the impacts of the specific approval requested.

5. Mailing Notices to Neighborhood Associations

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.

312.7. Notice of Public Hearings.

B. Mailed Notices.

1. To Whom Provided.
   c. All property owners, including homeowner associations, within five hundred (500) feet of the boundaries of the development site. If any dwelling unit within the required notification area is part of a neighborhood association or property owner’s association, and that information is a matter of record with the Department, the association shall receive written notice of public hearing and workshop.
6. Administrative Permit vs. Administrative Approval

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.