

CHAPTER 3 – REVIEW AUTHORITY AND PROCEDURES

Table of Contents

Part I. Review Authority. 1

Section 300. Board of County Commissioners. 1

Section 301. Planning Commission. 2

301.1. Powers and Duties. 2

301.2. Membership: Appointment, Removal, Terms, Officers and Vacancies. 2

301.3. Agendas, Meetings, Hearings and Procedures. 3

Section 302. Hearing Officers. 3

302.1. Duties. 3

302.2. Powers. 4

302.3. Appointment, Qualifications, Term, Removal and Compensation. 4

302.4. Freedom from Improper Influence. 5

302.5. Maintenance of Records. 5

Section 303. Historic Preservation Board. 5

303.1. Purpose and Intent. 5

303.2. Duties and Powers. 5

303.3. Membership and Meetings. 7

303.4. Certified Local Government Program. 8

Section 304. Development Review Committee (DRC). 9

304.1. Establishment of Development Review Committee. 9

304.2. Duties and Powers. 9

304.3. Membership, Officers and Meetings. 10

304.4. Rules of Procedure. 10

Section 305. to 309 Reserved. 10

Part II. Development Review Procedures. 10

Section 310. Applicability. 10

310.1. Purpose and Intent. 10

310.2. Development Order Required. 10

310.3. Building Permit Required. 11

310.4. Certificate of Occupancy Required. 11

310.5. Certificate of Completion. 11

310.6. Other Permits Required. 11

Section 311. Code Interpretation. 1244

311.1. Purpose. 1244

311.2. Scope and Applicability. 12

311.3. Application for Interpretation. 12

311.4. Action by Department Director. 12

311.5. Official Record. 12

Section 312. Procedures of General Applicability. 1342

312.1. Level of Review Required. 1342

312.2. Pre-Application Meeting. 14

312.3. Application Submittal. 1544

312.4. Completeness Review of Application. 15

312.5. Sufficiency Review of Application. 1645

312.6. Neighborhood Workshops. 1746

312.7. Notice of Public Hearings. 1847

312.8. Public Hearings..... 20

312.9. Effect of Development Order Approval..... [2224](#)

312.10. Enforcement and Administrative Errors..... [2322](#)

312.11. Recording of Approved Development Orders..... [2322](#)

Section 313. to 314 Reserved. [2322](#)

Part III. Special Permit Approval. [2322](#)

Section 315. RESERVED. [2322](#)

Section 316. Special Permits [2322](#)

316.1. Purpose..... [2322](#)

316.2. Special Permit Required. [2322](#)

316.3. Approval Authority. 23

316.4. Application Requirements..... [2423](#)

316.5. Review Procedures..... [2423](#)

316.6. Review Criteria. [2423](#)

316.7. Appeals..... 24

316.8. Effect of Approval. 24

316.9. Expiration..... [2524](#)

316.10. Extension..... [2524](#)

316.11. Abandonment. [2524](#)

316.12. Alterations to Approved Special Permits..... [2524](#)

316.13. Recording of Approved Special Permits..... [2625](#)

Section 317. to 319 Reserved. [2625](#)

Part IV. Site Plan Review...... [2625](#)

Section 320. Generally..... [2625](#)

320.1. Purpose and Intent. [2625](#)

320.2. Applicability..... [2625](#)

Section 321. General Development Plans (GDP)...... [2726](#)

321.1. Application Requirements..... [2726](#)

321.2. General Development Plan (GDP) Review Process. [3234](#)

321.3. Review Criteria. 32

321.4. Effect of GDP Approval..... [3332](#)

321.5. Expiration and Extensions of General Development Plans..... [3332](#)

Section 322. Preliminary Site Plans (PSP). [3332](#)

322.1. Application Requirements..... [3332](#)

322.2. Preliminary Site Plan Review Criteria..... [3332](#)

322.3. Preliminary Site Plan Review Process. [3433](#)

322.4. Effect of Preliminary Site Plan Approval..... [3433](#)

322.5. Expiration of Preliminary Site Plans. [3433](#)

Section 323. Final Site Plan (FSP)...... **34**

323.1. Review and Approval..... [3534](#)

323.2. Final Site Plan Review Criteria..... [3534](#)

323.3. Effect of Final Site Plan Approval..... [3534](#)

323.4. Expiration and Extension of Final Site Plans..... 35

Section 324. Changes to Approved Site Plans (GDP, PSP and FSP)...... [3635](#)

324.1. Requests for Change..... [3635](#)

324.2. Approval Authority [3635](#)

324.3. Review Criteria [3736](#)

324.4. Effect on Expiration..... [3736](#)

Section 325. to 329 Reserved. **37**

Part V. Subdivision Procedures. [3837](#)

Section 330. General Requirements [3837](#)

330.1. Purpose..... [3837](#)

330.2. Subdivision Approval Required. [3837](#)

Section 331. Vacation of Streets and Plats. 3938

331.1. Purpose..... 3938

331.2. Review Process. 3938

331.3. Notice of Adoption of Resolution Pursuant to Section 336, F.S. Only. 3938

331.4. Recording Requirements..... 3938

331.5. Effective Date. 4039

331.6. Applicants Responsibility..... 4039

Section 332. Replatting Requirements. 4039

Section 333. Preliminary Plat Review Procedures. 4039

333.1. Purpose..... 4039

333.2. Preliminary Plat Review Process..... 4039

333.3. Phased Development. 4140

333.4. Effect of Approval. 4140

333.5. Expiration of Preliminary Plats..... 4140

333.6. Graphic Standards..... 4140

Section 334. Construction Drawings for Preliminary Plats. 4241

334.1. General Requirements..... 4241

334.2. Construction Drawings Not Required. 4241

334.3. Review Procedures..... 4241

334.4. Review Criteria. 4342

334.5. Effect of Approval. 4342

334.6. Expiration..... 4342

334.7. Required Improvements. 4342

334.8. Design Requirements for Construction Drawings..... 4342

Section 335. Final Plat Review Procedures..... 4645

335.1. Purpose..... 4645

335.2. Final Plat Preparation. 4645

335.3. Review Procedures..... 4645

335.4. Review Standards..... 4645

335.5. Required Improvements Agreement..... 4645

335.6. Modifications to Approved Final Plat. 4645

335.7. Recording..... 4645

335.8. Effect of Approval. 4746

335.9. Condition of Approval. 4746

335.10. Expiration of Final Plat..... 4746

335.11. Surveyor Review..... 4746

335.12. Survey Data Required for Final Subdivision Plats..... 4746

Section 336. Dedications and Reservations. 4847

336.1. Authorization..... 4847

336.2. Manner of Dedication to Manatee County..... 4847

336.3. Reservations..... 4847

336.4. Common Areas..... 4948

Section 337. Installation of Required Improvements 5150

337.1. Certification, Approval of Plans. 5150

337.2. Deferred Improvements..... 5251

337.3. Construction..... 5251

337.4. Final Inspection of Improvements..... 5352

337.5. Performance Security. 5352

337.6. Defect Security. 5352

337.7. Certificate of Completion: Approval for Maintenance; Acceptance. 5453

337.8. Monuments..... 5453

337.9. Certified Record Drawings..... 5554

337.10. Engineer's Certification of Completion..... 5554

337.11. Requirements for Performance and Defect Securities..... 5554

337.12. Designation of Department Director. [5554](#)

Part VI. Comprehensive Plan, Land Development Code and Zoning Atlas Amendments. [5554](#)

Section 340. Comprehensive Plan Amendments [5554](#)

340.1. Purpose..... [5554](#)

340.2. Review Procedures..... [5655](#)

340.3. Review Criteria for Future Land Use Map and Comprehensive Plan Text Amendments [5655](#)

Section 341. LDC Amendments..... [5655](#)

341.1. Purpose..... [5655](#)

341.2. Review Procedures..... [5655](#)

Section 342. Amendments to Official Zoning Atlas. [5756](#)

342.1. Purpose..... [5756](#)

342.2. Review Procedures..... [5756](#)

342.3. Review Criteria for Zoning Map Amendments..... [5857](#)

342.4. Additional Requirements for Amendments to Planned Development Zoning Districts. [5958](#)

342.5. Additional Requirements for Rezoning to the MP-I District. [6059](#)

Section 343. to 344 Reserved. [6261](#)

Part VII. Other Applications. [6261](#)

Section 345. Zoning Compliance Permit. [6261](#)

345.1. Zoning Compliance Permit Required..... [6261](#)

345.2. Review Procedures..... [6261](#)

345.3. Expiration..... [6261](#)

Section 346. Certificate of Appropriateness. [6261](#)

346.1. Certificate of Appropriateness Required..... [6261](#)

346.2. Review Authority..... [6362](#)

346.3. Review Procedures..... [6362](#)

346.4. Type of Review. [6564](#)

346.5. Administrative Review. [6564](#)

Section 347. Developments of Regional Impact (DRI). [6665](#)

Section 348. Local Development Agreements. [6665](#)

348.1. Purpose and Intent. [6665](#)

348.2. Application. [6665](#)

348.3. Form of Agreement for Public Improvements..... [6665](#)

348.4. Review Procedures..... [6665](#)

348.5. Recording..... [6766](#)

348.6. Administration of Development Agreements. [6766](#)

348.7. Application of Subsequently Adopted Local Laws and Policies. [6766](#)

Section 349. Environmental Preserve Management Plan (EPMP). [6766](#)

349.1. EPMP Required. [6766](#)

349.2. Plan Requirements. [6766](#)

349.3. Review Procedures..... [6766](#)

349.4. Review Criteria. [6867](#)

349.5. Other Permits Required..... [6867](#)

349.6. Effect of Approval. [6867](#)

Section 350. Public School Determinations of Consistency..... [6867](#)

350.1. Purpose and Intent. [6867](#)

350.2. Applicability..... [6867](#)

350.3. Review Procedures..... [6867](#)

350.4. Standards and Criteria..... [6968](#)

350.5. On-Site and Off-Site Improvements. [7069](#)

350.6. Effect of Determination of Consistency. [7069](#)

Section 351. General Plans for Educational Facilities. [7069](#)

351.1. Purpose and Intent. [7069](#)

351.2. Review Procedures..... [7069](#)

351.3. Review Criteria. 7170

351.4. Effect of Review and Consideration of General School Plan. 7170

Section 352. Temporary Use Permits. 7170

352.1. Temporary Use Permit Required. 7170

352.2. Review Procedures. 7170

352.3. Duration of Temporary Use Permit. 7170

352.4. Extension of Temporary Use Permit. 7270

352.5. Consolidated Permits. 7274

352.6. Violations and Appeals. 7274

Section 353. Erosion and Sediment Control Plan. 7274

353.1. Applicability. 7274

353.2. Application Requirements. 7274

353.3. On-Site Meeting. 7274

353.4. Changes. 7274

Section 354. Mining Activity Permitting 7372

354.1. Mining Approval Types 7372

354.2. Review and Approval Procedures. 7372

354.3. Deviations from Approved Plans. 7372

Section 355. Manufacturing Development Program. 7372

355.1. Authority and Title. 7372

355.2. Purpose and Intent. 7473

355.3. Master Development Plan Eligibility Area (MDPEA). 7473

355.4. Applicability and Eligibility. 7473

355.5. Vested Rights. 7473

355.6. MDP Approval Process. 7473

355.7. Effect of Approval. 7675

355.8. Development Consistent with Master Development Plans. 7675

355.9. Expiration of MDP. 7776

355.10. Modification of an approved MDP. 7776

355.11. Repeal of Manufacturing Development Program. 7776

Section 356. to 359 Reserved. 7776

Part VIII. Concurrency Management. 7776

Section 360. Certificate of Level of Service Compliance. 7776

360.1. Purpose. 7776

360.2. Applicability. 7776

360.3. Optional Certification. 7877

360.4. Special Permits, Rezonings and Site Plan Approvals. 7877

360.5. Application Review Procedures. 7978

360.6. Expiration. 8079

360.7. Extensions. 8079

360.8. Extensions by Operation of Law. 8180

360.9. Procedure. 8180

360.10. Roadway Level of Service Review Process. 8180

Section 361. to 364 Reserved. 8483

Part IX. Modifications and Variances. 8483

Section 365. Modification of Standards. 8483

365.1. Purpose. 8483

365.2. Application. 8483

365.3. Administrative Modifications. 8483

365.4. Board Modifications. 8584

365.5. Prohibited Modifications. 8584

365.6. Review Criteria. 8584

365.7. Additional Requirements. 8685

Section 366. Administrative Adjustments..... 8685

366.1. Types of Administrative Adjustments. 8685

366.2. Review and Approval of Administrative Adjustments. 8685

366.3. Effect of Approval. 8786

Section 367. Variances..... 8786

367.1. Purpose and Scope. 8786

367.2. Prohibitions. 8786

367.3. Historic Overlay Districts..... 8786

367.4. Review Procedures..... 8887

367.5. Review Criteria. 8887

367.6. Effect of Approval. 8887

Section 368. to 369 Reserved. 8988

Part X. Appeals..... 8988

Section 370. Appeals of Administrative Decisions. 8988

370.1. Application. 8988

370.2. Hearing Scheduled. 8988

370.3. Department Director Recommendation. 8988

370.4. Review and Decision. 8988

Section 371. Appeals of Quasi-Judicial Decisions..... 8988

List of Tables

Table 3 - 1: Development Order Review Authorities 13

Table 3 - 2: Required Public Notice for Development Applications..... 1847

Table 3 - 3: Review by Subdivision Type 3938

CHAPTER 3 - REVIEW AUTHORITY AND PROCEDURES

Part I. Review Authority.

Section 300. Board of County Commissioners.

As the governing board of the County, the Board of County Commissioners reserves all powers to be exercised under this Code except where otherwise delegated pursuant to the provisions hereof. In addition to any authority granted to the Board by state law or the Code of Ordinances of Manatee County, the Board shall have the following powers and duties in regard to this Land Development Code:

- A. To approve, approve with modifications, or deny applications for development approval for Developments of Regional Impact (DRI's) and Florida Quality Developments (FQD), and to issue Development Orders in accordance with the Board's decision;
- B. To enter into development agreements, as provided for in this chapter and as provided in Section 163.3220, Florida Statutes;
- C. To approve and execute final plats and replats prior to recording, as provided in this chapter;
- D. To vacate and annul plats, as required by Section 177.101, Florida Statutes;
- E. To approve, approve with modifications or deny site plans in planned development zoning districts, where no plan currently exists, or an approved plan is requested to be modified as provided in Section 324.
- F. To adopt and amend the Official Zoning Atlas after recommendation by the Planning Commission as provided in this chapter;
- G. To initiate, review and adopt amendments after recommendation of the Planning Commission to the text of the Land Development Code as provided in this chapter;
- H. To employ hearing officers to make recommended findings of fact, conclusions of law, final decisions on special permit uses, appeals from determinations regarding levels of service, and such other decisions as the Board may deem appropriate;
- I. To hold public hearings regarding DRI's, FQDs, development agreements, amendments to the Official Zoning Atlas, and amendments to the Land Development Code;
- J. To set such fees as necessary to implement the provisions of this Code;
- K. To take such other action not delegated to decision-making and administrative bodies designated in this chapter as the Board may deem desirable and necessary to implement the provisions of this Code and the Comprehensive Plan;
- L. To hear and decide appeals when it is alleged that there is error in any order, requirement, decision, determination made by any administrative official acting pursuant to this Code, except where state or County regulations or this Code specifically provide otherwise;
- M. To hear and decide requests for interpretation of the Official Zoning Atlas where there is uncertainty as to the location of a zoning district boundary.
- N. To interpret this Code at the request of the Department Director;
- O. To review and approve Environmental Preserve Management Plans; and
- P. To review vacation or abandonment of streets, as provided in this chapter.

Section 301. Planning Commission.**301.1. Powers and Duties.**

The Planning Commission shall have the following powers and duties:

- A. To act as the Local Planning Agency under Section 163.3174, Florida Statutes; and to carry out such duties as may be prescribed by the Comprehensive Plan;
- B. To hold and regulate public hearings on Official Zoning Atlas amendments, planned development site plans, site and development plans where no plan currently exists, or modifications to an approved plan, developments of regional impact and Florida Quality Developments;
- C. To initiate, review and make recommendations to the Board in regard to adoption and amendment of the text of this Code;
- D. To hold and regulate public hearings on applications for amendments to the text of this Code;
- E. To hold and regulate public hearings on applications for development agreements and make recommendations to the Board on said agreements;
- F. To make its special knowledge and expertise available, upon reasonable written request and authorization of the Board, to any official, department, board, commission or agency of the County, state, or federal governments;
- G. To recommend to the Board that special studies be performed as may be deemed necessary and proper to conduct the work of the Planning Commission, subject to the approval of the Board and available appropriations;
- H. To adopt rules of procedure which are not inconsistent with this Code and are necessary for the administration of the commission's responsibilities and to govern its proceedings; and
- I. To perform any other duties that may be lawfully assigned to it.

301.2. Membership: Appointment, Removal, Terms, Officers and Vacancies.

- A. Membership.** The Planning Commission shall be composed of seven (7) members appointed by the Board. Additionally, there shall be a non-voting member serving as a representative of the Manatee County School Board. This non-voting member shall be appointed by the school board and not subject to the qualifications of subsection 301.2.B.
- B. Qualifications.** Members of the Planning Commission shall be qualified electors in Manatee County. While no particular expertise is required, persons with experience or training in the substantive areas of planning, engineering, environmental science, and the development industry shall be considered in appointing members. No member of the Planning Commission shall otherwise be elected office holders, or employed by the Board. No member of the Planning Commission shall be a member of another land development related advisory board serving unincorporated Manatee County, except as specifically provided for.
- C. Terms of Office.** The term of office of the Planning Commission members shall be for four (4) years. Not more than two (2) of such members' terms shall expire in any one year. A member whose term expires shall continue to serve until his or her successor is appointed. The school board representative shall serve until replaced by the school board.
- D. Removal from Office.** Any member of the Planning Commission may be removed from office, with or without cause, by majority plus one vote of the full membership of the Board. In the event that any member is no longer a qualified elector or is convicted of a felony or any offense involving moral turpitude while in office, the Board shall terminate the appointment of such person as a member of the Planning Commission.
- E. Vacancies.** Whenever a vacancy occurs on the Planning Commission, the Board shall fill such vacancy for the remainder of the term.
- F. Compensation.** Members of the Planning Commission may, after written authorization from the Board, receive compensation, travel and other expenses while on official business for the Planning Commission. Compensation

Chapter 3. Review Authority and Procedures

for the school board representative shall be furnished by the school board.

- G. Officers.** The Planning Commission shall annually elect a chairman and vice-chairman among its members and may create and fill such other offices as necessary. Terms of all offices shall be for one (1) year with eligibility for re-election. The school board representative shall not be eligible for election to any office on the Planning Commission. All Planning Commission members shall be subject to Chapter 112, Part II, Florida Statutes
- H. Disclosure.** Applicants for appointment to the Planning Commission shall disclose whether or not they are currently elected or appointed to hold office in any public body or agency including serving on an advisory board.
- I. Ethics.** Members of the Planning Commission shall be subject to all applicable provisions of Chapter 112, Part III, Florida Statutes, regarding ethics for public officers.

301.3. Agendas, Meetings, Hearings and Procedures.

- A. Agenda Preparation.** The Department Director shall prepare the Planning Commission agenda and shall maintain the correspondence of the Planning Commission.
- B. Quorum.** Except as provided in this section, no meeting of the Planning Commission shall be called to order, nor shall any business be transacted by the Planning Commission, without a quorum consisting of at least four (4) members of the Planning Commission being present. The chairman shall be considered and counted as a member. When there is no quorum, those members of the commission who are present may convene for the purposes of continuing a public hearing or scheduling a special meeting.
- C. Regular Meetings.** Regular meetings of the Planning Commission shall be held as necessary. Meetings may be called by the chairman of the Board, the chairman of the Planning Commission, a majority of the members of the Planning Commission, a majority of the Board or the Department Director. If consideration of a matter is postponed due to lack of a quorum, the chairman of the Planning Commission shall continue the meeting as a special meeting to be held within seven (7) working days thereafter. In the case of delays caused by other reasons, the meeting should be rescheduled to the next Planning Commission meeting. The Department Director shall notify all members of the date of the continued meeting.
- D. Rules of Procedure.** The Planning Commission shall, by majority vote of the entire membership, adopt written rules of procedure as may be necessary for the transaction of its business.
- E. Public Meetings.** All meetings of the Planning Commission and its committees shall be open to the public.
- F. Vote.** No action of the Planning Commission shall be valid unless authorized by a majority vote of the membership present.
- G. Minutes and Public Records.** The Clerk of Circuit Court shall serve as clerk to the Planning Commission as it serves as clerk to the Board. The clerk shall keep minutes of all Planning Commission proceedings, including evidence presented, the name of all witnesses giving testimony, findings of fact by the Planning Commission and the vote of each member, or if absent, or failing to vote, such fact. The clerk shall be the custodian of the official record of the Planning Commission and shall keep indexed records of all resolutions, transactions, findings and determinations. All such records shall be official public records and shall be covered by all Florida Statutes pertaining to public records.

Section 302. Hearing Officers.**302.1. Duties.**

Each Hearing Officer shall have the following duties related to land development:

- A. To conduct public hearings regarding applications for special permits and appeals from determinations on certificates of Level of Service;
- B. To decide applications for Special Permits;
- C. To make recommended findings of fact and conclusions of law, in accordance with relevant standards and criteria set forth in this Code;

Chapter 3. Review Authority and Procedures

- D. To decide appeals from determinations regarding certificates of Level of Service;
- E. To decide requests for variances, except floodplain variances in Historical and Archaeological Overlay Districts, historic landmarks, property listed with the National Register of Historic Places (listed after 01-01-17) and/or within the historic vista protection zone.
- F. To issue reports and make recommendations to the Board;
- G. To take any other action authorized by ordinance or resolution of the Board;
- H. To visit the site of a land development application;
- I. To decide applications for adjustments to the sign regulations not authorized to be granted administratively; and
- J. To decide upon any other matter assigned to the Hearing Officer pursuant to this Code

302.2. Powers.

Each Hearing Officer shall, in the course of carrying out the duties described above, be empowered to:

- A. Administer oaths and affirmations;
- B. Issue notices;
- C. Receive relevant evidence; and
- D. Take or cause other such action as necessary to perform such duties.

302.3. Appointment, Qualifications, Term, Removal and Compensation.

The Board shall appoint one or more qualified Hearing Officers. Each Officer shall be appointed for a renewable term of one to four years.

- A. Qualifications.** Generally, Hearing Officers shall have a degree in law from an accredited American Bar Association law school, be licensed to practice law in the State of Florida, and have a minimum of two (2) years of experience in land use, zoning, or other land use regulatory experience; or have a bachelor's degree in planning or other directly related field and a minimum of five (5) years of experience as listed above. A master's degree in planning or directly related field and American Institute of Certified Planners designation is preferred. The Board may modify these qualifications as needed.
- B. Limitations on Hearing Officer Activities While Appointed.** A Hearing Officer shall not hold other appointive or elective office or position in the County government. Further, a Hearing Officer shall not present nor assist in the preparation of any land use matter or application before another Hearing Officer or the Board during his or her term nor shall the Hearing Officer present or assist in preparation of any land use matter or application requiring approval by the Department Director. The firm with which a Hearing Officer is or was associated with shall not present or assist in the preparation of any land use matter before that Hearing Officer. All Hearing Officers shall be subject to Chapter 112, Part III, Florida Statutes.
- C. Limitations on Activities after Term.** Hearing Officer are, for a period of six months from the date of termination as holder of such office, hereby expressly prohibited from acting as agent or attorney in any proceeding, application or matter before any commission, board, agent or other office of County government. The firm with which a Hearing Officer is or was associated with shall not present or assist in the preparation of any land use matter before that Hearing Officer. The limitation above shall be for a period of two years if the property was the subject of an application heard by the Hearing Officer during his or her term.
- D. Removal.** A Hearing Officer shall be removed only for cause by a majority plus one of the Board.
- E. Compensation.** A Hearing Officer shall be compensated for his or her services and expenses. The Board shall have authority and responsibility for setting the amount of the compensation, the source of such compensation and limitations on compensable expenses.
- F. Disqualification of Hearing Officer.** The Hearing Officer shall disqualify himself or herself when it reasonably appears that he or she has a conflict of interest. When a Hearing Officer is disqualified, the case shall be

randomly assigned to another Hearing Officer.

302.4. Freedom from Improper Influence.

- A. No person who is or may become a party of record before the Hearing Officer, nor anyone appearing on behalf of a party of record before the Hearing Officer, shall communicate ex parte with any Hearing Officer about an application currently before him or her.
- B. No member of the Board shall communicate ex parte with any Hearing Officer about an application currently before him or her. Communication between the Hearing Officer and the Board acting as a collegial body shall be undertaken in accordance with the terms of this Code.
- C. In order to assure that the Hearing Officers are free from improper influence, a Hearing Officer shall neither initiate nor consider ex parte communications concerning a pending or impending application. A Hearing Officer, however, may obtain the advice of a disinterested expert other than another Hearing Officer on law, planning, or zoning applicable to a proceeding before him, if he gives notice to the parties of record of the person consulted and the substance of the advice, and affords the parties of record reasonable opportunity to respond.
- D. Ex parte communications as contemplated herein shall not include the required transmission of official documents by staff pursuant to the terms of this Code nor shall it include discussion with representatives of the Manatee County Attorney's Office, regarding discussions, not related to a specific land use case to be heard before him or her.

302.5. Maintenance of Records.

The Clerk of the Circuit Court shall serve as Clerk to the Hearing Officers as it serves as Clerk to the Board. The Clerk shall keep the minutes of the Hearing Officers' proceedings, including evidence presented, the name of all witnesses giving testimony, findings of fact by the Hearing Officers and the determination of the Hearing Officers. The Clerk shall be the custodian of the official record of the Hearing Officer and shall keep indexed records of all resolutions, transactions, findings and determinations. All such records shall be official public records and shall be covered by all Florida Statutes pertaining to public records.

Section 303. Historic Preservation Board.

303.1. Purpose and Intent.

The Historic Preservation Board is established in order to preserve and protect Manatee County's archaeologically and historically significant sites, districts and zones; to encourage historical and archaeological preservation; to identify historic buildings and sites and archaeological sites in Manatee County; and to ensure appropriate preservation, restoration, renovation, development and adaptive reuse of historical buildings and archaeological sites.

303.2. Duties and Powers.

The Historic Preservation Board, in addition to such other powers, duties and authority as may be set forth elsewhere in this Code, shall have the following powers and duties:

- A. Maintain and update files of the Manatee County Historic Survey for the purpose of identifying and conserving those sites, districts and zones of special archeological, historic, architectural, or cultural value or interest. In exercising this authority, the Historic Preservation Board shall endeavor to improve and expand the survey with additional sites, documentary information, oral histories, and other such materials as may become available; and to periodically re-evaluate the survey to determine whether changing times and values warrant recognition of new or different areas of significance. The Manatee County Historic Survey shall utilize the format provided by the Florida Master Site File (FMSF), and the Building and Development Services Department shall provide copies of all survey forms to the FMSF.
- B. Recommend properties for designation as historic landmarks, historical and archaeological overlay districts, and historic vista protection areas in accordance with the criteria and procedures specified in this Code for

Chapter 3. Review Authority and Procedures

- each type of action. Regulate and administer properties as historic landmarks and historic landmark districts.
- C. Participate in, and review nominations of landmarks to, the national register program for Florida to the greatest possible extent, as specified by the 1981 amendments to the National Historic Preservation Act of 1966, as amended, and by regulations and rules drafted pursuant to those amendments by the National Park Service and the Florida State Historic Preservation Office, which encourages such local participation and initiative.
 - D. Approve or deny Certificates of Appropriateness pursuant to this Code, or provide standards for administrative approval of certain Certificates of Appropriateness.
 - E. Recommend zoning text or atlas amendments to the Board for referral to the Planning Commission.
 - F. Recommend to vary, waive, or supersede provisions of this Code when appropriate as a means of encouraging significant historic preservation.
 - G. Recommend approval for certificates of transfer of development rights in accordance with procedures set forth by the Board.
 - H. Make recommendations to the Board concerning the transfer of development rights, facade easements and the imposition of other restrictions, and the negotiations of historical property contracts for the purposes of historic preservation.
 - I. Maintain a record of archaeologically or historically significant sites, districts or zones within the County and update the record through ongoing historical resources surveys. The County shall provide copies of the current record to the Florida Master Site File (FMSF) and the State Historic Preservation Officer (SHPO).
 - J. Increase public awareness of the value of historic preservation by developing and participating in public information programs.
 - K. Make recommendations to the Board concerning the utilization of grants from Federal and State agencies or private groups and individuals, and utilization of County funds to promote the preservation of archaeologically, historically and aesthetically significant sites, districts and zones.
 - L. Evaluate and comment upon decisions of other public agencies affecting the physical development and appearance of archaeologically, historically and aesthetically significant sites, districts and zones.
 - M. Contact public and private organizations and individuals and endeavor to arrange intervening agreements and/or actions to ensure preservation of archaeologically or historically significant sites, districts and zones for which demolition or destruction is proposed.
 - N. Recommend and approve placement of historic markers and plaques and issue recognition to designated historic landmarks, historical and archaeological overlay districts, and historic vista protection areas within Manatee County and those persons, organizations or entities deserving of recognition in the field of archeological, historic or aesthetically significant site preservation.
 - O. Advise the Board on all matters related to the use, administration and maintenance of County owned designated historic landmarks, historical and archaeological overlay districts, and historic vista protection areas.
 - P. Review and approve all projects and construction requiring Certificates of Appropriateness issued by the Historic Preservation Board pursuant to Section 346.
 - Q. Recommend to vary, waive or supersede provisions of this Code, to the appropriate agencies, when appropriate as a means of encouraging significant historic preservation. Request that the appropriate agencies or departments investigate alternative methods so that alterations required by the Florida Building Code, Florida Fire Prevention Code, Florida Americans with Disabilities Accessibility Implementation Act, and state health code are done in a manner to preserve character-defining spaces, features and finishes.
 - R. Determine, through a resolution, which activities may be approved administratively, without further review by the Historic Preservation Board for certain Certificates of Appropriateness.
 - S. Review and approve any variance regarding floodplain elevation of structures within a Historical and

Chapter 3. Review Authority and Procedures

Archaeological Overlay District, a historic landmark area, property listed on the National Register of Historic Places (listed after 01-01-17) and/or a historic vista protection area.

- T. Subject to availability and appropriation of funds and advanced approval by the Board, attend local, state and national information or education meetings, workshops and conferences when such attendance is relevant to the duties of the Historic Preservation Board.
- U. Any other function which may be designated by the Board.

The Historic Preservation Board is authorized to exercise the foregoing powers throughout unincorporated Manatee County. The responsibilities assigned to the Historic Preservation Board pursuant to this Section shall be complementary to the Historic Preservation Office of the State of Florida.

303.3. Membership and Meetings.

- A. **Membership.** A Historic Preservation Board is hereby established which shall consist of five (5) members appointed by the Board.
- B. **Qualifications.** Members of the Historic Preservation Board shall be qualified residents in Manatee County who have knowledge of archaeological, historical or architectural development or have deep concern for the preservation, development and enhancement of historic resources in the County. The Historic Preservation Board shall, whenever possible, be composed of professional members from the following disciplines: architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, landscape architecture, and historic preservation or related disciplines. In the event there are insufficient professionals in the County, lay persons who have demonstrated special interest, experience or knowledge in history, architecture or related disciplines shall comprise the balance of the historic preservation board.
- C. **Terms of Office.** The term of office of the Historic Preservation Board members shall be for four (4) years. Not more than two (2) of such members' terms shall expire in any one (1) year. A member whose term expires shall continue to serve until his or her successor is appointed.
- D. **Removal from Office.** Any member of the Historic Preservation Board may be removed from office, with or without cause, by majority plus one vote of the full membership of the Board following a hearing by the Board. In the event that any member is no longer a qualified elector or is convicted of a felony or any offense involving moral turpitude while in office, the Board shall terminate the appointment of such person as a member of the Historic Preservation Board.
- E. **Officers.** The Historic Preservation Board shall annually elect a Chairman and Vice Chairman from among its members and may create and fill such other offices as necessary. Terms of all offices shall be for one (1) year with eligibility for re-election.
- F. **Vacancies.** Whenever a vacancy occurs on the Historic Preservation Board, the Board shall fill such vacancy for the remainder of the term. The Board shall attempt to appoint new members within sixty (60) days of the date any vacancy, subject to availability of qualified individuals.
- G. **Quorum.** Except as provided in this section, no meeting of the Historic Preservation Board shall be called to order, nor shall any business be transacted by the Historic Preservation Board, without a quorum consisting of at least three (3) members of the Historic Preservation Board being present. The Chairman shall be considered and counted as a member. When there is no quorum, those members of the Preservation Board who are present may convene for the purposes of continuing a public hearing or scheduling a special meeting.
- H. **Attendance.** Historic Preservation Board members shall be removed from office by the Building and Development Services Director for failure to attend three (3) successive meetings, excluding workshop meetings, or when a member's absences exceed 25% of all scheduled meetings, including workshop meetings, in a calendar year if the absence is not approved by the Board for cause. Any member who fails to attend a meeting during a least 75% of the time of the meeting is in session shall be considered not to have attended the meeting.
- I. **Rules of Procedure.** The Historic Preservation Board shall, by majority vote of the entire membership, adopt written rules of procedure as may be necessary for the transaction of its business. In any proceeding deemed quasi-judicial under this Code, the Historic Preservation Board shall adhere to the procedures established pursuant to this Code, and any additional procedures established by resolution by the Board.

Chapter 3. Review Authority and Procedures

- J. Disclosure.** Applicants for appointment to the Historic Preservation Board shall disclose whether or not they are currently elected or appointed to hold office in any public body or agency including serving on an advisory board.
- K. Ethics.** Members of the Historic Preservation Board shall be subject to all applicable provisions of Chapter 112, Part III, Florida Statutes, regarding ethics for public officers.
- L. Regular Meetings.** Regular meetings of the Historic Preservation Board shall be held as necessary, with at least four (4) meetings annually. Meetings may be called by the Chairman of the Board, the Chairman of the Historic Preservation Board, a majority of the members of the Historic Preservation Board, a majority of the Board or the County Administrator or his or her designee. If consideration of a matter is postponed for any reason, the Historic Preservation Board may continue the meeting to a special meeting or reschedule the matter to the next Historic Preservation Board meeting. The Building and Development Services Department shall notify all Historic Preservation Board members of the date of any continued meeting. A public notice for each Historic Preservation Board meeting shall be advertised in a newspaper of general circulation in Manatee County no less than ten (10) days prior to the date of the public hearing.
- M. Public Meetings.** All meetings of the Historic Preservation Board shall be public meetings and conducted in accordance with the applicable rules of procedure.
- N. Vote.** No action of the Historic Preservation Board shall be valid unless authorized by a majority vote of the quorum. The Historic Preservation Board members shall be subject to Chapter 112, Part III, Florida Statutes.
- O. Appeals.** Any aggrieved person, including Manatee County, may file a petition for review of any final decision of the Historic Preservation Board to the Circuit Court (see Appeals section at the end of this chapter).
- P. Staff.** The Building and Development Services Department shall provide staff to the Historic Preservation Board for the performance of its duties and powers. Subject to availability and appropriation of funds, the County may enter into contracts to obtain additional expertise to the Building and Development Services Department in considering national register nominations when a professional discipline is not represented as a member of the Historic Preservation Board.
- Q. Clerk.** The Clerk of Circuit Court in his or her capacity as Clerk to the Board of County Commissioners shall likewise serve as Clerk to the Historic Preservation Board. The Clerk shall keep minutes of all Historic Preservation Board proceedings, including evidence presented, the name of all witnesses giving testimony, findings of fact by the Historic Preservation Board and the vote of each member, or if absent, or, failing to vote, such fact. The Clerk shall be the custodian of the official record of the Historic Preservation Board and shall keep indexed records of all Resolutions, Certificates of Appropriateness, variances, transactions, findings and determinations.
- R. Records.** All records of the Historic Preservation Board, including but not limited to historic survey files and rules of procedure, shall be official public records and shall be open to the public in accordance with Chapter 119, Florida Statutes, pertaining to public records.

303.4. Certified Local Government Program.

- A. Responsibilities of the Building and Development Services Department.** The Building and Development Services Department shall perform all activities required for compliance with the Certified Local Government Program administered by the State Historic Preservation Officer ("SHPO"). The Building and Development Services Department shall provide written notice to the SHPO the next business day following the approval of any new historic landmark designation or alteration of any existing historic landmark designation. The Building and Development Services Department shall provide written notice to the SHPO no later than thirty (30) calendar days after any of the following events:
1. Changes in Historic Preservation Board membership.
 2. Amendment of regulations governing the Historic Preservation Board: provided, however, that the SHPO shall review and approve any amendments prior to adoption by the Historic Preservation Board.
- B. Reporting.** The Building and Development Services Department shall provide duplicates of all documents to the SHPO and maintain written records verifying receipt of documents by the SHPO.
1. The Building and Development Services Department shall submit advance written notice of each Historic

Chapter 3. Review Authority and Procedures

Preservation Board meeting to the SHPO at least thirty (30) calendar days before each meeting.

2. The Building and Development Services Department shall submit proposed amendments to any ordinance governing the Historic Preservation Board to the SHPO at least thirty (30) calendar days before the meeting at which such amendments will be considered; provided, however, that no amendments shall be adopted by the Historic Preservation Board until after the SHPO has reviewed and approved such amendments.
3. The Building and Development Services Department shall submit draft minutes of each Historic Preservation Board meeting to the SHPO no later than thirty (30) calendar days after each meeting.
4. The Building and Development Services Department shall submit approved minutes of each Historic Preservation Board meeting to the SHPO no later than thirty (30) calendar days after each meeting at which such minutes were approved.
5. The Building and Development Services Department shall submit written records of attendance by Historic Preservation Board members at each Historic Preservation Board meeting to the SHPO no later than thirty (30) calendar days after each meeting.
6. The Building and Development Services Department shall submit written records of attendance by the public at each Historic Preservation Board meeting to the SHPO no later than thirty (30) calendar days after each meeting.
7. The Building and Development Services Department shall submit an annual written report to the SHPO no later than November 1 of each year covering the time period from the previous October 1 through September 30. The annual report shall include the following information:
 - a. A copy of the rules of procedure for the Historic Preservation Board;
 - b. A copy of the historic preservation ordinance;
 - c. Resumes of all Historic Preservation Board members;
 - d. Changes to the membership of the Historic Preservation Board;
 - e. The total number of projects reviewed by the Historic Preservation Board;
 - f. A review of survey and inventory activity with a description of the system used;
 - g. New historic landmark designations;
 - h. New listings on the National Register of Historic Places; and
 - i. A report of all grant assisted activities.

Section 304. Development Review Committee (DRC).

304.1. Establishment of Development Review Committee

There is hereby established a Development Review Committee (DRC). The structure, membership, and duties may be modified by the Department Director.

304.2. Duties and Powers

The DRC, in addition to such other powers, duties, and authority as may be set forth elsewhere in this Code, shall have the following powers and duties:

- A. To perform completeness and sufficiency reviews of the following applications and prepare comments and recommendations addressing the application of all relevant codes:
 1. Site Plans;
 2. Subdivisions;
 3. Amendments to the Comprehensive Plan and Future Land Use Map;

4. Amendments to the Official Zoning Atlas;
 5. Special Permits;
 6. Land Development Code Amendments;
 7. Developments of Regional Impact; and
 8. Other applications referred to the Committee by the Department Director.
- B. To determine the impact of proposed developments upon the County's public facilities and services.
- C. To ~~provide-prepare sufficiency~~ comments and recommendations to the approving authority regarding consistency of the proposed application with the County's adopted Land Development Code and Comprehensive Plan.
- D. To perform any other duties that may be lawfully assigned to it.

304.3. Membership, Officers and Meetings

- A. Membership.** The Development Review Committee shall be composed of representatives of County departments as determined by the County Administrator to be essential in the review of development proposals.
- B. Officers.** The chairman of the Development Review Committee shall be the Department Director or a designee. Other officers and subcommittees may be appointed by the Department Director, as needed, to carry out the purposes of this section.
- C. Meetings.** The Development Review Committee shall meet on a regular schedule to be determined by the Department Director. Meetings will be noticed on the County Calendar and meeting minutes will be recorded. The DRC meetings shall be open to the public.

304.4. Rules of Procedure

The DRC rules and procedures are set forth in the Administrative Procedures manual. ~~Committee shall, by majority vote of the membership, adopt written rules of procedure as may be necessary for the transaction of its business.~~

Section 305. to 309 Reserved.

Part II. Development Review Procedures.

Section 310. Applicability.

310.1. Purpose and Intent.

The purpose of this Part is to set forth the procedural requirements and review criteria for decisions made pursuant to this Code and the Comprehensive Plan. The Manatee County Development Review Administrative Procedures Manual, adopted by Resolution 20-004, establishes the administrative procedures and staff protocols for reviewing and processing development order and development permit applications to ensure conformance with Section 125.022, Florida Statutes.

310.2. Development Order Required

The purpose of requiring a Development Order is to ensure the availability of adequate urban services, determine compliance with specific development standards, and calculate impact fee assessments, when applicable, prior to the issuance of a building permit.

- A. Activities Requiring a Development Order.** It shall be unlawful to change the use of an existing structure,

Chapter 3. Review Authority and Procedures

modify an approved site plan, commence the clearing of land, excavations for, or the construction of any building or other structure, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, including accessory structures, until the Department Director has issued a Development Order authorizing such activity.

B. Exceptions. In addition to the activities exempted in Section 103.2 of this Code, the following construction activities do not require a Development Order:

- swimming pools,
- decks,
- patios,
- fences,
- sheds (under 250 sq. ft.),
- sign installation,
- tree removal,
- exterior above-ground renovations,
- residential driveways,
- interior renovations which do not add dwelling units or change the occupancy of the building, and
- other minor additions to single family homes.

C. Review and Approval. The following sections contain the specific processing and review requirements for the various types of Development Orders required.

310.3. Building Permit Required.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any impact resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by the Florida Building Code, this code or other applicable code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit. All approvals, permits and certificates required by this Land Development Code must be applied for and obtained before an application for a building permit can be approved by the County. No start of construction or development shall occur until a Building Permit is issued.

310.4. Certificate of Occupancy Required.

No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the Building Official has issued a Certificate of Occupancy therefor as provided in Chapter 1 Scope and Administration, section 111.2 Certificate Issued, of the Florida Building Code, as amended. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the County.

310.5. Certificate of Completion.

A Certificate of Completion is proof that a structure or system is complete and, for certain types of building permits, is released for use and may be connected to a utility system. This certificate does not grant authority to occupy a building, such as a shell building, prior to the issuance of a Certificate of Occupancy. Upon the satisfactory completion of improvements for site plan approval, a Certificate of Completion shall be issued by the Department Director or designee.

310.6. Other Permits Required.

In addition to obtaining a Development Order from the County, the developer must also obtain all other applicable permits or exemptions as may be required by law prior to commencement of development.

Section 311. Code Interpretation.**311.1. Purpose.**

The Department Director may, subject to the procedures and limitations of this section, issue written letters of interpretation of the provisions of one or more standards or requirements of this Code or the Comprehensive Plan as it relates to a particular type of development on a particular property.

311.2. Scope and Applicability.

Code interpretations may include, but shall not be limited to:

- A. A determination of whether a particular use, which does not clearly fall under the definition of one of the uses specified in this Code and is not specifically allowed in the zoning district, is substantially similar to one of the Permitted or Special Permit uses allowed in the district and therefore should be allowed as such;
- B. An interpretation of the definition of any term used in this Code or the Comprehensive Plan as it affects any development being proposed on a particular property;
- C. An interpretation of the boundaries of a zoning district on the Official Zoning Atlas; and
- D. A government-initiated interpretation, for the following circumstances:
 1. Interpretation or clarification of a standard, requirement, zoning district boundary or term set forth in this Code, as applied to a particular property or development proposal, which will or could lead to a development approval; and
 2. Where in the view of the Department Director or the requesting body or official, the formal establishment of such an interpretation or clarification is appropriate.

311.3. Application for Interpretation.

A letter of interpretation may be requested by any person. The request shall include a description of the facts and circumstances which are the basis for the request for an interpretation, including a description of the proposed development.

311.4. Action by Department Director.

Within a reasonable time after receipt of an application, the Department Director shall issue a letter of interpretation specifying the facts, reasons, analysis and standards upon which the interpretation is based.

- A. No interpretation shall authorize any use in a zoning district unless the Director determines that the use is substantially similar to a use specified as a permitted or special permit use in that district and is no more similar to any other use specified in this Code as a Permitted or Special Permit use in any district.
- B. No interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the district in question and no interpretation shall have the effect of amending, abrogating or waiving any standard or requirement established in this Code.
- C. No interpretation shall have the effect of changing zoning on a parcel of land.
- D. No interpretation of this Code shall result in an ~~inconstancy~~ inconsistency between this Code and the Comprehensive Plan.
- E. No interpretation shall itself authorize the carrying out of any development.

311.5. Official Record.

The Department Director shall maintain an official record of all formal interpretations and shall periodically prepare Code amendments to incorporate the interpretations into the code.

Section 312. Procedures of General Applicability.

312.1. Level of Review Required

Decisions made pursuant to this Land Development Code shall be classified as Legislative, Quasi-Judicial or Administrative. Based on the type of application, various levels of review are required prior to the issuance of a development order as shown in Table 3-1. The following sections contain the specific requirements for each level of review (see Part X for appeals):

Table 3 - 1: Development Order Review Authorities

APPLICATION TYPE	SEE SECTION	APPROVAL TYPE	PRE-APPLICATION MEETING	DRC	DEPARTMENT DIRECTOR	HEARING OFFICER	PLANNING COMMISSION	BOCC
Site Plans:								
General Development Plan ²	321	Q	Yes	Yes	Yes	No	Yes	Yes
Preliminary Site Plan in conjunction with PD ²	322	Q	Yes	Yes	Yes	No	Yes	Yes
Preliminary Site Plan not in conjunction with PD ²	322	QA	Yes	Yes	Yes	No	No	No
Final Site Plan ²	323	A	Yes	Yes	Yes	No	No	No
<u>Manufacturing Master Development Plan</u>	<u>355</u>	<u>Q</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>
Subdivisions:								
Vacation of Streets/Plats	331	L	No	No	Yes	No	No	Yes
Preliminary Plat ²	333	Q	Yes	Yes	Yes ¹	No	No ¹	No ¹
Construction Drawings	334	A	No	No	Yes	No	No	No
Final Plat ²	335	Q	Yes	No	Yes	No	No	Yes
Comprehensive Plan/LDC/Zoning Map Amendments²:								
Comprehensive Plan/Future Land Use Map amendments (area-wide/ <u>County initiated</u>)	340	L	Yes	Yes	Yes	No	Yes	Yes
Comprehensive Plan/Future Land Use Map amendments (site-specific)	340	L	Yes	Yes	Yes	No	Yes	Yes
Comprehensive Plan/Text Amendments	340	L	Yes	Yes	Yes	No	Yes	Yes
LDC Text Amendments	341	L	Yes	Yes	Yes	No	Yes	Yes
Zoning Atlas amendments (area-wide/ <u>County-initiated</u>)	342	L	Yes	Yes	Yes	No	Yes	Yes
Zoning Atlas Amendments (site specific; <u>PD</u>) ²	342	Q	Yes	Yes	Yes	No	Yes	Yes
<u>Code Interpretations</u>	<u>311</u>	<u>A</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No⁶</u>
Other Activities:								
Certificate of Appropriateness ²	346	Q	No	No	Yes	No	HPB	No
Certificate of Appropriateness (Administrative) ²	346	A	No	No	Yes	No	No	No
Certificate of Level of Service (extension)	360.7	QA	No	No	Yes	No	No	YesNo
Certificate of Level of Service (new)	360	A	No	No	Yes	No	No	No
<u>Code Interpretations</u>	<u>314</u>	<u>A</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>
Special Permit ²	316	Q	Yes	Yes	Yes	Yes	No	No
<u>Local Development Agreement</u>	<u>348</u>	<u>L³</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>YesNo</u>	<u>Yes⁵</u>	<u>Yes</u>

APPLICATION TYPE	SEE SECTION	APPROVAL TYPE	PRE-APPLICATION MEETING	DRC	DEPARTMENT DIRECTOR	HEARING OFFICER	PLANNING COMMISSION	BOCC
DRI Development Order	347	Q	Yes	Yes	Yes	No	Yes	Yes
Environmental Preserve Management Plans	349	Q	Yes	Yes	Yes	No	Yes	Yes
Floodplain Variances ²	802.8	Q	No	No	Yes	No	YesHPB ⁴	No
General Plan for Educational Facilities	351	Q	Yes	NoYes	Yes	No	No	Yes
Historic Landmark Designations	710	Q	No	No	Yes	No	HPB	NoYes
Modification of Standards (under 10%) ²	365	A	No	No	Yes	No	No	No
Modification of Standards (10% to 30%) ²	365	Q	Yes	NoYes	Yes	No	No	Yes
Public School Determination of Consistency	350	Q	Yes	NoYes	Yes	No	No	Yes
Temporary Use Permits ²	352	Q	No	No	Yes	No	No	No
Variance ²	367	Q	Yes	No	Yes	Yes	No	No
Zoning Compliance Permit	345	A	No	No	Yes	No	No	No

Legend: A = Administrative; L = Legislative; Q = Quasi-judicial; HPB = Historic Preservation Board; **Bold** = Indicates approving authority.

- ¹ Planning Commission and Board approval Required if the application also triggers the thresholds for General Development Plan review and the applications are processed concurrently.
- ² See Manatee County Development Review Administrative Procedures Manual (adopted by Resolution) for specific timing and procedural provisions in the review of this application type. ~~Amendments to the Official Zoning Map are deemed to be legislative if they are County initiated and include a large number of properties which would be similarly affected by the proposed change. Otherwise, the application is deemed quasi-judicial.~~
- ³ Development Agreements will generally be treated as Legislative except when required to be treated as quasi-judicial pursuant to applicable law.
- ⁴ HPB review in lieu of Hearing Officer for floodplain variances within the Cortez Fishing Village HA Overlay.
- ⁵ The public hearing held by the Planning Commission is optional; there can be one hearing held by the Planning Commission and one by the BOCC, or both by the BOCC.
- ⁶ The Board considers this application if the administrative decision is appealed (see Part X of this Chapter).

312.2. Pre-Application Meeting.

Table 3-1 specifies if a pre-application meeting is required prior the submittal of an application. For applications that do not require a pre-application meeting, the applicant may still submit a request for one following the procedures outlined in this section.

If a pre-application meeting is required, Anthe applicant may shall request a pre-application-the meeting with the Department Director, prior to filing an application, to discuss the development review process and submittal requirements. The applicant shall bring site plans and/or data, or narrative to show existing and proposed conditions of the site and its vicinity. It is intended that the meeting will assist the applicant in preparing applications which will meet the requirements of the Code. Comments made by staff at a pre-application meeting are made solely for informational purposes and shall not be construed as an approval or denial or agreement to approve or deny any development order. Failure of staff to identify any required permits or procedures at a pre-application conference shall not relieve the applicant of any such requirements nor constitute waiver of the requirement by the decision-making body. The Director reserves the right to waive a required pre-application meeting after consultation with the case manager/and or division manager.

312.3. Application Submittal.

- A. Application Forms and Requirements.** The Department Director shall establish application forms and submittal requirements for all development applications referenced in this Chapter. Application fees are established by Resolution by the Board of County Commissioners.
- B. Concurrent Applications.** Applications ~~are~~ for projects requiring more than one type of review (e.g. Preliminary Plat and Preliminary Site Plan ~~Special Permit and General Development Plan~~) may be submitted concurrently ~~applications~~ if determined appropriate by the Department Director.
- C. Authority to Enter Premises.** The submission of an application for development approval shall confirm or authorize the right of reasonable entry to a premises, lot or parcel associated with the development approval request. This right of entry shall extend to all County employees, members of various boards, appropriate reviewing agencies, and any other agencies, or any designee of the above, along with their motor vehicles, which are responsible for the review of development approval requests and inspections of those approvals.

312.4. Completeness Review of Application.

When an application for development approval is submitted, the Department Director, or the Development Review Committee (DRC), where applicable, shall make a determination as to whether the application includes the necessary information and analysis and information required by the Comprehensive Plan, the LDC and implementing regulations to enable the approving authority to make the necessary determinations under the Comprehensive Plan and this Code. ~~is complete and whether the application is in conformance with the land uses, density and intensity allowed by the future land use category. For Development Orders and Development Permits, this completeness review process shall be completed within thirty (30) days from the day the application is received. The Manatee County Administrative Procedures Manual outlines the completeness review process in more detail.~~

- A. If the DRC or the Department Director, whichever if applicable based on the type of application, determines that the application for development approval is not complete, as defined in Section 200, or not in conformance with the land uses, density and intensity allowed by the future land use category, ~~he or she they~~ shall notify the applicant in writing that the application is incomplete and shall specify the additional information required in order for the application to be determined to be complete or the modification necessary for ~~conformance~~ completeness. No further action shall be taken on the application unless and until the additional information is submitted and determined to be complete ~~by the Department Director~~.
- B. ~~If the incompleteness has not been remedied~~ within thirty (30) days of receipt of notice thereof, the applicant has not submitted the additional information required, has not requested an extension as noted in C below, or has not requested that the application be reviewed for sufficiency notwithstanding the identified deficiencies, the Director shall notify the applicant in writing that the application will ~~shall~~ be deemed withdrawn, unless additional information is submitted within 7 days. Application fees may be refunded in accordance with Section 312.5.E.
- C. An extension to the 30-day deadline may be requested by the applicant in writing at least 48 hours prior to the deadline. A written extension agreement (to be prepared by the County) must be signed by the owner or owner's agent and the Director on behalf of the County stating the mutually agreed upon time extension for the applicant to provide additional information and for the county to respond accordingly. The procedures for requesting that extension are outlined in the Administrative Procedures Manual.
- A.D. Once the applicant submits the documents or information that were determined to be lacking in the completeness review letter, the DRC (if applicable) or the Department Director must perform another completeness review of the resubmittal packet.
- B.E. When an application for development approval is determined to be complete, the Department Director shall notify the applicant, in writing and proceed with the sufficiency review or, if the application requires DRC review, the Director shall notify the DRC that the application is ready shall forward the application to the Development Review Committee for sufficiency review. A determination of completeness shall not constitute a determination of sufficiency ~~compliance with the requirements of this Code or Comprehensive Plan,~~ as defined in Section 200.

312.5. Sufficiency Review of Application.

A. Sufficiency Review

~~For purposes of this Section, "sufficiency review" shall constitute an analysis of whether a proposed application:~~

~~Meets the stated objective requirements of the Comprehensive Plan, this Code and the County's rules and regulations; and For Development Orders and Development Permits, this sufficiency review process shall be completed within 120 days if the application requires administrative approval, or 180 days if it requires a quasi-judicial or public hearing. The review time starts the day the application is determined to be complete.~~

1. ~~After an application is determined to be complete, or the applicant has requested in writing to continue through the review process, the Department Director shall perform the sufficiency review of those applications forward copies of the application to the DRC for sufficiency review. Applications that do not require DRC review per Table 3-1 shall be reviewed by the Department Director for sufficiency, and issue a letter approving, denying or approving the application subject to conditions. In the event the letter determines the application to be insufficient and denies the application, the letter must list the specific sections of the Comprehensive Plan, the LDC or implementing regulations that were not addressed in the application.~~

~~For purposes of this Section, "sufficiency review" shall constitute an analysis of whether a proposed application:~~

1. ~~Meets the stated objective requirements of the Comprehensive Plan, this Code and the County's rules and regulations; and~~
 - a. ~~Includes the necessary analysis and information to enable the approving authority to make the necessary determinations under the Comprehensive Plan and this Code.~~
2. ~~If the application requires DRC sufficiency review, T~~the Department Director will notify the applicant of the date and time when the DRC will review the application. Applicant attendance at this meeting is ~~optional~~mandatory.
3. The DRC shall notify the Department Director in writing if the application was determined to be sufficient, or if any insufficiencies were found, ~~or if additional information is required to be submitted.~~
- ~~3.4.~~ If the application is found insufficient, the DRC shall issue a comments and recommendations report listing the specific sections of the Comprehensive Plan, the LDC or implementing regulations code requirements that need to be addressed. The applicant will be given a reasonable period of time to correct the insufficiencies and resubmit. If the resubmitted application encompasses more changes than specified in the DRC comments, Tthe DRC reserves the right to require a second review meeting based on the level of plan changes requested. In the case of applications that require public hearing, the DRC comment and recommendations report are submitted to the reviewing and approving authorities.
- ~~4.5.~~ The DRC or Department Director, as applicable, may also include comments and recommendations regarding evaluative and case-specific factors for consideration under this Code and the Comprehensive Plan, but shall not treat such comments or recommendations as insufficiencies for purposes of this Section.
- ~~5.6.~~ Upon receipt of a sufficiency determination from the DRC, or election to proceed from the applicant notwithstanding insufficiencies, the Department Director shall:
 - a. In the case of administrative decisions, take administrative action required by this Code; or
 - b. In the case of ~~legislative or~~ quasi-judicial decisions, prepare a report and recommendation to the appropriate decision-making or recommending body and schedule a hearing.

~~Specified insufficiencies may be resolved by the written consent of the applicant, which shall be provided in writing to the Planning Director in advance of scheduling the hearing.~~

B. Incorrect Information.

1. The DRC-County shall have the right to rely on the accuracy of statements, documents and all other information presented to them by the applicant, applicant's attorney or agent, in review of an application for development approval issued under this Code.
2. In the event that an applicant, its attorney or agent presents or submits false or incorrect information,

Chapter 3. Review Authority and Procedures

regardless of whether such information is presented fraudulently or deceitfully, concerning a material fact or consideration relating to an application for any type of development order or permit issued under this Code, the approving authority may take action to rescind such development approval or development order. Upon notice to an applicant that the County is considering rescission of a development approval or development order because it was based in part on false or incorrect information, any work performed by or at the request of the applicant on the subject property shall be at the risk of the applicant.

~~**C. Abandonment.** An application for development approval shall be deemed to have been abandoned six (6) months after the date of issuance of review comments if the applicant has failed to respond in writing to review comments in a manner that addresses each item identified by staff as necessary to render the application complete or to address an insufficiency.~~

~~**D.C. Time Extension.** Should the applicant or the County desire to request a time extension for sufficiency review, a written agreement signed by the applicant and the County must be entered stating the mutually agreed upon time extension for the applicant to provide additional information or revise plans, and for the County to respond accordingly. One (1) or more extensions of time for periods of not more than ninety (90) days each may be allowed by the Department Director for abandoned applications provided each extension is requested in writing and justifiable cause is demonstrated. If the application is not resubmitted within the deadline agreed upon between the applicant and the County, the application shall be deemed insufficient.~~

~~**E.D. Withdrawn Applications.** Upon written request to the Department Director, an applicant who has paid the appropriate fee but withdraws the application prior to any review or advertising by County staff may be entitled to a refund.~~

~~**F.E. Additional/Revised Information.** If an applicant submits additional or revised data or information at any time after a determination of sufficiency has been made, or if previously submitted data or information is determined by the County to be unreliable because of passage of time or changed circumstances, the revised application will be subject to the same completeness and sufficiency review and fees as the initial application.~~

~~**G.F. Examination and Copying of Application and Other Documents.** At any time upon reasonable request, and under the supervision of the Department Director, any person may examine an application for development approval and materials submitted in support or in opposition, in accordance with Chapter 119, Florida Statutes. Copies of such materials shall be made available upon payment of the appropriate fee as prescribed in an official fee schedule.~~

312.6. Neighborhood Workshops.

Applicants are encouraged to hold a neighborhood workshop during the application process. The Department Director or the Board may require an applicant to hold a neighborhood workshop for any application that, in the view of the Department Director or Board, has potential neighborhood impacts.

The purpose of the neighborhood workshop is to ensure early citizen participation in an informal forum in conjunction with development applications, and to provide an applicant the opportunity to understand any impacts an application may have on an affected community. These workshops ensure that citizens and property owners have an adequate opportunity to learn about applications that may affect them. A neighborhood workshop is not intended to produce complete consensus on all applications, but to provide information about the application to adjacent property owners. Neighborhood workshops shall be noticed as required in Table 3-2.

- A. Workshop Time and Location.** Prior to scheduling a neighborhood workshop, the applicant shall coordinate the meeting date, time and location with the Department Director. The initial workshop shall be held within the general area of the subject property. Additional workshops may be held but are not required.
- B. Workshop Elements.** At the workshop, the applicant shall present the plans, information and data as needed to inform the public of the proposed development.
- C. Workshop Summary.** The applicant shall submit to the Department, as part of the application, a summary of the materials presented at the workshop, the issues raised by those in attendance, the suggestions and concerns of those in attendance, a copy of the sign-in sheet, and a copy of the workshop advertisement and a copy of the mailed notices sent to property owners.

312.7. Notice of Public Hearings.

All meetings of the Board of County Commissioners, the Planning Commission, Hearing Officer, and the Historic Preservation Board are subject to the notice requirements under this section, the Florida Statutes and the Rules of Procedure of the Board of County Commissioners. If there is ever a conflict between the provisions of this Code and state law relative to notice matters, the most restrictive shall prevail and apply. The applicant shall be responsible for all costs incurred by the County in the issuance and publishing of notices.

A. Notice Types. The types of public notice used for various public hearings include *mailed* notice, *published* notice, and *posted* notice by signs located on the subject property. The public notices noted in Table 3-2 are required for each public hearing.

Table 3 - 2: Required Public Notice for Development Applications

Application	Type of Notice		
	Mailed	Published	Posted
Neighborhood Workshop	X	-	-
Comprehensive Plan Amendment, Text	-	X	-
Comprehensive Plan Amendment, Map	X	X	X
LDC Text Amendment	-	X	-
Rezoning (incl. Rezoning to Planned Development)	X	X	X
Special Permit	X	X	X
General Development Plan	X	X	X
Final Site Plan	-	-	-
Preliminary Plat	-	-	-
Final Plat	-	-	-
Vacation of Streets/Plats	-	X	X
Modification of Standards (10% to 30%)	X	X	X
Variance	X	X	X
CLOS Extension	-	X	-
CLOS Appeal to Hearing Officer (other than administratively approved)	-	X	X
Local Development Agreement	X	X	-
Public School Site Plans	X	X	X
Master Mining Plan Application and Operating Permit Application	X	X	X

B. Mailed Notices.

1. *To Whom Provided.* Public notices for public hearings shall be prepared by the County and mailed by the Applicant to all individuals and property owners indicated below. In any instance where applicable law requires additional notice or a different publication time frame, the form or timeframe of the notice shall be adjusted accordingly to comply with such applicable law.
 - a. All property owners of the land subject to the application.
 - b. The Manatee County School Board if the application involves residential development.
 - c. All property owners, including homeowners associations, within five hundred (500) feet of the boundaries

Chapter 3. Review Authority and Procedures

of the development site.

2. *Mailing and Postmarking.* Notices shall be mailed a minimum of ten (10) days prior to the hearing, with the exception of Board initiated changes to the Official Zoning Atlas for properties ten (10) acres or larger, which shall be mailed a minimum of thirty (30) days prior to the initial public hearing. Notice shall be deemed mailed by its deposit in the mail, properly addressed and with sufficient postage paid.
3. *Notices for Neighborhood Workshops.* Public notices for neighborhood workshops, as well as a mailing list, will be provided by the Department Director to the applicant, who shall be responsible for mailing the notice.

C. Published Notices.

1. The Department Director shall prepare the content of the notice and be responsible for publishing the notice in a newspaper of general circulation selected by the county.
2. The cost of publishing such notice shall be borne by the applicant.
3. Unless otherwise required by State law, the advertisement shall be published no less than ten (10) days prior to the date of the public hearing.
4. ~~To the extent authorized by, and in accordance with, applicable law, the Board may direct the Department Director to mail a notice to each person owning real property within the area covered by amendments involving changes to the actual list of permitted, special or prohibited uses within a zoning category, or Board initiated changes to actual Official Zoning Atlas designations of ten (10) contiguous acres or more, in lieu of the published notice otherwise required. Such notice shall clearly explain the proposed ordinance and shall notify the person of the place and location of both public hearings on the proposed ordinance.~~ In lieu of publishing the advertisements set out in this section, the board of county commissioners may mail a notice to each person owning real property within the area covered by the ordinance or resolution. Such notice shall clearly explain the proposed ordinance or resolution and shall notify the person of the ~~time~~, place, and location of both public hearings on the proposed ordinance or resolution (Section 125.66(4)(b)3, FS).

D. Posted Notices. Signs shall be posted by the applicant as instructed by the Department Director. Notice shall be posted on weather resistant signs in a form established by the Department Director.

1. *Timing of Posted Notice.* The sign shall be posted not less than ten (10) days nor more than forty (40) days in advance of the scheduled hearing date, unless the Department Director requires earlier notice.
2. *Maintenance.* The applicant shall ensure that the signs are maintained and remain on the site until completion of the final action on the application.
3. *Location of Signs.* Notice shall be posted no more than fifteen (15) feet from the front lot line, so as to be clearly visible from the public way.
4. *Lack of Street Frontage.* If the land does not have frontage on a street, at least one sign shall be placed on the property at the access point and additional signs shall be placed on the nearest public right-of-way with an indication of the location of the subject property.
5. *Additional Signage Required.* More than one (1) sign and/or a larger sign may be required to be posted by the Department Director, if it is determined to be necessary to ensure adequate public notice. Such additional signs shall be posted in a number and location determined by the Department Director.
6. *Removal of Posted Signs.* The applicant shall remove all posted signs within ten (10) days after final action on the application.

E. Contents of Mailed and Published Notices. All mailed and published notices shall include the following information:

1. *Statutory Requirements.* For public notice required by Sections 125.66 or 163.3184, Florida Statutes, the standards for those sections shall apply.
2. *Title.* The title of the published notice for hearings shall be "Notice of Public Hearing";
3. *Nature of Application.* The application number, the application type, and the description of the proposal or request.

Chapter 3. Review Authority and Procedures

4. *Location, Time and Date.* The scheduled date, time and location of the hearings or workshops.
 5. *Location of the Subject Property.* A description of the land involved by street address, if any, or by legal description or parcel number(s). For mailed notices, a location map shall be included, indicating the location and general boundaries of the property with reference to the closest intersection of public streets, when possible.
 6. *Size of Subject Property.* The total size of the parcels, rounded to the nearest one-tenth of an acre.
 7. *Comprehensive Plan and Zoning Designations.* The future land use map designation and zoning district of the property subject to the application.
 8. *Materials Available for Public Information.* The application, staff report and related materials may be inspected by the public during normal business hours at the county administration building, or requested via e-mail at planning.agenda@mymanatee.org
 9. *Other Information.* The notice shall also state,
 - a. that persons may appear and be heard;
 - b. that written comments filed with the Department Director will be entered into the record;
 - c. that the hearing may be continued from time to time as necessary;
 - d. a telephone number for more information;
 - e. the title of the ordinance under consideration, if applicable; and
 - f. such additional information as may be required pursuant to this Code or applicable law for specific types of development approval.
- F. Additional Notice for Continued, Rescheduled or Reopened Meetings.** Notice of subsequent hearings shall be mailed and published in accordance with this section for:
1. Any hearing for which the Board, Department Director or County Attorney determines new notice should be provided, because of the time elapsed from the original notice, or to correct any defect or apprise affected parties of significant changes to the application as originally noticed;
 2. Any hearing continued to an unspecified date, time and place; and
 3. Any hearing where such new notice is required pursuant to applicable law or this Code.
- G. Affidavit of Notice.** Affidavits confirming that the required publication, mailing and/or posting of the notice was provided shall be filed with the Department Director at least five (5) days prior to the date of the hearing. Such affidavits shall be accompanied by a complete list of the names and last known addresses of the persons entitled to notice and the method by which notice was provided. Such affidavits shall also certify that signs were posted in compliance with the standards of this Chapter including provision of photographs upon request of the Department Director of all signs as part of the affidavit. Failure to provide such affidavits will require postponement of the hearing date and may require repeat of required notification procedures.
- H. Defects in Notice.** If a defect in notice not caused by an intentional or negligent act or omission of the applicant is discovered after the conclusion of the hearing, it shall not in any way affect the action taken at such hearing. In accordance with applicable law, if a substantial defect in notice is discovered prior to the hearing, then such notice shall be redone and the hearing rescheduled.

312.8. Public Hearings.

Upon issuance of the written recommendation by staff, the application shall be scheduled for a public hearing before the applicable approval/reviewing authority. The approving/reviewing authority (Planning Commission, Hearing Officer, Historic Preservation Board or Board of County Commissioners) shall conduct the public hearing in accordance with the hearing requirements noted in this section. At the hearing, the authority shall approve, approve with conditions, or deny the application.

- A. General Hearing Requirements.** Public hearings held by the Hearing Officer, Historic Preservation Board, Planning Commission and Board of County Commissioners to review Development Order requests shall be

Chapter 3. Review Authority and Procedures

conducted in accordance with the requirements of the Florida Statutes and the following provisions:

1. *Scheduling.* When the Department Director has determined that an application has been found sufficient, and that a public hearing is required by this Code, he or she shall schedule a date, time and place for the required hearing.
2. *Public Notice.* The public shall be notified of the hearing as provided in this chapter.
3. *Representation.* Any person may appear at a public hearing and submit evidence, either individually or as a representative of an organization, upon receiving proper recognition from the person presiding over the hearing. Anyone representing an organization must present written evidence of their authority to speak on behalf of the organization in regard to the matter under consideration, unless the person presiding over the hearing waives this requirement. Each person who appears at a public hearing shall identify himself/herself and his/her address and, if appearing on behalf of an organization, shall state the name and mailing address of the organization.
4. *Irrelevant Testimony Excluded.* The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. Any person may ask relevant questions of other persons appearing as witnesses, but shall do so only through the person presiding over the hearing. Such questions may be excluded by the person presiding over the hearing where the answer to the question would be repetitious, or is an attempt to harass the witness.
5. *Continuance and Adjournment.* The body conducting the hearing may, on its own motion or at the request of any person, continue the hearing to a fixed date, time and place. In the event that the continuance is to a specified date, time and place, the specific date, time and place of the continued public hearing shall be publicly announced at the meeting at which the continuance is approved.
6. *Hearing Reopening.* The Hearing Officer may reopen a hearing for extraordinary cause. Reopening of a hearing shall take place prior to the issuance of a Development Order or variance. To reopen a hearing, the Hearing Officer must file with the Clerk of the Circuit Court a statement of the reasons for such reopening. Such reopening shall only be ordered when the Hearing Officer has insufficient information to make a recommendation or decision where it is necessary to avoid undue injury to the County or the applicant, or other similar causes. Upon making a finding that the hearing should be reopened the Hearing Officer shall schedule with the Department Director a date for the hearing, not to exceed forty-five (45) days from the filing of the affidavit. Notice of the reopened hearing shall be provided in accordance with this chapter.

B. Quasi-Judicial Hearing Procedures. All quasi-judicial hearings conducted pursuant to this Code by the Board, Planning Commission, Hearing Officer, Historic Preservation Board, or any other body or official, shall be conducted in accordance with this Code and the rules of procedure for quasi-judicial hearings established by the Board. In all quasi-judicial proceedings, the applicant shall bear the burden of demonstrating by competent and substantial evidence that the application satisfies the standards and requirements of this Code and the Comprehensive Plan. Quasi-judicial hearings shall meet the following requirements:

1. *Oaths Required.* In all public hearings for quasi-judicial matters, all testimony and evidence shall be given under oath or by affirmation to the body conducting the hearing.
2. *Procedure.* The reviewing authority may call and question witnesses as deemed necessary and appropriate.
3. *Transcript.* For Hearing Officer proceedings, the Department Director shall ensure that a transcript of the hearing will be made available upon request of the Hearing Officer, or any party at its expense, and shall be part of the record for the hearing. If requested, a copy of the transcript shall be furnished to the Hearing Officer or any party at its expense within ten (10) days of the close of the hearing.
4. *Action by the Hearing Officer.* At the conclusion of the public hearing or after further consideration of the record, the Hearing Officer shall:
 - a. Issue a decision to approve, approve with conditions, or deny the Development Order; or
 - b. Determine that more information is necessary, refer the application back to the staff, and schedule an additional public hearing to consider any additional evidence necessary to decide upon the Development Order; or
 - c. Issue a Notice of Intent to approve, approve with conditions, deny, or determine more information is

Chapter 3. Review Authority and Procedures

necessary and reopen the public hearing by the Hearing Officer.

5. *Final Order.* After issuance of the Notice of Intent by a Hearing Officer, parties of record shall have five (5) business days in which to file a response with the Department Director. Within ten (10) business days from the date of receipt of response, the Hearing Officer shall:
 - a. Issue the order approving, approving with conditions or denying the application; or
 - b. If, after reviewing the responses, the Hearing Officer determines that there is substantial new information which would materially affect the decision and which was not reasonably available at the time of the public hearing, he/she shall reopen the public hearing pursuant to Section 312.8.A.6.
6. *Findings and Recommendations.* For Hearing Officer proceedings, the Hearing Officer shall, within twenty-one (21) calendar days of the public hearing, issue a written report detailing the findings of fact, conclusions of law and recommendation regarding approval or denial of the application. The Hearing Officer's findings shall include:
 - a. A summary of record of the public hearing;
 - b. The standards relevant to the application;
 - c. Conclusions of law as to whether each standard has been satisfied; and
 - d. A Notice of Intent to issue a final decision, if involving an appeal of determinations regarding levels of service or a Development Order.
7. *Notice of Action/Recommendation.* Any person wishing to receive notice of a final decision or recommendation may supply the Department Director with his/her name, address, and a stamped self-addressed envelope for that purpose.

C. Legislative Hearing Procedures. When reviewing applications of a legislative nature (see Table 3-1), the Historic Preservation Board, Planning Commission and Board of County Commissioners shall comply with the provisions of Subsection A (General Hearing Requirements), above. Upon the close of the public hearing and consideration of the record, the approving authority shall:

1. Approve, approve with conditions or deny the application (if acting as final approval authority), or issue a recommendation to the BOCC for approval, approval with conditions or denial; or
2. Determine that more information is necessary, refer the application back to the staff, and schedule an additional public hearing to consider any additional evidence necessary to decide upon the application.

D. Approval Subject to Conditions. When approving special use permits, the Hearing Officer may attach such conditions to the approval as deemed necessary to assure compliance with this Code. Such conditions may address matters including, but not limited to: limitations on size, bulk and location; duration of construction period; requirements for landscaping, signage, outdoor lighting and the provision of adequate ingress and egress; duration of the approval; design and appearance; hours of operation; and the mitigation of traffic and environmental impacts. Such conditions may be imposed for a specified period of time, after which time the condition shall expire and the obligations of the applicant pertaining to such condition shall be automatically terminated. The applicant shall address the conditions prior to the issuance of a building permit or a zoning compliance permit if no building permit is required.

312.9. Effect of Development Order Approval.

The issuance of a Development Order does not authorize the disturbance of any part of the subject property involved. A Development Order only authorizes the filing of an application for a building permit, or to proceed to the next step in the process, as indicated in Table 3-1.

Development orders are not transferable to other properties. However, so long as the land or structure or any portion thereof covered under the development order continues to be used for the purposes for which it was issued, then no person (including successors and assigns of the person who obtained the development order) may make use of the land except in accordance with the conditions and requirements of the development order. The provisions of the development order run with and burden the real property to which it relates.

312.10. Enforcement and Administrative Errors.

- A. Applicants for Development Order approval shall be responsible for ensuring that all development proceeds in accordance with the terms and conditions of any development order, permit, or certificate issued to the applicant. A determination by the Department Director that the terms and conditions of the approval have been violated shall constitute a violation of this Code subject to the provisions of Section 106.
- 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.
- C. An applicant shall be responsible for any aspect of an application that fails to comply with the requirements of this Code or the Comprehensive Plan, such that approval of such application in error by the County shall not operate to grant the applicant an exemption from any such requirement. The applicant shall be responsible for bringing the development into compliance with such requirement, or, if such development cannot be brought into compliance for whatever reason, obtaining such additional development orders or approvals as are necessary under this Code to reconcile such error.

312.11. Recording of Approved Development Orders.

An approved Development Order for Special Permits, Variances, and Developments of Regional Impact shall be recorded, at the applicant's expense, in the official records of the County maintained by the Clerk of the Circuit Court. The purpose of recording the development order shall be to notify subsequent purchasers of any limitations on the use of the land.

Section 313. to 314 Reserved.**Part III. Special Permit Approval.****Section 315. RESERVED.****Section 316. Special Permits****316.1. Purpose.**

The purpose of Special Permits to provide individual review of the location, design, configuration, operation and the public need for the particular use at the particular location proposed to assure consistency with this Code and the Comprehensive Plan. Each Special Permit may require the imposition of site-specific conditions to achieve such consistency and to ensure that the proposed use is appropriate at its particular location.

316.2. Special Permit Required.

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).

316.3. Approval Authority.

The Hearing Officer is hereby authorized to decide all applications for Special Permits and may attach conditions

Chapter 3. Review Authority and Procedures

pursuant to Section 312.8.D, rule on the compatibility of proposed uses, or exercise any other discretionary authority except as may be specifically authorized pursuant to this Code. The Hearing Officer may also include terms in Special Permits that impose time limitations, limitations on transfer, and restrictions on renewals or extensions of such permits.

316.4. Application Requirements.

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

316.5. Review Procedures.

A. Pre-Application Meeting. The applicant is required to schedule and attend a pre-application meeting consistent with the requirements of Section 312.2.

A-B. Staff Review. All applications for Special Permit shall be reviewed for completeness and sufficiency pursuant to this Chapter. Within a reasonable time after receipt of the sufficiency review comments **from the DRC**, the Department Director shall deliver to the Hearing Officer a copy of the application and a written report summarizing the facts of the case, incorporating or summarizing the comments of the DRC, and schedule a date for a public hearing. The staff report shall include an analysis of compliance with the general and specific provisions set forth in this Section and recommended action on the case, including approval, denial or approval with conditions.

B-C. Neighborhood Workshop. The applicant is strongly encouraged to hold a public workshop per Section 312.6.

C-D. Public Hearing on Special Permit. Upon receiving the application, report and recommendation from the Department Director and comments from the DRC, the Hearing Officer shall hold at least one (1) public hearing on an application for a proposed Special Permit in accordance with the procedures set forth in this Code.

316.6. Review Criteria.

A Special Permit request shall not be approved unless the Hearing Officer finds that it meets the following:

- A. The proposed use shall be consistent with the Comprehensive Plan and the requirements of this Code;
- B. The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety or general welfare;
- C. The establishment of the use shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the zoning district;
- D. Adequate measures shall already exist, or shall be taken, to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets;
- E. The use, as proposed, is compatible with the surrounding uses and the general desired character of the area (height, bulk, scale, intensity, traffic, noise, drainage, lighting, and appearance);
- F. Development of the proposed use shall not have a substantial adverse effect on a known archaeological, historical or cultural resource located on or off the parcel proposed for development;
- G. Screening and buffers are proposed of such type, dimension and character to improve compatibility and harmony of the proposed use and structure with the uses and structures of adjacent and nearby properties;
- H. Development of the proposed use shall not have a significant adverse effect on the natural environment, including land, air, water, wetlands, minerals, flora, fauna, and ambient noise.

316.7. Appeals.

See Part X, Section 371, of this Chapter.

316.8. Effect of Approval.

Issuance of an order approving a Special Permit shall authorize the applicant to proceed through the development

process required pursuant to this Code. Any County department responsible for considering an additional required approval (such as site plan, CLOS, Building Permit, Certificate of Occupancy, for example) shall review the application for such additional required approval to assure compliance with the Special Permit and any conditions thereof, and shall not grant any additional approvals for development that does not comply with the Special Permit and any conditions thereof.

Upon the satisfactory completion of all required improvements and applicable approvals required pursuant to this Code, the Special Permit shall authorize the establishment of the approved use, structure and improvements, subject to any conditions of the Special Permit, the requirements of this Code and applicable law.

316.9. Expiration.

Unless otherwise provided in the order approving the Special Permit, a Special Permit shall automatically expire one (1) year after the date of approval if the next approval in the process (Final Site Plan approval, building permit or certificate of occupancy) has not been issued.

316.10. 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 Special Permit.

316.11. Abandonment.

A Special 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 Special Permit pursuant to this section.

316.12. Alterations to Approved Special Permits.

Non-substantial amendments to an approved Special Permit may be approved by the Department Director. Any substantial amendment or modification shall require the issuance of a subsequent development order by a Hearing Officer. Substantial amendments include the following:

- A. Any modification to the conditions of approval;
- B. A major shift in the location of a building or structure;
- C. Changes that would affect the project's Certificate of Level of Service;
- D. Changes that will conflict with the applicable zoning district requirements or other requirements of this Code;
- E. An increase or decrease of more than ten (10) percent of the number of parking spaces approved;
- F. Structural alterations affecting the basic size, construction and form of the building(s) as shown on the approved plan. Changes in form will only be considered substantial if they occur within fifty (50) feet of the boundaries of the lot or within fifty (50) feet of any part of the structure subject to the Special Permit which has been constructed or sold to any owner or owners different from the applicant requesting the change;
- G. A reduction in the total amount of open space of more than five (5) percent or any minor change in the location or characteristics of open space;
- H. Major change in the location or type of pedestrian or vehicular access points or circulation.
- I. An increase in intensity or density within five hundred (500) feet of the use subject to the Special Permit boundaries or within two hundred (200) feet of any part of a structure subject to the Special Permit which has been constructed or is now under different ownership;
- J. An increase in number of stories. An increase in structure height of less than eight (8) feet, not resulting in additional stories may be approved administratively.
- K. An increase in height of a telecommunication tower of forty (40) feet or more;

- L. The relocation of a telecommunication tower beyond fifty (50) feet of its original location;
- M. A decrease in the number of pedestrian access points;
- N. A change in the phasing schedule which affects timing or the amount of improvements or the satisfaction of specific conditions
- O. A reduction of the approved yards setbacks of more than ten (10) percent, and any yard change which would encroach upon or affect any utility or drainage easement.
- P. A change in intensity of use by increasing usable floor area by more than one thousand (1,000) square feet, by increasing the number of dwelling units by more than five (5) percent, or by increasing the area devoted to outdoor sales, displays and demonstrations by more than five (5) percent.
- Q. An increase in traffic generation by more than ten (10) percent.
- R. An increase in the area allocated to any land use type by more than ten (10) percent;
- S. A change in use, except that the addition of any of the following permitted and accessory uses, if no specific approval is required, shall be deemed non-substantial: family care homes, permitted home occupations, bed and breakfast facilities, utility uses, and waterfront structures (residential); provided that any applicable use standards in Chapter 5 shall be met.

316.13. Recording of Approved Special Permits.

A notice of an approved Special Permit shall be recorded in the official records of the County maintained by the Clerk of the Circuit Court. The purpose of such notice shall be to notify subsequent purchasers of any limitations on the use of the land.

Section 317. to 319 Reserved.

Part IV. Site Plan Review.

Section 320. Generally

320.1. Purpose and Intent.

The purpose of site plan review is to ensure that development is carried out in compliance with this Code and the Comprehensive Plan. In addition, a site plan describing and portraying both existing and proposed conditions of the development is required in order that the approving body or official can make an informed decision. There are three levels of site plan review: General Development Plan (GDP), Preliminary Site Plan (PSP), and Final Site Plan (FSP) review.

320.2. Applicability.

Pursuant to this Code, in certain circumstances a site plan may be required as part of a submitted application for development approval, or may be considered and approved as a separate step in the development process (where authorized by this Code).

- A. General Development Plan Review Required.** General Development Plans shall be required in connection with applications for Planned Development zoning, for all Planned Development projects on property which is zoned for Planned Development but which has ~~no~~ no previous plan approval, and Developments of Regional Impact. An applicant may voluntarily proceed, or be required to proceed directly to Preliminary Site Plan approval where the Board determines a General Development Plan will not provide adequate detail to assure compliance with this Code and the Comprehensive Plan. If the applicant elects to submit a Preliminary Site Plan without receiving

Chapter 3. Review Authority and Procedures

General Development Plan approval, the Preliminary Site Plan shall meet all the requirements hereunder for a General Development Plan and shall be reviewed for all of the criteria in this Code for both a General Development Plan and a Preliminary Site Plan.

- B. Preliminary Site Plan Review Required:** Preliminary Site Plans shall be required for Planned Development projects as provided for in Section 320.2, above, as defined in Chapter 2. Preliminary Site Plan review may also be used in conjunction with other development review application types where a Preliminary Site Plan may provide adequate detail to make a decision prior to going through the effort of preparing a Final Site Plan.
- C. Final Site Plan Review Required.** Final Site Plan review is required for all development projects, except the following activities:
1. *Dwellings.* One family, two family, or mobile home dwellings and their accessory uses and structures, including home occupations, but not including such uses which allow more than two (2) dwelling units per lot.
 2. *Temporary Uses.*
 3. *Limited Increase in Gross Floor Area.* When additions, improvements, or alterations to existing uses do not result in an increase of all the structures on the lot in excess of one thousand (1,000) square feet of gross floor area or equals ten (10) percent of the total existing gross floor area, whichever is greater, not to exceed two thousand (2,000) square feet in area.
 4. *Change of Use with no Additional Parking Spaces Required.* A change of use within an existing structure, which does not require Special Permit approval and does not require additional parking spaces pursuant to Section 1005, Off-Street Parking. See Section 345 for Zoning Compliance Permit requirements.
 5. *Exempted Special Permits.* When the Department Director determines that the external modifications to an existing structure to be occupied by a Special Permit site would not require submission of a Final Site Plan.
 6. *Agriculture.* Non-commercial agricultural buildings such as barns, storage structures and similar facilities which contain no wholesale or retail sales activities. Commercial agricultural buildings, such as greenhouses, shall, however, meet all requirements outlined in Chapter 5, Part II, Standards for Accessory Uses and Structures. This exemption shall not apply to any retail agricultural use, building or operation such as farm equipment and supply establishment.

Section 321. General Development Plans (GDP).

General Development Plans shall be designed to show the general location and nature of a project and existing site conditions, outlining the type and intensity of land use and principal improvements.

321.1. Application Requirements.

A General Development Plan shall depict internal relationships between or among uses and activities proposed and their supporting systems and facilities, and relation to surrounding uses, activities systems and facilities. A General Development Plan shall include all data reasonably necessary for determining whether the proposed development meets the specific requirements and limitations and the intent, concerning a particular type of Planned Development district. The Department Director shall establish administrative procedures setting forth the specific requirements for information to be submitted with any application for GDP. ~~Specific items~~ to be included in the plan include:

- A. Proposed Uses.** Each use listed in the application must be a permitted or accessory use in the requested Planned Development district and shall be listed using the terminology used in this Code. The range of permitted uses may be limited or certain uses not permitted by the Board at the time of General Development Plan approval as it is necessary to meet the criteria set forth in Section 322.2.
- B. Developments of Regional Impact.** For DRI's and County Facilities, a proposed phasing schedule for the submittal of future Preliminary or Final Site Plans shall be included with the application. Such schedule shall provide for a logical division of the units and/or square footage between the phases. The approval of such schedule shall authorize the applicant to apply for construction drawing and Final Site Plan approval in phases, so long as each Preliminary Site Plan has not expired at the time of application. The timing of approvals for each phase of project approval within a Preliminary Site Plan shall be subject to the requirements of Section 321.5 (Expiration and Extensions of General Development Plan).

C. Large Projects.

Large Projects (as defined in Chapter 2) processed through Planned Development shall include the following information in the GDP application:

1. *General Information:*
 - a. Recent aerial photo, including at one (1) foot contours (for areas within five hundred (500) feet of project boundaries).
 - b. Topographic map at one (1) foot contours (for areas within five hundred (500) feet of project boundaries).
 - c. Map showing existing land uses within the development area and adjacent land within five hundred (500) feet of the project boundaries. (Note: all above information may be combined on a single map or aerial photo, if appropriate.)
 - d. Master Development Plan for site, including a breakdown (acreage and percentages) of the types of proposed land uses; rights-of-way (major roads); open space areas; general areas of stormwater retention; acreage and number of proposed residential units for each parcel, acreage and size (square feet) of each non-residential component of the project.
 - e. Development Phasing Plan depicting general breakdown in types of proposed land uses by project phase (including acreage, number of residential units and size of non-residential components).
 - f. An existing native habitat map or list. Indicate on this map or list, acreage for each native habitat area lying within the project site.
 - g. A native habitat preservation, alteration and mitigation plan. Indicate on this map acreage of each native habitat area to be preserved, conserved, altered or mitigated, if applicable. Provide on this map a summary of native habitat acreage to be preserved, conserved, and mitigated by habitat type.
 - h. An existing drainage map. Indicate on this map existing basin/subbasin boundaries, drainage flow directions, drainage easements, discharge points, natural creeks, manmade canals, lakes, other waterbodies, drainage structures (both on-site and within one (1) mile downstream), coastal construction control lines, DEP jurisdictional lines, floodplains and floodways, as determined by FEMA and any other studies available through Manatee County. Summarize in tabular form on this map the following information:
 - i. Basin area(s), slope(s) and length(s);
 - ii. Acreage and percent impervious coverage for each basin;
 - iii. Acreage and percent directly connected impervious coverage for each basin;
 - iv. Acreage and percent wetland/depression surface coverage for each basin; and
 - v. Wetland/depression storage capacity within each basin.
 - i. A traffic impact analysis that satisfies the standard for a General Development Plan meeting large project standards.
 - j. A map or list identifying any locations of existing public facilities (e.g., water supply, wastewater treatment, transportation facilities, emergency service facilities, recreational parks, schools, etc.) which would serve the project site.
 - k. A map showing future improvements necessitated by the proposed development (e.g., water supply, wastewater treatment, transportation facilities, emergency service facilities, recreational parks, schools, etc.).
2. *General Project Description.*
 - a. Describe and discuss in general terms all major elements of the proposed development in its completed form. Include in this discussion the proposed phases of development, and expected beginning and completion dates for construction. For non-residential Large Projects, also include target dates for facility operation or utilization. If the development will have a proposed build-out of ten (10) years or less, phasing should be shown on an annual or biannual basis.

Chapter 3. Review Authority and Procedures

- b. Project the number of on-site permanent fulltime employees with low or moderate incomes that could afford to rent or purchase within the development. Specify if any affordable housing provisions will be available to these employees within the development.
 - c. If the proposed project would include low and moderate income housing units, describe how these units would be provided. Indicate what available mechanisms or incentives the applicant is seeking to achieve affordable housing within the project.
 - d. Provide a market study which has been prepared for the proposed commercial development. If such a study has not been prepared, describe in general terms how the overall demand for this project has been determined.
3. *Industrial Uses.* Indicate the type of anticipated operations that would occupy the proposed industrial portion of the project (e.g., manufacturing, distribution, research and development).
4. *Environmental Systems.*
- a. Native Habitats.
 - i. Methodology.
 - (a) The applicant shall use a methodology for determining on-site hydroperiods and flow conditions which has been approved by Manatee County prior to submittal of this application.
 - (b) Describe the acreage, species composition and degrees of disturbance for each habitat existing within the development site, based on the Comprehensive Plan Conservation Element. Identify the occurrence of any on-site unique habitats such as those listed by the Florida Natural Areas Inventory, and describe the ecological values and functions of these unique habitats.
 - (c) Provide an analysis of historic flow conditions and hydroperiods, with seasonal water elevations, of on-site wetlands.
 - ii. Post-Development Conditions.
 - (a) Discuss how the project would not adversely affect the base flow or the periodicity of flow in water courses.
 - (b) Indicate all native habitats that will be preserved in their natural or existing state.
 - (c) Indicate all native habitats that will be conserved. Discuss how this proposal is consistent with the Comprehensive Plan Conservation.
 - (d) Indicate all wetlands, or portions thereof, that are proposed for alteration. Discuss the reason for alteration, and indicate whether alternatives were investigated to either limit or eliminate the need for wetland alteration. Discuss how this proposal is consistent with the Comprehensive Plan Conservation Element residential component of the project.
 - (e) Development Phasing Plan. General breakdown in types of proposed land uses by project phase (including acreage, number of residential units and size of non-residential components).
 - iii. Conceptual Mitigation Plan for all wetlands, meeting the criteria for alterations as specified in Section 706.6.
 - iv. A list of species likely to occur or present within the development area listed as threatened, endangered, rare, unique, or of special concern.
 - a. Native Habitats.
5. *Drainage.*
- a. Provide a general overview of existing drainage conditions, including any potential flooding and/or erosion problems.
 - b. Indicate that steps (i.e. a Sediment & Erosion Control Plan) will be implemented during development construction and maintenance to prevent or control soil erosion caused by wind and/or water action.
6. *Surface Water—Existing Conditions.*
- a. Prior to the issuance of the first permit for horizontal or vertical construction the applicant shall establish,

Chapter 3. Review Authority and Procedures

- through a pre-development monitoring program, surface water quality conditions throughout the development. The monitoring program shall be subject to County approval.
- b. The surface water quality monitoring data collected through the approved pre-development program shall be sufficient to determine the impairment status of the watershed, as set forth in Chapter 62-303 F.A.C. Once the data sufficiency requirements of Chapter 62-303 F.A.C. are met the applicant may request the Pre-Development Monitoring Program be concluded, subject to County approval.
 - c. Provide the existing annual surface water pollutant loading rates for the site based on site-specific land uses and average annual rainfall.
7. *Surface Water—Post Development Conditions.* Estimate post-development annual surface water pollutant loading rates for the site based on projected land uses, and compare with pre-development loading rates.
 8. *Groundwater—Existing Conditions.* Prior to the issuance of the first permit for horizontal or vertical construction, the applicant shall establish, through a pre-development monitoring program, groundwater quality conditions throughout the development. The monitoring program shall be subject to County approval.
 9. *Groundwater—Post-Development Conditions.* The groundwater monitoring program required in Section I. (Groundwater- Existing Conditions) above shall continue through project build-out.
 10. *Floodplains.*
 - a. If any structures and roadways are proposed within the 100-year flood prone area as identified by FEMA, indicate what measures will be taken to mitigate the potential flood hazard and to maintain the 100-year floodplain storage volume.
 - b. Identify all areas within the 25-year floodplain.
 11. *Historical and Archaeological Sites.*
 - a. Describe any known historical or archaeological sites on the development site. Provide a letter from the Department of State, Division of Historical Resources (DHR) which includes:
 - i. A list of archaeological and historic sites located within the development site;
 - ii. The results of any site surveys; and
 - iii. Whether a site survey is needed.
 - b. If available, indicate the results of any archaeological or historical survey conducted for the development site.
 12. *Public Facilities.*
 - a. *Transportation.* The applicant shall use a traffic impact assessment methodology that has been approved by Manatee County.
 - b. *Water Supply.*
 - i. Provide a general description of the type of potable water system or combination of systems, available within the development area.
 - ii. Project water usage for the proposed development, in accordance with the Manatee County Comprehensive Plan standards.
 - c. *Non-Potable Water—Existing Conditions.* Provide a general description of the type of non-potable water system (e.g., private wells) existing within the development area.
 - d. *Non-Potable Water—Post-Development Conditions.*
 - i. Project average daily non-potable water demands generated by the proposed development. Indicate any large consumers of water (e.g., domestic irrigation) and seasonal peaks. Specify what consumption rates have been assumed in this analysis.
 - ii. Identify the non-potable water sources to meet project demands (e.g., proposed wells). Provide pumping rates (average and maximum) for each existing and proposed well within the development

area.

- e. *Wastewater Management.* Provide a general description of the wastewater treatment and disposal system, or combination of systems available within the development area (e.g., septic systems or central system(s)).
- f. *Wastewater Management—Post-Development Conditions.*
 - i. Project wastewater generation for the proposed development by land use classification. These projections are to be based on County infrastructure standards.
 - ii. If applicable, generally describe the volumes, characteristics and pre-treatment techniques of any industrial or other effluents prior to discharge from proposed industrial-related use(s).
- g. *Solid Waste Management.*
 - i. Provide a general description of the solid waste management system, including methods of collection and disposal, existing within the development area.
 - ii. Identify any proposed uses that are potential generators of hazardous waste. Hazardous waste has been defined by EPA as any substance that exhibits ignitable, corrosive, reactive and/or toxic properties. Identify the proper on-site handling and temporary storage procedures for any hazardous waste that may be generated on site, in accordance with local, regional, state, and federal hazardous waste programs. Discuss provisions that will be made for disposal of these hazardous materials.
- h. *Education.*
 - i. If any school facilities and/or sites within the project boundaries are proposed to be dedicated to the Manatee County School Board, the applicant shall meet with representatives from the School Board prior to submittal of the application to discuss site suitability and any other relevant issues.
 - ii. Provide the School District with the maximum number of allowable residential dwelling units and number and type of proposed dwelling units.
 - iii. Provide a Preliminary School Report from the School District identifying the following:
 - (a) The projected number of students to be generated from the development;
 - (b) School Attendance Zones;
 - (c) School Service Area (SSA);
 - (d) Planned School Capital Improvements that may serve the development area;
 - (e) A Preliminary School Concurrency Analysis; and
 - (f) Other school related impacts from the proposed development.
 - iv. Indicate any school facilities and/or sites within the project boundaries which are proposed to be dedicated to the Manatee County School Board. Describe the suitability of each proposed site dedication to support a school based on size and configuration criteria and other aspects including environmental, drainage, transportation and land use compatibility. Discuss what measures will be taken to reduce or eliminate any potential compatibility conflicts.
 - v. Indicate any private and/or proprietary schools proposed within the project boundaries. Identify type of school, student capacity, schedule of facility utilization, and service area. In addition, for each proposed school facility, estimate the number and percentage of students drawn from individual counties.
- i. *Recreation.*
 - i. If any park facilities and/or sites within the project boundaries are proposed to be dedicated to Manatee County, the applicant shall meet with representatives from the County prior to submittal of the application to discuss site suitability and any other relevant issues.
 - ii. Inventory any existing passive and active recreation facilities or open space areas within the development area. Indicate whether public access to these areas is currently provided.

Chapter 3. Review Authority and Procedures

- iii. Indicate any recreational areas within the development that would not be dedicated to Manatee County. Provide information on each of these recreational areas as follows:
 - (a) Type of recreational area (active vs. passive);
 - (b) Acreage of the recreational area;
 - (c) The development stage in which the recreational area would become operational;
 - (d) The entity or entities responsible for the operation and maintenance of the recreational area; and
 - (e) The users (residents vs. open to the general public).
- j. *Emergency Services*. Provide a letter of service availability and capacity from the appropriate ambulance service for the proposed project. This letter should contain a statement of the ambulance service's ability to provide service with adequate emergency response time as the project is currently phased.
- k. *Fire Protection*.
 - i. Provide correspondence from the appropriate fire protection agency indicating: (1) whether or not the present facilities and manpower of the department are capable of serving the project with adequate emergency response times as the project is currently phased, and (2) what additional manpower and equipment the project would require.
 - ii. Identify any proposed on-site facilities or services (e.g., land dedication for fire station, private fire protection service, built-in fire protection systems) that would be utilized to compliment public protection and safety services. Provide an estimated percentage of total service that would be provided by private fire protection services.
 - iii. Identify any proposed development that would create a demand beyond present fire flow capabilities (sustained and immediate). Indicate what steps (e.g., sprinkler system) would be taken to ensure adequate fire protection for this development.
- l. *Police Protection*. Identify any proposed on-site facilities or services (e.g., private security service, built-in alarm systems) that would be utilized to compliment public protection and safety services.
- m. *Hurricane Evacuation*. Provide a breakdown of proposed land uses to be located within Category 1, 2 and/or 3 storm zones.

D. Additional information. Additional information including, but not limited to market studies, tree surveys, topographical surveys, and view perspectives where view protection is an objective, may be requested by the Department Director, when necessary to review a particular General Development Plan. Such information, if requested by the Director, shall be provided before processing the application.

321.2. General Development Plan (GDP) Review Process.

- A. Pre-Application Meeting.** The applicant is ~~strongly encouraged~~ required to schedule and attend a pre-application meeting consistent with the requirements of ~~this Chapter~~ Section 312.2.
- 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)..
- C. DRC Review.** The DRC must review the GDP in accordance with the provisions of this Chapter.
- D. Planning Commission Review.** Upon issuance of the written comments by the DRC, the General Development Plan shall be scheduled for a quasi-judicial hearing before the Planning Commission.
- E. Board of County Commissioner Review.** The Board shall conduct a quasi-judicial hearing on the plan per the requirements of this Chapter.

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,

including but not limited to the standards applicable to each PD district, contained in Chapter 4.

321.4. Effect of GDP Approval.

Upon approval of a General Development Plan, the applicant may proceed with the submittal of Preliminary and Final Site Plans or, in the case of subdivisions, the submittal of a Preliminary Plat.

321.5. Expiration and Extensions of General Development Plans.

General Development Plans approved after January 1, 2012 do not expire, notwithstanding any stipulations to the contrary in any ordinances approving a General Development Plan. General Development Plans shall not contain an expiration date unless otherwise provided for in the development order approving the General Development Plan or a local development agreement. The build out dates in development orders for developments of regional impact are governed by the Florida Statutes and are not amended by this Code.

Extensions to expiration dates for plans initially approved by the Board may only be granted by the Board. Extensions to expiration dates for plans initially approved by the Department Director may only be granted by the Department Director.

Section 322. Preliminary Site Plans (PSP).

Preliminary Site Plans shall be designed to show the location and nature of a project at a greater detail, to allow analysis of the arrangement of land uses and improvements on the site in relation to each other, existing conditions, and surrounding property.

322.1. Application Requirements.

The Department Director shall establish administrative procedures setting forth the requirements for information to be submitted with any application for a Preliminary Site Plan approval. Such requirements may include distinct requirements for different types of site plans, and/or distinct requirements for different types of development approvals for which site plans are required. The matters which may be addressed by such requirements may include, and shall not be limited to:

- A. Graphic, documentary and technical standards;
- B. Information relating to project design, configuration, proposed uses, buffering, delineation of lots, uses, easements, public and private improvements, conservation and preservation areas;
- C. Information relating to existing and pending approvals, conditions, related off-site improvements, external surroundings, existing and proposed facilities;
- D. Any other information necessary to assure compliance with this Code and the Comprehensive Plan, and
- E. The list of requirements for Large Projects contained in LDC Section 321.1.C, if applicable.

322.2. Preliminary Site Plan Review Criteria.

In deciding whether to recommend approval, or approval with modifications, or denial of a proposed Preliminary Site Plan, the approving authority shall consider the following factors:

- A. Previous Approvals:** The site plan substantially conforms and is consistent with prior approvals such as a General Development Plan, rezoning, Special Permit, variance, etc.
- B. Comprehensive Plan.** The proposed plan must be consistent with all applicable provisions of the Manatee County Comprehensive Plan.
- C. Land Development Code.** The proposed plan must be in conformance with all applicable provisions of the Land Development Code.
- D. Use and District Requirements.** The proposal must conform to the requirements of the zoning district(s) in which it is located and, where applicable, to the requirements of Chapter 5 for the particular use or activity under

consideration.

- E. Environment.** The proposal shall not adversely impact environmentally sensitive lands or natural resources.
- F. Circulation.** Ingress and egress to the property and internal traffic patterns must be designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe.
- G. Concurrency.** The site plan must meet the requirements of Section 360, Certificate of Level of Service, or the site plan must be conditioned upon a Certificate of Level of Service being granted prior to Construction Drawing approval (this second option is available only where the applicant is required to obtain Construction Drawing approval).

322.3. Preliminary Site Plan Review Process.

- A. Pre-Application Meeting.** The applicant is ~~strongly encouraged~~required to schedule and attend a pre-application meeting consistent with the requirements of ~~this Chapter~~Section 312.2.
- B. Application Submittal.** The application shall be submitted per this Chapter.
- C. Development Review Committee Review.** The DRC must review the PSP in accordance with the provisions of this Chapter.
- D. Planning Commission Review.** Preliminary Site Plans submitted in conjunction with a Planned Development shall be reviewed by the Planning Commission, unless a General Development Plan has already been approved by the Board. 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. Board of County Commissioner Review.** Preliminary Site Plans submitted in conjunction with a rezone to Planned Development shall be reviewed by the Board. The Board shall conduct a quasi-judicial hearing on the application and approve, approve with modifications or deny the application.

322.4. Effect of Preliminary Site Plan Approval.

Upon approval of a Preliminary Site Plan under this Section, the applicant may apply for Final Site Plan approval, which shall be submitted prior to the expiration of the PSP.

322.5. Expiration of Preliminary Site Plans.

The applicant must submit a Final Site Plan application within five (5) years of the Preliminary Site Plan approval. If the applicant does not receive Final Site Plan approval within this time, then the Preliminary Site Plan is no longer valid.

The 5-year period may be extended by the Board for a maximum of two (2) years. The applicant must request such an extension in writing. When reviewing requests for extension, the Board shall consider the following criteria:

- A. The proposal remains consistent with applicable provisions of the adopted Comprehensive Plan, including a consideration of any change to the future land use map designation for adjacent properties since the original approval of the Preliminary Site Plan.
- B. The proposal remains consistent with applicable provisions of the adopted Land Development Code, including a consideration of any change to the zoning map designation for adjacent properties since the original approval of the Preliminary Site Plan.
- C. The proposal remains compatible with existing development on adjacent properties, including a consideration of any new development on adjacent properties since the original approval of the Preliminary Site Plan.

Section 323. Final Site Plan (FSP).

Final Site Plan review is intended to assess compliance of a proposed development with the specific use, dimensional, and other regulations of this Code and the terms of any prior approval of the project. Therefore, Final

Chapter 3. Review Authority and Procedures

Site Plans shall be designed to show the specific arrangement of buildings and other improvements on a site in relation to each other, existing site conditions, and surrounding property, together with specific information on the nature and intensity of land use. Final Site Plans shall be generally required:

- A. Prior to the application for a Building Permit, except as noted in subsection 323.1.A below,
- B. Prior to the establishment or expansion of a Special Permit use,
- C. Prior to the establishment, expansion, or change of any use (see Section 320.2.C), activity, or structure, pursuant to the provisions of this Code.

323.1. Review and Approval.

- A. Application submittal.** The application for Final Site Plan review shall be submitted on a form prescribed by the County. A developer may apply for Final Site Plan and Building Permit concurrently, at his or her own risk, provided that no Building Permits shall be issued until the Final Site Plan is approved. ~~All applications for site plan approval shall be reviewed and processed for completeness and sufficiency prior to proceeding with the review.~~
- B. Administrative Review.** The Department Director shall review the Final Site Plan for conformance with the land development code.

323.2. Final Site Plan Review Criteria.

Every site plan shall be evaluated based upon the following criteria, in addition to the criteria for General Development Plan and Preliminary Site Plan approval, where applicable:

- A. Whether the plan meets the requirements of the land development code;
- B. Whether the proposed development is consistent with the comprehensive plan;
- C. Whether the proposed development is consistent with prior applicable approvals; and
- D. Whether the proposed development meets the level of service standards adopted in the comprehensive plan. Proof of meeting these standards shall exist in the form of a certificate of concurrency exemption, certificate of preliminary or final concurrency (as applicable at the particular development review stage), or certificate of conditional concurrency reservation.

323.3. Effect of Final Site Plan Approval.

Approval of the Final Site Plan authorizes the applicant to proceed with an application for Building Permit. Any comments issued by the DRC will need to be addressed prior to the approval of the Building Permit.

Prior to commencement of construction activities authorized with the approved Final Site Plan, an Erosion and Sediment Control Plan (ESCP) shall be approved by the Department Director, as required pursuant to the Manatee County Public Works Standards.

Developments requiring approval of a tree protection plan and tree removal permit, parking lot landscaping plan, screening plan, off-street parking or loading plan, driveway permit, private street application and similar approvals, may be processed concurrently with the Final Site Plan, within the discretion of the Department Director and based upon prior written approval of the appropriate County approving authority for such other plan or permit. The request for Modifications of Standards per Section 365 shall be clearly stated in the formal submission of the site plan.

323.4. Expiration and Extension of Final Site Plans.

Final Site Plan approvals shall expire within four (4) years, unless a Final Plat has been recorded for the residential portion(s) of the project or a Building Permit has been issued for the non-residential structures within the project, or unless the Board specifically approved a longer time frame as part of the GDP or PSP approval for a DRI or Large Project.

The approval authority may, as a condition of approval of a site plan, establish an expiration date that is sooner than otherwise required pursuant to this Section, in order to ensure prompt compliance with the Code in a case involving code enforcement action, or to further the public health, safety and welfare.

The expiration date of a Final Site Plan may be extended by the Department Director for a maximum of three (3) years beyond the original expiration date. The expiration date of a Final Site Plan scheduled to expire concurrently with the expiration of a Certificate of Level of Service may not be extended beyond the date of expiration of the Certificate. When reviewing requests for FSP extensions, the Director shall review the request based on the criteria for Preliminary Site Plan extensions in Section 322.5. The expiration date for any approved site plan may be extended for a period longer than three (3) years, in connection with a local development agreement.

Section 324. Changes to Approved Site Plans (GDP, PSP and FSP).

324.1. Requests for Change.

All requests for review of changes to approved site plans shall be shown on the approved drawing with all of the proposed change(s) highlighted and in sufficient detail. A narrative describing the change(s) and addressing Sections 324.2.A and C shall accompany the application-. This section is not intended to address changes that would result in not meeting the provisions of this Land Development Code. Proposed deviations from code requirements are addressed in Part IX (Modifications and Variances).

324.2. Approval Authority

Changes to Preliminary and Final Site Plans that were originally approved by the Department Director may be approved by the Department Director. Changes to site plans previously approved by the Board as part of a Planned Development (GDP and PSP), require administrative or Board approval as follows. For modifications that exceed code requirements, see Section 365.

A. Administrative Approval. The following changes to approved site plans may be approved by the Department Director:

1. Any change in the required number of parking areas resulting in an increase of less than ten (10) percent in the number of spaces approved;
2. Structural alterations not significantly affecting the basic size and form of the building(s) as shown on the approved plan. Changes in form will only be considered substantial if they occur within fifty (50) feet of the boundaries of the site (or district in the case of a PD) or within fifty (50) feet of any part of any of the structures which have been constructed or sold to any owner or owners different from the applicant requesting the change;
3. Any reduction in the amount of open space of less than five (5) percent or any non-substantial change in the location or characteristics of open space;
4. Non-substantial changes in location or type of pedestrian or vehicular accesses or circulation, as long as those non-substantial changes comply with applicable land development regulations.;
5. Any increase in density or intensity for a portion of the project beyond five hundred (500) feet of the site boundaries or beyond two hundred (200) feet from any part of the site which has been constructed or sold to an owner or owners different from the applicant requesting the change. For Planned Development GDPs, it shall be one hundred (100) feet from the district boundaries and beyond fifty (50) feet from any part of the site which has been constructed or sold to an owner or owners different from the applicant requesting the change.(This does not authorize an increase in overall density or intensity);
6. A fifteen (15) percent increase in the approved height or a structure height increase of less than eight (8) feet, whichever is less, provided there is no increase in number of stories;
7. Any increase in the number of pedestrian access points;
8. Any changes in the phasing schedule which do not impact timing, amount, or completion of improvements; or the satisfaction of specific conditions;
9. Any change in required yard setbacks of less than ten (10) percent, except any yard change which would encroach upon or affect any utility or drainage easement.
10. Any increase in gross floor area of less than or equal to five (5) percent of the gross floor area for the project;

Chapter 3. Review Authority and Procedures

11. The addition of any of the following uses, if no Special Permit approval is required: family day care homes, home occupations, bed and breakfast facilities, utility uses, and waterfront structure (residential); provided that any applicable use criteria in Chapter 5, Part IV shall be met; and
12. A change from multi-family to single family, if it does not increase external impacts such as, but not limited to transportation, schools, parks or utilities; and is consistent in lot size, coverage and yards with other single family portions of the development. If the zoning district does not specify dimensional requirements for single family units, or no single family units were included in the original PD approval, the minimum requirements of the RMF-9 district shall be met.

B. Board Approval. All other changes shall require approval by the Board at a noticed public hearing, except for those noted below as requiring a new application.

C. Changes Requiring a New Application. The following types of changes shall require the submittal of a new application for GDP, PSP or FSP approval:

1. An increase in intensity of use of more than five (5) percent of the usable floor area, or an increase of more than three (3) percent of the number of dwelling units, or an increase of more than five (5) percent of the amount of outside land area devoted to sales, displays or demonstrations. In no case shall the intensity or density be increased over the maximum permitted by the zoning district or the Comprehensive Plan.
2. Any change in use from the approved use, except as noted in subsection, A, above.
3. Any increase in traffic generation by more than ten (10%) percent.
4. Any increase in the area allocated to any land use type by more than ten (10%) percent.
5. Any change in structure height greater than fifteen (15) feet.
6. Any combination of changes which cumulatively are deemed by the Department Director to be of such significance that a new application is required.
7. Any new airport runway or expansion to an existing airport runway.
8. Any change of a similar nature to the foregoing.

324.3. Review Criteria

Plan changes may only be approved if the Department Director (for changes listed under section 324.2.A) or the Board (for changes listed under section 324.2.B) determines that such changes are consistent with the requirements of this Code and the Comprehensive Plan, but only upon making a finding that such changes are:

- A. In accord with all applicable regulations in effect at the time of the original plan approval;
- B. In accord with all applicable regulations currently in effect; and
- C. In accord with all the conditions and requirements specified in the amendment creating the Planned Development, in cases where the site is zone PD.

324.4. Effect on Expiration.

Changes approved pursuant to this Section shall not operate to extend the expiration date of a site plan.

Section 325. to 329 Reserved.

Part V. Subdivision Procedures.

Section 330. General Requirements

330.1. Purpose.

The purpose of this section is to set forth the procedures and standards for subdividing land, reviewing and approving subdivision plats.

330.2. Subdivision Approval Required.

No person, firm, or corporation shall create a subdivision, pursuant to section 177.031(18), Florida Statutes, of any land, or proceed with the improvement of lots in a subdivision or the construction of streets, or the installation of utility services therein until the appropriate subdivision and, when applicable, the construction drawings are approved by the County.

There are three (3) levels of subdivision review based on the nature of the subdivision, as follows. Table 3-3 outlines the general steps required for each.

- A. Major subdivision** shall mean any subdivision of land creating eleven (11) or more residential lots or parcels of land; or any non-residential subdivision; or any time the division of land results in the establishment of a new street; or the creation of six (6) or more lots on an existing unpaved, county street.
- B. Minor subdivision** shall mean any residential subdivision of land creating three (3) to ten (10) lots or parcels of land; and does not include any type of non-residential subdivision. The minor subdivision shall front on an existing public street or private street built to the current Manatee County Development Standards; and which meets the following three (3) requirements:
1. Not involving the establishment of a new street;
 2. Not involving the extension of any public facility mains within the rights-of-way and creation of any new general public improvements involving the review or approval of construction drawings, as determined by Manatee County excluding individual lot service connections; and
 3. Not in conflict with any provision of the Comprehensive Plan, Land Development Code, Building Code or other officially adopted plans, policies or regulations.
- C. Lot Split (Certified Lot(s))** shall mean dividing or splitting unplatted land into no more than two lots, both of which are buildable per the current zoning of the proposed parcel(s) and consistent with the LDC and Comprehensive Plan and which meets the following three (3) requirements:
1. Not involving the establishment of a new street;
 2. Not involving the extension of any public facility mains within the rights-of-way and creation of any new general public improvements involving the review or approval of construction drawings, as determined by the Manatee County excluding individual lot service connections; and
 3. Not in conflict with any provision of the Comprehensive Plan, Land Development Code, Building Code.
 - a. Each new lot shall be a legal conforming lot of sufficient size to meet minimum zoning requirements, uplands, and setbacks as required by the Land Development Code. Flag lots shall not be permitted.
 - b. The parent parcel shall front on an existing public or private street built to the current Manatee County Development Standards. Creation of a new public or private street shall require a Major Subdivision. Access by easement is permitted pursuant to LDC Section 1001.1.B.3.

Table 3 - 3: Review by Subdivision Type

	Preliminary Plat (see Section 333)	Construction Plans (see Section 334)	Final Plat (see Section 335)
Major Subdivision	Required	Required	Required
Minor Subdivision	Not required	Not required	Required
Lot Split (Certified Lots)	Not required	Not required	Not required

Section 331. Vacation of Streets and Plats.

331.1. Purpose.

This section is established to provide procedures for the exercise of the authority granted to the Board to vacate and annul plats or portions thereof, pursuant to Section 177.101, Florida Statutes, and to vacate, abandon, discontinue, close, renounce and disclaim streets, roads, alleys, and other appropriate property; or any portion thereof; and termination of County easements; pursuant to Section 336.09 through 336.12, Florida Statutes, lying within the unincorporated area of the County.

331.2. Review Process.

- A. Pre-Application Meeting.** The applicant is strongly encouraged, but not required, to attend a pre-application meeting as provided for in Section 312.2.
- B. Application Submittal.** An applicant proposing to vacate certain streets, roads, or other appropriate property, and to terminate County easements pursuant to the provisions of this section shall complete and submit an application to the Department Director subject to the provisions of Section 312.3. It will be the responsibility of the applicant to furnish any additional maps, charts, surveys, legal descriptions, title opinions, and title policies as required by the Department Director for clarification to the reviewing agencies and the Board.
- C. Advertising Requirements.** In accordance with the Florida Statutes the Public Hearing Notice will be provided.
- D. Board Review.** The Board shall conduct the public hearing in accordance with the procedures of Section 312.8. The Board shall, at the conclusion of the public hearing on any particular application, or subsequent thereto, consider the adoption of a resolution granting the particular application of any portion thereof, or such other actions as the Board may deem appropriate under the circumstances.

331.3. Notice of Adoption of Resolution Pursuant to Section 336, F.S. Only.

Upon the adoption of any such "Resolution Vacating Certain Streets, Roads or Other Appropriate Property," for streets and property vacated and County easements terminated under Section 336.09 through 336.12, Florida Statutes only, the applicant shall cause same to be duly published one (1) time in a newspaper of general circulation in Manatee County, Florida, within thirty (30) days following the adoption of said resolution. The Notice shall be in substantial compliance with the "Notice of Resolution Vacating Certain Streets, Roads or Other Appropriate Property" form established by the County.

331.4. Recording Requirements.

The applicant shall be responsible for filing the following documents, whichever is applicable, within thirty (30) days after adoption of the resolution by the Board, with the Clerk of Circuit Court and duly recorded in the Official Records Book among the Public Records of Manatee County, Florida.

- A. For vacations and annulment of plats or portions thereof, pursuant to Section 177.101, Florida Statutes:
 - 1. A certified copy of the subject resolution.
 - 2. Original proof of the two (2) publications of the Notice of Public Hearing.
 - 3. Location maps, survey, legal description or other appropriate data as determined by the Department Director.

4. All applicable easements, if required.
- B. For vacations, abandonment, discontinued, closed, renounced and disclaimed streets, roads, alleys and other appropriate property of portions thereof, and termination of County easements, pursuant to Section 336.09 through 336.12, Florida Statutes:
 1. A certified copy of the subject resolution.
 2. Original proof of the one (1) publication of the Notice of Public Hearing.
 3. Location maps, survey, legal description or other appropriate data as determined by the Department Director.
 4. Original proof of publication of the Notice of Adoption of the subject resolution within thirty (30) days after adoption of the resolution by the Board.
 5. All applicable easements, if required.

Within forty-five (45) days after the adoption of the resolution, the applicant shall provide the Department Director, with a copy of the recorded documents.

331.5. Effective Date.

No vacation shall become effective until the documents required under Section 331.4.A or B, whichever is applicable, have been filed with the Clerk of Circuit Court and duly recorded in the public records of Manatee County.

331.6. Applicants Responsibility.

The County, the Board, the reviewing agencies and all of the officers, employees and agents thereof shall not assume any responsibility or liability for any matters to be done or completed by the applicant, pursuant to the provisions required herein. It is recognized that this procedure may affect substantial interests in real property and other proprietary rights; and the applicant shall assume full and complete responsibility for compliance with the requirements of law and these procedures in connection with or arising out of any vacation proceedings instituted by the applicant.

Section 332. Replatting Requirements.

Notwithstanding the previous section, if replatting of lands previously platted or parts thereof is proposed, the applicant shall provide a notation upon the face of the proposed plat which expressly states that the new plat vacates the same identical lands previously platted. The notation shall specifically reference the plat being vacated. The application, all advertisements, notices, Board agenda, and resolution shall specifically state the action being taken by the Board is to vacate specifically referenced identical lands previously platted, if applicable, in addition to the new plat being proposed. The specific notation placed on the proposed plat (replatted land) will eliminate the need to adopt a separate resolution to vacate the previous plat. The recording requirements stipulated under Section 331.4 shall be adhered to for all replatting.

Section 333. Preliminary Plat Review Procedures.

333.1. Purpose.

The purpose of a preliminary plat review is to provide the County with sufficient information at an early stage of a major subdivision in order to permit alterations in plans as may be required prior to the developer preparing construction plans and a Final Subdivision Plat; and prior to the County expending significant amounts of time reviewing incomplete or substandard plat applications.

333.2. Preliminary Plat Review Process.

- A. **Pre-Application Meeting.** The applicant is ~~strongly encouraged, but not~~ required, to schedule and attend a pre-application meeting as provided for in Section 312.2.

Chapter 3. Review Authority and Procedures

- B. Application Submittal.** Applications for preliminary plat review shall be submitted to the Department Director for review and approval in accordance with Section 312.3.

The preliminary plat shall be clearly and legibly drawn to scale showing sufficient information about the subdivision to form a clear basis for discussion of its problems and for the preparation of the construction drawings and final plat. Such information shall address in sufficient detail all the items required by Code. A Preliminary Subdivision Plat shall be prepared under the direction of a professional land surveyor, engineer, architect or landscape architect, in accordance with the laws and regulations set forth by the State of Florida.

- C. Development Review Committee.** The Development Review Committee shall review the request in accordance with Section 312.5.
- D. Review by the Department Director.** The Department Director shall review and approve, approve with conditions, or disapprove the preliminary plat, furnishing the developer a statement in writing of its reasons for any disapproval. The acquisition of necessary rights and the presentation of complete and correct information to the Department Director are responsibilities of the applicant and the failure to do so, including the failure or inability to obtain all necessary permits, licenses, releases or rights may constitute a reason for disapproval and/or rescission of approval of the prepared subdivision plat.

333.3. Phased Development.

- A. Delineation of Phases.** Any subdivision project involving phased development shall be identified as such on a Preliminary Subdivision Plat. The preliminary plat shall designate the limits of the various construction phases and the proposed detailed development schedule. When preliminary plats are submitted separately for each phase, the developer shall also submit a plan, for general informational purposes, showing all phases, phase lines, and other information to clearly represent the proposed project.
- B. Phasing Identification.** All projects shall identify phasing on their plats consistent with the numbering and titles listed below from the largest unit/increment to the smallest:
1. Phase - Roman Numeral (i.e. III).
 2. Sub phase - Capital Letter (i.e. G).
 3. Unit - Number (i.e. 8).
 4. Subunit - Small Case letter (i.e. j).
 5. Tract - Number (i.e. 6).
- C. Independent Operation.** All construction phases in a development shall be capable of operating independently with respect to drainage, circulation, utilities, and other applicable public facilities and services; provided however, the County may permit the posting of performance security to guarantee the installation of recreational facilities and similar improvements to serve particular phases of the development at a later time.

333.4. Effect of Approval.

Approval of a preliminary plat by the Department Director shall not constitute approval of the final plat, nor authorize recording of the plat, nor effect the acceptance of any land or improvements proposed to be dedicated to the County. Upon approval or approval with conditions, the applicant may proceed to the construction drawings approval stage.

333.5. Expiration of Preliminary Plats.

Preliminary Plats shall expire within one (1) year, unless the applicant submits construction drawings. If a Certificate of Level of Service was obtained in conjunction with the Preliminary Plat, the expiration of the preliminary plat shall be three (3) years from approval date.

Phase and plat timing for DRI's shall be consistent with the requirements found in Section 347.

333.6. Graphic Standards.

Preliminary Subdivision Plats shall include the following information:

- A. The project name, boundaries, north arrow, legend and scales shall be indicated on each plan. The date

drawn and revision dates shall be indicated on the preliminary plat.

- B. The name of the plat shall be shown in bold legible letters of uniform size and type, including the words "section," "unit," "replat," "amended," etc., although the latter need not be in bold letters of the same size as the basic name. The name of the subdivision shall be shown on each sheet. A prominent "North Arrow" shall be drawn on every sheet including showing any portion of the lands subdivided.
- C. The first sheet shall indicate the location and classification of zoning on the site; total acreage of the site; total number of lots, specified by type of intended use; and gross residential acreage.
- D. Names and address of record owner and applicant and the subdivision designer, engineer, and land surveyor shall be provided on the plat. In addition, any citation and general description of any existing covenants, private restrictions, easements and rights-of-way affecting the use and development of the property, including the Section, Township, Range, and if in a land grant, the plat will so state. The application shall include a complete legal description of the property.
- E. The plans shall be at a scale of one inch equals fifty (50) feet (1" = 50') or such other scale as the County may accept to show details clearly and adequately. In all cases, the scale used shall be of sufficient size to show all detail. Sheet sizes shall not exceed twenty-four (24) inches by thirty-six (36) inches. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire development with a key plan on each sheet properly orientated and a title box on each sheet properly labeled.
- F. All contiguous properties shall be identified by subdivision title, plat book, and page, or, if unplatted, land shall be so designated.
- G. The one hundred (100) year Floodplain and floodway within the subject project with references noted with respect to the panel number from the Flood Insurance Study shall be shown on the preliminary plat.
- H. The twenty-five (25) year floodplain within the subject project (see requirements in Section 801.3) shall be shown on the preliminary plat.
- I. Location of waterways and water bodies existing within and adjacent to the subdivision.

Section 334. Construction Drawings for Preliminary Plats.

334.1. General Requirements.

Construction drawings, which provide detailed technical information on all site improvements prior to actual construction, are required to ensure that development will be in conformance with County Codes and any conditions of the approved development. The completeness and adequacy of the construction drawings shall be determined by the Department Director based on the type of development approval required. Construction drawings shall be prepared and certified by an engineer, except as exempted by Chapter 471, Florida Statutes, and shall conform to the requirements of the Manatee County Development Standards and the requirements of this Code.

334.2. Construction Drawings Not Required.

The review and approval of construction drawings will not be required when:

- A. No improvements are required by this Code, or
- B. Only rights-of-way, drainage, or utility easements are required by this Code, provided that such rights-of-way shall be dedicated and easements granted to the County by plat or separate instrument, or
- C. The only improvements required by this Code are usually installed by the County and the developer has paid or posted security for such improvements.

334.3. Review Procedures.

Prior to or concurrently with submission of the final plat, the developer shall submit construction drawings to the Department Director for the installation of required improvements for the entire subdivision; or approved construction

Chapter 3. Review Authority and Procedures

phase, if part of an approved phasing plan. The construction drawings shall be submitted and approved prior to commencing any site work, grading, or other on-site construction activities connected with the development, except brush removal in connection with surveying. If submitted in conjunction with or in advance of a Final Site Plan for a Planned Development project, no site work may commence until such Final Site Plan has been approved.

Within sixty (60) days after receipt of complete construction drawings, the Department Director will approve, approve with conditions, or disapprove the construction drawings, stating in writing any reasons for disapproval. The approval of the construction plans shall be subject to the approvals and permits by other necessary state and federal agencies. Construction drawing approval shall not be granted unless the applicant has secured a valid certificate of level of service compliance.

334.4. Review Criteria.

Construction drawings duly submitted to the Department Director during the effective period of the preliminary plat approval shall conform to such approved plat or site plan, including any conditions, and shall state that all work shall be subject to the County's regulations and development standards in effect at the time of such plat approval. Construction drawings shall be approved by the Department Director for major subdivisions which comply with the requirements of the preliminary plat approval, Manatee County Development Standards and this Code.

334.5. Effect of Approval.

Upon the written approval of the construction drawings by the Department Director, the developer shall schedule an inspection pursuant to Section 337.3 of this code. After obtaining a pre-construction inspection by the Department Director, the developer may commence site development and the installation of improvements, provided that all guarantees required by Section 337 of this Code have been approved and posted. This approval shall not constitute approval to commence any construction which is subject to separate approval required by other federal, State, and local development codes including the Florida Building Code.

Prior to commencement of construction activities authorized with the approved construction drawings, an Erosion and Sediment Control Plan (ESCP) shall be approved.

334.6. Expiration.

Construction drawings shall expire three (3) years after approval of the construction drawings

334.7. Required Improvements.

No development in the County shall be approved unless adequate assurance as stipulated under Section 337 is provided that the improvements required under this Code will be installed in accordance with professional engineering standards.

334.8. Design Requirements for Construction Drawings

A. Preparation. Construction Drawings shall be prepared and certified for all required improvements by an engineer, ~~except as unless~~ exempted by Chapter 471, Florida Statutes. Plans shall be drawn at a scale no smaller than one (1) inch equals fifty (50) feet, unless otherwise specifically authorized in writing by the Department Director. All revisions shall be prepared and submitted as required for original drawings. All drawings shall be proofread, clear, legible, and complete with all necessary plans, details, sections required to represent a complete set of engineered drawings. Incomplete drawings may be rejected and returned to the applicant for resubmission. ~~Within sixty (60) days after receipt of complete construction drawings, t~~The Department Director will approve, approve with conditions, or ~~disapprove deny~~ the construction drawings, stating in writing any reasons for ~~disapproval denial~~.

B. Contents.

1. An accurate vicinity map shall be included on the construction plans, at a scale not less than one inch equals one mile (1" = 1 mile), which shows the site in relationship to its surroundings. The vicinity map shall include the rights-of-way lines of all proposed streets in the subdivision and their location in relation to one or more existing streets, or portions thereof, in the immediate vicinity which is shown and readily identifiable, as to locus on the County map.

Chapter 3. Review Authority and Procedures

2. The construction plans shall show:
 - a. The location of the property with respect to contiguous development, together with the existing zoning on adjoining property, and existing land uses adjacent to the property at a scale 100 feet = one inch minimum.
 - b. The name, location and width of existing or platted streets, street rights-of-way within or contiguous to the site.
 - c. The approximate location, size and depths of sewers, water mains, storm drains, electric power and cable and other underground facilities, within or contiguous to the site.
 - d. The location and width of easements for all above and below ground utilities, including electric power and cable lines, within and adjacent to the site.
 - e. Topographic contours at one (1) foot intervals, based on Mean Sea Level datum for the site and a minimum of fifty (50) feet beyond the property line for a single lot development and one hundred (100) feet beyond the limits of the site for subdivisions. Topographic survey information shall be furnished by a professional land surveyor which meets the minimum requirements as set forth in Chapter 21-HH-6, of the Florida Administrative Code. The survey must have been made within the last ten (10) years.
 - f. Major existing site features, such as stone walls, fences, buildings, identifiable historical sites, and special attention should be given to noting physical features which define the boundaries of the subdivision.
 - g. The type and location of trees, and native vegetation as defined in Section 700, Tree Protection, within six (6) feet of, or within the limits of clearing; the type and approximate location of other trees more than four (4) inches DBH.
 - h. The twenty-five (25) year floodplain (see Section 801.3.P), the one hundred (100) year floodplain (see Section 802), watercourses, wetlands, and other significant and natural features.
 - i. Existing stormwater management facilities, and drainage structures.
 - j. Existing easements, both public and private.
3. *Required Improvements.* The improvement requirements of this Section shall apply only to subdivisions requiring a Final Subdivision Plat. All improvements required by this Code shall be installed by and at the expense of the developer, as required by the Department Director in accordance with professional engineering standards.
 - a. Plans shall show the overall project street layout, with street names and all traffic control signage as per the Manatee County Public Works Standards. Profiles on the lines of proposed streets and fifty (50) feet beyond, at a horizontal scale of 1" = 50' and a vertical scale of 1" = 5', or such other scales acceptable to the Department Director. All elevations shall refer to NGVD of 1929 datum. Profiles shall also include the location of any intersecting public or private streets, and the location, material and size of proposed storm water management facilities, water mains, and sewers and their appurtenances; street lighting; and other underground utilities to be placed in the rights-of-way. The proposed topographic contours shall be at the same scale as the existing topographic contours. The exterior lines of existing streets ingressing to the subdivision and existing utility lines and appurtenances or easements shall be shown on the plan to clearly indicate location of proposed connections.
 - b. On the same sheet, there shall be drawn typical cross sections of the proposed street, properly located and identified by station number, at such intervals along the streets as will adequately indicate any variations in its section, supplemented, where necessary, by lines on the layout plan showing the width and location of proposed roadways, sidewalks, and similar physical features.
 - c. Utility and highway construction details shall be shown.
 - d. Storm drainage system construction details shall be shown.
 - e. Any special construction and safety details including guardrails or other pertinent information, as necessary, to construct the project based on the proposed design.
 - f. Names of all streets, location of all proposed buildings and other structures, parking areas, loading areas,

Chapter 3. Review Authority and Procedures

- and other pedestrian and vehicular use areas, yards and open spaces.
- g. Any special construction features, deviating from or not covered by Manatee County Public Works Standards shall be shown on detail drawings. Such detail drawings may be incorporated as part of a utility plan or profile or may be shown on a separate sheet or sheets; and shall provide information as to dimensions, location, elevations, cross sections, materials, etc., of the construction details involved. The requirement for detail drawings shall be applicable, but not limited to, culverts, structurally stabilized slopes, utility piping encased in concrete, ditches and brooks shaped or constructed to a definite cross section, spillways, and similar construction features.
 - h. A plan with a suitable scale, satisfactory to the Department Director, outlining the entire drainage basin which includes the subject development therein shall be submitted indicating surface water flow to the development, within the development and impact after exiting the development. The plan shall cross reference the drainage calculations. Both the twenty-five (25) year floodplain (see Section 801.3.P) and the one hundred (100) year floodplain shall be shown.
 - i. Traffic sight distances, vertical and horizontal, for all intersections within the project and for the rights-of-way adjoining the project, at the location for ingress or egress, shall be shown.
 - j. Details showing connections to existing and proposed utility systems.
 - k. Easements required for any purpose including access easements for maintenance purposes.
 - l. The following information shall be provided in graphic or narrative form, as necessary, to satisfy the requirements set forth below.
 - i. Computation sheets or other closure method showing closure of boundary surveys in accordance with Section 800, shall accompany submission of Final Plats.
 - ii. All calculations and descriptions, prepared by an engineer, needed to show evidence of compliance with Section 801, Stormwater Management, and Section 802, Floodplain Management.
 - iii. Type and location of any erosion and sedimentation controls to be used during the construction process.
 - iv. All calculations and descriptions, prepared by an engineer, used in sizing water and sewer mains, including any impact on existing systems and fire flow requirements.
 - v. All plans, calculations, and descriptions necessary to show that the sewage disposal system is in compliance with all applicable requirements of the HRS/Manatee County Public Health Unit and the Florida Administrative Code Chapter 10D-6.
 - vi. All plans, calculations, and descriptions necessary to show that the potable water supply system is in compliance with all applicable requirements of Manatee County and the Florida Administrative Code Chapters 62-532, 62-555 and 17-22.
 - vii. Cost estimates for completion of all required improvements to be covered by performance security shall be prepared by an engineer for all required improvements, or bids by two (2) reputable bondable contractors. Cost estimates shall be submitted prior to approval and acceptance of all performance bonds and defect security.
 - viii. The location and dimensions of easements reserved or dedicated recreational open space, including the percent of open space. The nature, location, dimensions of any buffer areas.
 - ix. Such information may include the results of any tests or copies of calculations used in design, copies of agreements granting the developer rights essential to development of the land and construction work involved, including the right of access over existing ways.
 4. Requirements for Developments that Require Administrative Approval. Construction drawing for developments which require the approval of the Department Director, other than development of subdivisions stipulated under Section 334.8.B.3, shall be prepared by an engineer unless exempted by Chapter 471, Florida Statutes. The construction drawings shall include all design and drawing requirements applicable to the respective development approval sought after. The construction drawings shall be complete to reflect the full extent of the proposed scope of work and to insure that all parts of the construction can be adequately put

Chapter 3. Review Authority and Procedures

together. The completeness and adequacy of the construction drawings shall be determined by the Department Director based on the type of development approval required.

Section 335. Final Plat Review Procedures.**335.1. Purpose.**

The purpose of final plat review is to ensure that the plat complies with the standards of this Code and, in the case of major subdivisions, also to determine whether the final plat is in compliance with the approved preliminary plat.

335.2. Final Plat Preparation.

Final plats submitted to the County for review and approval shall meet the requirements of Section 177.091, Florida Statutes.

335.3. Review Procedures.

- A. Application.** An application for approval of a final plat shall be submitted to the Department Director consistent with the requirements of Section 312.3.
- B. Staff Review.** The Department Director shall review the application in accordance with the requirements of Section 312.5 and shall submit the application and recommendation to the Board for approval.
- C. Review and Action by the Board of County Commissioners.** Upon receipt of the recommendation from the Department Director, the Board shall review the application in accordance with the provisions of this Code.

335.4. Review Standards.

No plat shall be approved unless the applicant demonstrates:

- A. That the plat complies with the requirements of the State Statutes, this Code and any previously approved Development Orders;
- B. That all required improvements have been completed and installed and a certificate of completion issued therefor, or where the Board may permit, the developer has posted adequate performance security in accordance with Section 337, Installation of Improvements, and has received approval of all construction drawings, in accordance with Section 334; and
- C. That all required fees or charges have been paid, dedications accepted, and any required escrow arrangements have been established.

335.5. Required Improvements Agreement.

In connection with the approval of any Final Subdivision Plat where the developer intends to install the required improvements after such approval, a required improvements agreement, in substantial conformance with the form agreement set forth by the County, shall be executed. All required improvements agreements shall be recorded with the approved Final Subdivision Plat.

335.6. Modifications to Approved Final Plat.

No changes, erasures, name changes, modifications, phase lines, or revisions shall be made on any final plat after approval has been given, unless the plat is resubmitted for a new approval by the Board. This shall not affect the right to file an affidavit confirming an error on a recorded plat, as provided by law.

335.7. Recording.

Upon approval of the final plat, it shall be forwarded to the Clerk of the Circuit Court for recording together with any other related legal documents as the County Attorney or other County Departments may require for recording.

335.8. Effect of Approval.

Approval of a final plat by the Board shall authorize the recording of the plat for all purposes under state law.

335.9. Condition of Approval.

If, for whatever reason, an approval from another governmental entity expires prior to the time frame herein established, and was a prerequisite approval necessary to obtain a final plat approval, or a required approval subsequent thereto; the final plat approval shall automatically expire. Active permits from all appropriate governmental agencies shall be necessary, at all times, for both major and minor final plats.

335.10. Expiration of Final Plat.

An approved final plat shall expire if it is not recorded within thirty (30) days of final plat approval.

335.11. Surveyor Review.

Prior to approval by the appropriate governing body, the plat shall be reviewed for conformity to this section by a professional surveyor and mapper either employed by or under contract to the local governing body, the costs which shall be borne by the legal entity offering the plat recordation, and evidence of such review shall be placed on such plat. Said surveyor/mapper shall certify as to the plat's conformity on the face of the plat.

335.12. Survey Data Required for Final Subdivision Plats.

Plats made for recording shall meet the requirements of Section 177.091, F. S., and the following Manatee County specific requirements:

- A. Two benchmarks shall be identified or set within or immediately adjacent to each new subdivision plat plus one additional mark for every 50 lots over 99 lots. The North American Vertical Datum of 1988 shall be used with the relationship to the National Geodetic Vertical Datum of 1929 being provided in the plat notes, along with how that relationship was determined. The originating benchmark shall be identified in the plat notes and must be published by the County, the State – available from Land Boundary Information System (LABINS), or the National Geodetic Survey (NGS). Generally, the mark shall be a metal disk stamped “BM” and the “LB” number of the legal entity or the “LS” number of the platting surveyor and affixed to concrete with a masonry type nail. The concrete shall be a readily accessible concrete structure or feature that is reasonably safe from damage. Alternately for subdivision where construction has not commenced at the time of recording, a Benchmark Affidavit may be recorded when concrete structures or features are available. The use of PRMs as benchmarks are strongly discouraged and permitted only as a last resort. Marks that lack some form of identification are not acceptable.
- B. State Plane Coordinates shall be provided on the point of beginning and one other monumented plat boundary corner generally opposite the point of beginning. The datum shall be in the North American Datum of 1983 (1990 adjustment or later). The originating monuments used to establish the coordinates shall be identified along with their published Point Identification number from NGS or Online Positioning User Service (OPUS). Alternately, OPUS observation on plat boundary monuments are acceptable provided the results are provided to the reviewing surveyor. Use of coordinates from Certified Corner Records prepared by Manatee County that are recorded with the Florida Department of Natural Resources are also acceptable provided the monument and accessories are substantially the same.
- C. The basis of bearing and metes and bounds description for new subdivisions not already part of a phased development as of December 2015 shall be grid.
- D. Plat shall include the area of each lot and tract in square feet. A closure report shall be provided for each lot and tract and shall include the error of closure.
- E. The plat shall include the approximate location of the design edge of water or the seasonal high water for natural bodies of water immediately adjacent to each lot.
- F. The plat shall have a minimum text height of 3/32” for all plat data and text. Generally the text for the index or key map may be exempt provided the graphics are clear. If multiple sheets are used for the plat, a larger Index Map of the overall plat is required giving a basic representation of the Lots, Tracts, and Roads. Match

Chapter 3. Review Authority and Procedures

lines are to be included in the Index Map with the layout of all the sheets. The Key Map is a smaller/ simpler version of the index map that must be included on each subsequent sheet. Subtle hatching or shading must be used for the area the particular sheet covers.

- G. The vicinity map on the coversheet shall provide a clear representation of the location of the subdivision in relationship with at least two significant intersecting roads
- H. The scale for the body of the plat is to be 1"=50' unless previously approved by the County Surveyor or reviewing surveyor. The sheet size required by the Clerk of the Circuit Court is 18" x 24".
- I. Duplicate line or curve designations are not allowed.
- J. Generally, a lot is to be depicted in its entirety on a single sheet. Portions of tracts may be depicted on multiple sheets.
- K. The plat geometry shall be a single geometric figure described by metes and bounds. Area(s) not part of the plat shall also be described by metes and bounds.
- L. Lot and other plat data distance precision – 1/100 of a foot (a note explaining precision is acceptable for example: "Except in the case of an irregular boundary or water course, numerical expressions shown hereon to the nearest foot or tenth of a foot, are to be interpreted as having a precision to the nearest one hundredth of a foot."). When cardinal directions are utilized, a similar note is needed explaining that the angular precision is to the second.

Section 336. Dedications and Reservations.

336.1. Authorization.

In connection with the approval of a final plat, the developer shall be required to dedicate or reserve any lands and required improvements according to the provisions of this Code, and may be required to dedicate or reserve other land and improvements as provided by the comprehensive plan, to provide for circulation, stormwater management, drainage, utilities, open space, lighting, schools, fire service, public safety and law enforcement protection, park land and other appropriate public needs related to the development.

336.2. Manner of Dedication to Manatee County.

- A. **Generally.** No final plat shall be approved unless it is accompanied by a dedication to Manatee County of all land, easements, and improvements which are required to be dedicated to Manatee County under this Code. Such dedication shall be in a form acceptable to the County.
- B. **Execution.** The dedications shall be executed by all persons having a record interest in the lands subdivided, in the same manner in which deeds are required to be executed. All mortgagees having a record interest in the land being subdivided shall execute, in the same manner in which deeds are required to be executed, either the dedication contained on the plat or a separate instrument joining in and ratifying the plat and all dedications and reservations thereon.
- C. **Notation on Plat.** All final plats shall bear the notation in a form prescribed by the County.
- D. **Protection of Reversionary Interests.** Nothing herein shall be construed as affecting or abridging any rights or responsibilities related to reversionary interests as provided in state law.

336.3. Reservations.

- A. **Release by Board of County Commissioners.** The Board, after ten (10) years, may release any reserved land at any time by formal resolution, if it is found to be no longer necessary for any public purpose.
- B. **Designation on Plat.** The developer shall be required to clearly show the location and purpose of all reservations on the Final Subdivision Plat; and, to also show in dotted lines, or by other means specifically, how any reserved land shall be used in event the reservation is released or otherwise void.
- C. **Common Areas and Common Improvements.** Any common areas or commonly used improvements in a

Chapter 3. Review Authority and Procedures

subdivision which are not dedicated to Manatee County, shall be subject to the requirements of Section 336.4, unless otherwise provided for as the County may require or approve.

- D. Jurisdictional areas and conservation areas.** All jurisdictional areas and conservation areas shall be shown as such on the final plat.

336.4. Common Areas.

- A. Purpose and Intent.** This subsection is established to assure that adequate ownership and management measures will be provided in residential and other developments to protect and perpetually maintain all common open space and common improvements required pursuant to this Code or other applicable County law or regulations, in order to ensure their continued availability and utility for the residents or occupants of the development, and to prevent such facilities or the need for such facilities from becoming an unnecessary burden or nuisance to the County or surrounding property; provided that nothing in this subsection shall be construed as creating any obligation upon the County to maintain such facilities or otherwise ensure their availability and condition.
- B. Applicability.**
1. *Generally.* Except as provided below, this Section shall apply to all common open space and all common improvements, which are required to be provided pursuant to this Code, the Comprehensive Plan, or other applicable County laws and regulations.
 2. *Exceptions.* This subsection shall not apply to:
 - a. *Dedicated Lands and Improvements.* Any lands or improvements to be dedicated or conveyed to the County, or to an appropriate public agency, board or body, for designated or general public use.
 - b. *Private Lands and Improvements.* Any lands or improvements to be owned and maintained by a landlord for the benefit of lessees residing on or occupying leaseholds on the lot or parcel where such lands and improvements are situated or on other lots or parcels owned by the landlord, as for typical multi-family or shopping center development.
 - c. *Condominiums and Cooperatives.* Any lands or improvements to be owned and maintained under a condominium or cooperative, which shall be established and regulated in accordance with Florida law.
 - d. *Other Open Space and Improvements.* Any open space and improvements provided in excess of County requirements, unless such facilities are otherwise included, at the election of the developer, within any common ownership and management system established pursuant to this subsection.
- C. Common Ownership General Requirements.** Prior to final approval of an application for development, the developer shall provide documents and other assurances satisfactory to the Department Director, to establish a means of common ownership and management of all common open space and common improvements subject to this subsection. Such means of common ownership and management shall conform to the following minimum requirements. Such documents, once approved, shall become part of the recorded subdivision plat or approved special use.
1. *Establishment of Non-profit Organization.* The applicant or developer shall provide for and establish a non-profit organization or other legal entity under the laws of Florida for the ownership, care, and maintenance of all such lands and improvements.
 2. *Membership; Responsibilities.* Such organization shall be composed of all persons having ownership within the development. Such organization shall be responsible for the perpetuation, maintenance, and function of all common lands, uses and facilities, subject to these regulations.
 3. *Covenants and Restrictions—Generally.* All such common lands and improvements shall be described and identified as to location, size, use and control in a restrictive covenant, and such covenant shall set forth the method of assessment for the maintenance of such land. These restrictive covenants shall be written so as to run with the land and be in full force and effect for a period of not less than twenty-five (25) years, and shall be automatically extended for successive periods of ten (10) years unless terminated in a manner set forth in this subsection. These covenants shall become part of the deed to each lot or parcel within the development.
 4. *Covenants and Restrictions—Responsibilities; Disposition of Common Open Space.* Such restrictive

Chapter 3. Review Authority and Procedures

covenant and organization shall continue in effect so as to control the availability of the facilities and land thereby provided, to maintain the land and facilities for their intended function, and to protect the development from additional and unplanned densities of use. Such organization shall not be dissolved, nor shall such organization dispose of any common open space, by sale or otherwise except to an organization conceived and organized to own and maintain the common open space, without first offering to dedicate the same to the County or other appropriate governmental agency.

5. *Conservation Easements within Common Open Space.* No lands in common open spaces shall be denuded, defaced or otherwise disturbed in any manner at any time, except for maintenance or repair, without the prior written approval of the Department Director.

Activities within Common Open Space Conservation Easements, other than those specifically allowed by this Code, shall be prohibited. Restrictive covenants relating specifically to the Conservation Easement shall be included in the documentation prepared to satisfy requirements set forth in Section 336.4.C of this Code.

6. *Maintenance by County.* If the Department Director determines that the public interest requires assurance as to adequate maintenance of common open space areas and improvements, the Department Director may require that the covenants creating such organization shall provide that in the event the organization established to own and maintain such common open/improvements, or any successor organization, shall at any time after establishment of the development fail to maintain the common open space/improvements in reasonable order and condition in accordance with the approved plans, then the following provisions shall apply:

- a. *Initial Notice.* The County may serve notice in writing upon such organization or upon the residents of the development setting forth the manner in which the organization has failed to maintain the common space/improvements in reasonable condition, and said notice shall contain a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of public hearing thereon which shall be held within twenty (20) days of the notice.

If the Department Director determines an emergency exists which is detrimental to the health, safety and welfare of the public, the Director may notify the non-profit organization in writing that the deficiency shall be corrected immediately. If the non-profit organization fails to correct the deficiency within seven (7) days, the Department Director may cause the emergency deficiency to be corrected and all charges related thereto shall be borne by the non-profit organization in accordance with subsection b, below. At such hearing the Board may modify the terms of the original notice as to the deficiencies and may grant an extension of time within which they shall be cured.

- b. *Modification of Initial Notice.* At such hearing the Board may modify the terms of the original notice as to the deficiencies and may grant an extension of time within which they shall be cured.
- c. *Failure to Comply.* If the deficiencies set forth in the original notice or in the modifications thereof are not corrected within said thirty (30) days or any authorized written extension thereof, the County, in order to preserve the taxable values of the properties within the development and to prevent the common open space/improvements from becoming a public nuisance, may, at its option, enter upon said common space/improvements and maintain the same for one (1) year.
- d. *Public Use Excluded.* Said entry and maintenance shall not vest in the public any rights to use the common open space/improvements, except when the same is voluntarily dedicated to the County by the owners and accepted by the County.
- e. *Subsequent Periods.* Before the expiration of said one (1) year period, the County, shall, upon its initiative or upon the request of the organization responsible for the maintenance of the common open space/improvements, call a public hearing, upon notice in writing, to such organization or to the residents of such development, to be held by the Board; at which hearing the organization shall show cause why such maintenance by the County shall not, at the election of the Board, continue for a succeeding one (1) year period.
- f. *Termination of County Maintenance.* If the Board shall determine that such organization is ready and able to maintain the common open space/improvements in reasonable condition; the County shall cease to maintain the common open space/improvements at the end of said one (1) year period.

Chapter 3. Review Authority and Procedures

- g. *Continuation of County Maintenance.* If the Board shall determine that such organization is not ready and able to maintain the common open/improvements in a reasonable condition, the County may, in its discretion, continue to maintain the common open space/improvements during the next succeeding year, and subject to a similar hearing and determination in each year thereafter.
 - h. *Assessment of Costs.* The covenants creating such organization shall further provide that the cost of such maintenance by the County shall be assessed pro-ratably, against the properties within the development that have a right of enjoyment of the common open space/improvements, and shall become a charge on said properties, and such charge shall be paid by the owners of said properties within sixty (60) days after receipt of a statement therefor, and shall become a lien on the property if unpaid at the end of such period.
7. *Submission Requirements.* Before an applicant or developer can establish a non-profit organization as required in Section 336.4.C.1 above, the following documents shall be submitted to the Department Director:
- a. *Articles of Incorporation.* The articles of incorporation or other organizational documentation for the non-profit organization.
 - b. *By-laws.* The by-laws of the non-profit organization.
 - c. *Covenants and Restriction.* The covenants or restrictions related to the use of common property, including the system and amounts of assessments for perpetuation and maintenance.
 - d. *Fiscal Program.* A fiscal program for a minimum of ten (10) years, including adequate reserve funds for the maintenance and care of all lands, streets, facilities, and uses under the purview of the non-profit organization.
 - e. *Right of Entry by County.* A documentation granting the right of entry upon such common property to the County law enforcement officers, health and pollution control personnel, emergency medical service personnel, and firefighting personnel while in the pursuit of their duties and, in the case of private streets and common driveways, permitting the enforcement of cleared emergency vehicle access.
 - f. *Listing of Holdings.* A complete listing of all land, buildings, equipment, facilities, and other holdings of the non-profit organization, as proposed, and a complete description of each.
 - g. *Maintenance Program.* A recommended program for the maintenance of all major facilities, including streets, street signs, stormwater facilities, pools, sidewalks, parking areas and buildings.
 - h. *Notice to Buyers.* A copy of the proposed notice that will be given to prospective buyers regarding the organization, assessments and fiscal program.
 - i. *Lands to be Dedicated.* A copy of the deed of conveyance and title certificate, or dedication, where applicable, for all lands proposed to be conveyed or dedicated to the County or other appropriate governmental agency.
8. *Required Approval; Filing.* The documents set forth in Section 336.4.C.7, above shall be submitted to the Director for filing before any final plat is recorded or building permit is approved, and such approval shall be obtained before any Final Plat is recorded or Building Permit is approved. Such documents, once approved, shall become part of the recorded subdivision plat or approved special use.
- D. Election of Officers.** In no event shall a certificate of completion be issued for a development until it has been substantiated that the non-profit organization responsible for the ownership, care, and maintenance of common open space and common improvements has been constituted and has elected officers.

Section 337. Installation of Required Improvements**337.1. Certification, Approval of Plans.**

The engineer of record shall certify the design of all required improvements such as streets, drainage structures, bridges, bulkheads, and water and wastewater facilities. All construction drawings for improvements shall be prepared by such engineer in a form acceptable to the Department Director and, prior to construction, must be approved by the Department Director.

337.2. Deferred Improvements.

Where the Department Director deems that improvements are currently infeasible for the County, or to minimize traffic or safety problems, the developer shall provide funds or proper security for his current share of the cost to pay for such improvements at a later date.

337.3. Construction.

Upon approval of all construction drawings, and the approval of any required performance security and written notification to the Department Director, the developer may commence installation of the required improvements in accordance with such approved drawings, or approved written modifications thereto, and the performance standards set forth in Section Chapter 8. Such installation shall be subject at all times to inspection by Federal, State and County agencies, and the developer shall employ an engineer, which need not be full time, for complete observation and approval during such construction activities as necessary to assure compliance with the approved plans. All field and construction changes shall require approval of the Department Director and shall be filed in such written form and detail as specified by the Department Director; and incorporated into the record drawing as applicable.

- A. Posting of Permit.** Work requiring a development order, approved plans or permit shall not commence until the permit holder posts the development order, one set of approved plans and permit card in a conspicuous place on the property. The permit placard for all inspection services will be issued by the Department Director. The development order and permit card shall be protected from the weather and located in such position as to permit the Department Director to conveniently make the required entries thereon. The development order and permit card shall be maintained in such position by the permit holder until the Certificate of Completion or final approval is issued in writing by the Department Director.
- B. Survey Layout.** The developer shall establish lines and levels, to locate and layout, by instrumentation and similar appropriate means, all construction work required to be done under the development order. The physical laying out of the construction work shall be a prerequisite for any field inspection by the Department Director.
- C. Access for Inspections.** Inspections by County agencies and all other agencies having jurisdiction shall be permitted at all times during the installation of all improvements. The applicant shall provide safe and convenient access to all parts of the work for inspections.
- D. Inspections During Construction.** At each of the stages hereinafter indicated, inspections shall be requested by the applicant at least two (2) working days in advance by notice to the Department Director.
 - 1. Clearing, grubbing, filling, grading, and erosion control. (Spot inspection required at beginning and at completion. See also inspection required by Section 801.)
 - 2. The installation of underground utilities and services including the storm drainage system. (Spot inspections required before the backfilling of trenches or other covering of structures.)
 - 3. The storm water management system. (Spot inspection required at completion.)
 - 4. All rights-of-way (inspections required at completion of the subgrade, subbase, base course, and curbing prior to the placement of the surface course).
 - 5. All rights-of-way and easements (spot inspections required during completion of surface course, sidewalks, finish grading, stripping, traffic control and street signs, sodding, seeding and final cleanup).
 - 6. Final inspection of all components required by Section 337.3.
- E. Material Testing.** The Department Director may require tests and test reports for any and all materials incorporated into the work, as proof of compliance with County engineering specifications. Required tests are to be made at the expense of the owner, by an approved testing laboratory or other approved agency.
- F. Correction or Removal of Defective Work.** If required by the Department Director, the developer shall promptly, as directed, either correct all defective work, whether or not fabricated, installed or completed, or if the work has been rejected by the Department Director, remove it from the site and replace it with non-defective work. The developer shall bear all costs associated with the removal and replacement.
- G. Construction Subject to Continued Compliance.** Unless the approval of the work completed, including approval of type of materials specified on the approved plans, to each stage has been given by the Department

Director, no further work shall be done on that particular aspect of construction until such work is subsequently completed to the satisfaction of the Department Director.

- H. Notice to Stop Work.** Upon notice by the Department Director that work at any stage is being done contrary to the provisions of this Code, the Public Works Standards, or in a dangerous or unsafe manner, the work shall immediately cease. Such notice shall be given in writing and shall be given to developer, owner or 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.
- I. Damage to Public Property.** It shall be the responsibility of the developer to restore and/or replace all public property damaged or destroyed which was caused by work of the developer. A pre-inspection of the contiguous and adjacent public property will be conducted by the Department Director prior to the developer commencing any work of the development order. An inspection will be conducted by the Department Director, as a prerequisite to the final approval, which inspection shall review and observe the same contiguous and adjacent public property for possible damage thereto.

337.4. Final Inspection of Improvements.

After all required improvements have been installed, the engineer of record shall submit certified record drawings, in a form acceptable to the Department Director, to the County that the improvements have been constructed substantially according to approved plans and specifications. The Department Director shall periodically inspect all construction subject to this Section. Noncompliance with approved plans or specifications or evidence of faulty materials or workmanship shall be immediately called to the attention of the developer or the engineer and, if not corrected in an expeditious manner, all work on the project will be suspended.

337.5. Performance Security.

When platting is proposed prior to completion of construction, the developer shall:

- A. Agreement.** Record an agreement acceptable to the Board of County Commissioners which commits the developer and/or financial institution to comply with this Section 337; and
- B. Security.** Submit a performance security that satisfies the requirements of Section 337.10. Such performance security shall be in the penal sum of one hundred and thirty percent (130%) of the estimated cost of the required improvements. The performance security shall cover the cost of all improvements and may be adjusted by the Department Director to reflect the completion or partial completion of such improvements.

In the event that the Department Director determines that the developer has failed to complete required improvements, or has failed to provide the County with a substitute performance security in advance of expiration of a performance security, the Department Director shall exercise the County's rights under the developer's agreement and performance security to assure the completion of such required improvements.

337.6. Defect Security.

Before issuance of a certificate of completion, the developer shall submit to the Department Director a defect security that satisfies the requirements of Section 337.10. Such defect security shall be in the penal sum of ten (10) percent of the actual construction cost of all the required public improvements and any private water or wastewater utility improvements. The defect security shall have an expiration date of three (3) years from the date of issuance of the certificate of completion. The financial institution shall be responsible for notifying the Department Director in writing of the expiration date no less than thirty (30) days before the expiration date. (The defect security shall be renewed for an additional ninety (90) days upon the written request of the Department Director.) Defect Securities are required for public improvements that are county maintained

- A. Guarantee of Workmanship.** The purpose of the defect security is to guarantee the materials, workmanship, structural integrity, functioning, and maintenance of the required improvements during the three-year period following issuance of the certificate of completion.
- B. Determination of Defect.** If the Department Director determines after issuance of the certificate of completion that the materials, workmanship, structural integrity, functioning, or maintenance of any of the required improvements is unacceptable, or if he determines that the developer has failed to provide the County with a substitute defect security in advance of expiration of a defect security, he shall so notify the developer by

registered mail of the unacceptable condition, and, subject to subsection C below, he shall afford the developer a reasonable period of time in which to correct the unacceptable condition. If the Department Director thereafter determines that the unacceptable condition has not been corrected, the County may present to the financial institution a demand for payment on the defect security.

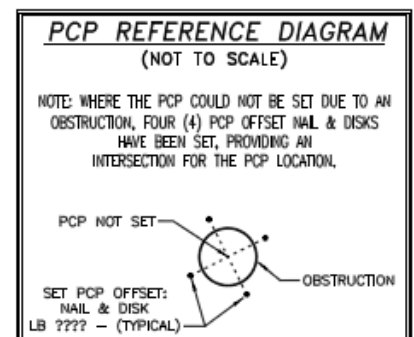
- C. **Expiration.** The reasonable period of time referenced in subsection B above may be shortened or waived at the discretion of the Department Director (a) if the defect security will expire before the end of a reasonable period of time, unless the defect security is renewed for an additional ninety (90) days before the expiration date, or (b) if the unacceptable condition poses a risk or danger to the health, safety, and welfare of the people of the County.

337.7. Certificate of Completion: Approval for Maintenance; Acceptance.

- A. **Maintenance Prior to Acceptance.** The developer shall be responsible for the maintenance and operation associated with the public improvements facilities until approval for maintenance is issued.
- B. **Certificate of Completion.** After successful completion of all improvements, and after receipt of the required documents, the Department Director will provide a certificate of completion verifying the satisfactory construction of all required improvements. The required documents shall include the following:
 1. Completion of satisfactory final inspections.
 2. Submission and approval of a certification by the engineer and registered land surveyor of record, on forms prescribed by the County.
 3. Posting and approval of the required defect security, in accordance with Section 337.5.
- C. **Acceptance of Public Required Improvements.** Upon the issuance of any Certificate of Completion by the Department Director for any public required improvements, the County shall thereby accept responsibility for the maintenance of such improvements, provided such improvements are on land which the County owns, or for which it has accepted an offer of dedication. Maintenance of improvements to be owned by a community development district or other government or private entity shall remain the responsibility of such district or entity.

337.8. Monuments.

- A. **Permanent reference monuments (PRMs).** PRMs shall be a metal rod 18” in length with a minimum cross-section area of 0.2 square inches and encased in concrete having a minimum cross-section area of 12.25 square inches and 24” in length with a metal disk stamped “PRM” and the “LB” number the legal entity or the “LS” number of the platting surveyor. For a boundary line along phased development that is not at or near design grade, or along a conservation easement line, PRMs may be set as permitted by Ch. 177, F.S., or as amended. PRMs shall be set in the ground so that the top is flush or no more than one (1) foot below the finished grade and verified by inspection by the reviewing surveyor.
- B. **Permanent control points (PCPs).** PCPs shall be placed as required by Ch. 177, F.S., or as amended. Where a monument cannot be set due to an obstruction, a diagram shall be included to clarify the references set which establishes the location where the PCP would be located. When the location PCP falls in a pervious surface, it shall be a metal rod 18” in length with a minimum cross-section area of 0.2 square inches and encased in concrete having a minimum cross-section area of 12.25 square inches and 24” in length with a metal disk stamped PCP and the “LB” number of the legal entity or the “LS” number of the platting surveyor. The top shall be flush with the ground or no more than one (1) foot below finished grade.
- C. **FAC Requirements.** Monuments set at lot corners shall satisfy the requirements of 5J-17, Florida Administrative Code.
- D. **Certification.** For plats where the Permanent Control Points and/or Lot Corners are not installed at the time of the recording of the plat, the following certification of the platting surveyor shall be modified and utilized as appropriate: “Permanent Control Points and/or Lot Corner monuments shall be installed and certified by an official affidavit recorded with the Clerk of the Circuit Court within one (1) year of recording of the plat or prior to the release of the improvement bond for the PCPs and/or Lot Corner monuments.



337.9. Certified Record Drawings.

Certified record drawings shall contain the following:

- A. Original approved design;
- B. All field modifications;
- C. Field verified elevations and locations as required under the engineer's certification of completion. Field elevations and locations shall be shown on the record drawings and denoted as such; and
- D. Engineer's certification in accordance with Section 337.9.

337.10. Engineer's Certification of Completion.

The engineer of record shall provide the following certification on certified record drawings:

In the professional opinion of _____ P.E., as a registered engineer in the State of Florida, I certify that the improvements for grading, paving, drainage facilities, water distribution system and wastewater collection system for the project (description of platted lands) have been completed substantially in compliance with the engineering plans approved by Manatee County and in compliance with the Manatee County Code and the Public Works Standards. This determination is based on construction site observations and review of test reports by me or a representative under my direction. Enclosed are record drawings which I have reviewed prior to this certification.

337.11. Requirements for Performance and Defect Securities.

Each performance security posted in accordance with Section 337.4, and each defect security posted in accordance with Section 337.5, shall be an irrevocable letter of credit or surety bond, in a form acceptable to, and issued by a financial institution acceptable to, the County Administrator.

- A. Replacement Security.** If, at any time after posting of a performance or defect security, a material change occurs in the condition of the financial institution, or if the financial institution fails to honor the posted security, and the developer fails to provide a replacement security in satisfaction of this Section 337, (a) the developer may be deemed in violation of this Code, and may be subject to a stop work order or any other remedy available hereunder, and (b) the Department Director may draw upon the security.
- B. Cash Security.** The Department Director may, in his or her discretion, accept cash in lieu of a performance security or defect security, to be held by the County in its depository accounts, if and only if (a) the amount to be secured by such cash deposit does not exceed twenty five thousand dollars (\$25,000), and (b) the total amount of improvements secured through cash deposits by the developer and its affiliates for all projects in the County does not exceed fifty thousand dollars (\$50,000).

337.12. Designation of Department Director.

The County Administrator shall designate an employee to serve as the Department Director and carry out the functions set forth in this Section. The Department Director may designate subordinate employees to carry out such functions under his authority and supervision.

Part VI. Comprehensive Plan, Land Development Code and Zoning Atlas Amendments.

Section 340. Comprehensive Plan Amendments

340.1. Purpose.

The Comprehensive Plan (Goals, Objectives and Policies, and Map Series) may be amended from time to time in accordance with the procedures and standards set forth in the Florida Statutes and this section. The purpose of this section is to outline the general review requirements for plan amendments.

340.2. Review Procedures.

Comprehensive plan amendments may be initiated by a property owner, or the County. The following procedures shall apply to all applications for comprehensive plan amendment.

- A. **Pre-Application Meeting.** The applicant is ~~strongly encouraged, but not~~ required, to schedule and attend a pre-application meeting as provided for in Section 312.2.
- B. **Application submittal.** Applications shall be filed as prescribed in Section 312.3.
- C. **Department Director and DRC Review.** The Development Review Committee shall review the application as prescribed in Section 312.5. The Department Director shall prepare a written report that includes analysis of the application and a recommendation based on the findings required in this Section.
- D. **Planning Commission Review.** The Planning Commission shall review the proposed application at a public hearing. After consideration of the petition, the Commission shall transmit the petition and its recommendation thereon to the Board of County Commissioners.
- E. **Board of County Commissioners Review.**

The Board shall consider the application at one (1) public hearing for small-scale comprehensive plan amendments as required by Section 163.3187, Florida Statutes, or two (2) hearings (transmittal/first reading and adoption) for expedited comprehensive plan amendments per Section 163.3184(3), Florida Statutes.

340.3. Review Criteria for Future Land Use Map and Comprehensive Plan Text Amendments

In reviewing proposed changes to the future land use map that are privately initiated, the reviewing authorities shall consider and evaluate the changes in relation to all pertinent factors, including the following:

- A. The goals, objectives and policies of the comprehensive plan.
- B. An analysis, conducted by the Department Director, of the need for the additional land based on the projected population of the County and the availability of property designated for the land use being requested by the petitioner.
- C. The location of the site in relation to adjacent uses and other similar uses.
- D. The potential impact of the proposed use on adopted level of service standards.

Section 341. LDC Amendments.**341.1. Purpose.**

The text of this Land Development Code may be amended from time to time in accordance with the procedures and standards set forth in this section. The purpose of this section is not to relieve particular hardships, and not to confer special privileges or rights on any person, but only to make adjustments to the text of this Code that are necessary in light of changed conditions or changes in public policy or that are necessary to implement the Comprehensive Plan, to resolve issues of interpretation, or to advance the general welfare of the County.

341.2. Review Procedures

Land Development Code amendments may be initiated by a property owner or the County. The following procedures shall apply to all applications for amendment.

- A. **Pre-Application Meeting.** The applicant is ~~strongly encouraged, but not~~ required, to schedule and attend a pre-application meeting as provided for in Section 312.2.
- B. **Application Submittal.** An amendment to the text of this Code may be initiated by any public body or any applicant. The LDC Amendment application must be submitted as provided in Section 312.3.
- C. **Development Review Committee Review.** The DRC shall review the application as prescribed in Section 312.5.
- D. **Department Director Review.** The Department Director shall review the request as provided in Section 312.5.

- E. Planning Commission Review.** Public hearings shall be conducted in accordance with the general procedures and requirements of Section 312.8 of this Code, Section 125.66, Florida Statutes, and other applicable law.
- F. Board of County Commissioners Review.** At the hearing, the Board may:
1. Determine that the proposed amendment is consistent with the Comprehensive Plan and promotes the public health, safety and welfare, and adopt the proposed amendment as proposed, or with such modifications as are necessary to assure consistency with the Comprehensive Plan and to promote public health, safety and welfare;
 2. Refer the matter back to the Planning Commission for further consideration; or
 - A. Determine that the proposed amendment is not consistent with the Comprehensive Plan or does not promote the public health, safety or welfare, and deny the proposed amendment.

Section 342. Amendments to Official Zoning Atlas.

342.1. Purpose.

The Official Zoning Atlas may be amended from time to time in accordance with the procedures and standards set forth in this section. The purpose of this section is not to relieve particular hardships or to confer special privileges or rights on any person, but to allow adjustments to the Official Zoning Atlas that are necessary to:

- A. Accommodate changed conditions or changes in public policy;
- B. Implement the Comprehensive Plan;
- C. Create a new zoning district; or
- D. Advance the general welfare of the County.

342.2. Review Procedures.

The following procedures shall apply to all applications for amendment to the Official Zoning Atlas:

- A. Applicant:** An amendment to the Official Zoning Atlas may be initiated by:
1. A motion of the Board expressing its intent to consider amending the Official Zoning Atlas;
 2. A person owning the property that is subject to the proposed amendment; or
 3. Owners of fifty (50) percent or more of a parcel of land that is subject to the proposed amendment.
- B. Pre-Application Meeting.** The applicant is ~~strongly encouraged, but not~~ required, to schedule and attend a pre-application meeting as provided in Section 312.2.
- C. Application Submittal.** All applications for amendments to the Official Zoning Atlas shall be prepared and submitted pursuant to Section 312.3. The Department Director shall prepare and file the applications initiated by the Board unless another County department is so directed.

In addition to the information required in Section 312.3, the following shall be submitted with each application:

1. Completed disclosure forms listing the individuals who have a material interest in the approval of the application. The completed disclosure forms shall be included in the materials distributed to the Planning Commission and the Board for all Official Zoning Atlas amendment requests. Completed disclosure forms shall not be required for County initiated Official Zoning Atlas amendments, or for applications filed by governmental entities for the rezoning of property for the purpose of developing public facilities.
2. Applications for rezoning to Planned Development shall be accompanied by:
 - a. A General Development Plan; or
 - b. A Preliminary Site Plan (as required by the Department Director).
 - c. If no site plan is submitted, review shall be per Section 342.4.A below.

- D. Department Director and Development Review Committee Review.** The Director and DRC shall review the application.
- E. Planning Commission Review.** Public hearings shall be conducted in accordance with the general procedures and requirements of this Chapter.
- F. Board of County Commissioners Review.** At the hearing, the Board may:
1. Determine that the proposed amendment is consistent with the Comprehensive Plan and promotes the public health, safety and welfare, and adopt the proposed amendment as proposed, or with such modifications as are necessary to assure consistency with the Comprehensive Plan and to promote public health, safety and welfare;
 2. Refer the matter back to the Planning Commission for further consideration; or
 3. Determine that the proposed amendment is not consistent with the Comprehensive Plan or does not promote the public health, safety or welfare, and deny the proposed amendment.

342.3. Review Criteria for Zoning Map Amendments.

In deciding whether to recommend adoption of, or to adopt, a proposed amendment, the Department Director, Planning Commission or the Board, as the case may be, shall consider whether the proposed amendment is consistent with this Code and the Comprehensive Plan. In determining such consistency, the following factors shall be addressed and considered:

- A. Compatibility with the existing development pattern and the zoning of nearby properties.
- B. Changes in land use or conditions upon which the original zoning designation was based.
- C. Consistency with the current comprehensive plan.
- D. Conflicts with existing or planned public improvements.
- E. Availability of public facilities, based upon a consideration of the following factors:
 1. Impact on the traffic characteristics related to the site, specifically trip generation potential.
 2. Impact on population density or development intensity such that the demand for schools, sewers, streets, recreational areas and facilities, and other public facilities and services are adversely affected.
 3. Impact on public facilities planned and funded to support any change in density or intensity pursuant to the requirements of the comprehensive plan and applicable law.
- F. Health, safety or welfare of the neighborhood and County.
- G. Conformance with all applicable requirements of this Code.
- H. Consistency with the development patterns in the area and appropriateness for orderly development of the community. The cost of land or other economic considerations pertaining to the applicant shall not be a consideration in reviewing the request.
- I. Logical expansion of adjacent zoning districts.
- J. Impact on historic resources.
- K. Environmental impacts.
- L. Types of allowable uses and impact of those on surrounding residential areas.
- M. Relocation of mobile home owners, if applicable, within the meaning of, and pursuant to, Section 723.083, Florida Statutes.
- N. In the case of rezones to Planned Development, consistency with the Planned Development District standards contained in Chapter 4.
- O. Any other matters which may be appropriate for consideration pursuant to this Code, the comprehensive plan

or applicable law.

342.4. Additional Requirements for Amendments to Planned Development Zoning Districts.

- A. Submittal Requirements.** In addition to the other requirements of the previous section, applications for amendments to rezone property to a Planned Development district shall be subject to the following requirements.
1. *Planned Development Application Without Site Plan.* Applications for amending the Official Zoning Atlas to Planned Development districts may be submitted and approved without an accompanying General Development Plan or Preliminary Site Plan, unless required by the Department Director.
 2. *Amendments Approved Without a Site Plan.* An application which does not include a General Development Plan or Preliminary Site Plan shall be reviewed for the range of potential uses allowed within that zoning district. The density/intensity of the use shall be reviewed when the General Development Plan or Preliminary Site Plan is submitted. The zoning map amendment to a Planned Development district may include conditions, limitations and site specific limitations. The approval of a Planned Development zoning category without the approval of a General Development Plan or Preliminary Site Plan shall authorize the submittal of a General Development Plan or Preliminary Site Plan by the property owner, but shall not authorize any development on the subject property.

In any zoning district established without an accompanying General Development Plan or Preliminary Site Plan, or any zoning district in which a General Development Plan or Preliminary Site Plan has been approved pursuant to this Chapter but has subsequently expired, a General Development Plan or Preliminary Site Plan shall be submitted and reviewed pursuant to this Code in the same manner as a General Development Plan or Preliminary Site Plan submitted in conjunction with an application to rezone to a Planned Development district.
 3. *Planned Development with Special Permit Uses.* If an applicant applies for a rezoning to Planned Development and some of the proposed uses/activities on the site require Special Permit approval, only the Planned Development review will be required, provided that the Special Permit criteria (Sec. 316.6) are addressed as part of the Planned Development review.
- B. Planned Districts – Review Criteria.** Planned development districts may be established in appropriate locations, with respect to intended function; in conformance with the goals, objectives, and policies of the Comprehensive Plan; compatible with the surrounding land uses and zoning districts; where they will not adversely impact facilities and services of the County; where they will not set a precedent for the introduction of an inappropriate use into an area; and so as not to encourage nonresidential strip development along streets.
- C. Procedures for Planned Development Zoning Atlas Amendments.**

1. *Applications for Planned Development Zoning.* Applications for Planned Development Zoning Atlas amendments shall be submitted, processed and reviewed as for other amendments to the Official Zoning Atlas. Material submitted with the application, or on subsequent request by the Department Director, shall include the specific zoning district classification requested, the material required by Chapter 5 and other plans, maps, studies and reports, as required below, with sufficient copies for necessary referrals and records.

An application which does not include a site plan (a General Development Plan or a Preliminary Site Plan) shall be reviewed for the range of potential uses allowed within that zoning district. The density/intensity of the use shall be reviewed when the General Development Plan or Preliminary Site Plan is submitted. The approval of a Planned Development zoning category without the approval of a General Development Plan or Preliminary Site Plan shall authorize the submittal of a General Development Plan or Preliminary Site Plan by the property owner, but shall not authorize any development on the subject property.

Applications for zoning atlas amendments for the Planned Development Districts may include submission for approval of a General Development Plan or Preliminary Site Plan or a General Development Plan or Preliminary Site Plan may be submitted after the approval of a zoning atlas amendment for the Planned Development District.

If Planned Development Zoning Atlas amendment is submitted without a General Development Plan or Preliminary Site Plan, conditions, limitations, and specific approval may be placed on the application and

Chapter 3. Review Authority and Procedures

approval of a Planned Development Zoning Atlas amendment.

2. *General Development Plan Requirements Where No Plan Exists.* A General Development Plan or Preliminary Site Plan shall be submitted in accordance with the requirements for and reviewed in the same manner as a General Development Plan or Preliminary Site Plan which is submitted with an application for a rezone.
3. *Public Hearings.* Public hearings shall be conducted in accordance with the general procedures and requirements of Section 312.8 of this Code.

D. Effect of Approval.

1. Approval of an amendment to the Official Zoning Atlas or rezone to PD does not entitle the owner/applicant to do any work on the property, unless the appropriate approvals are obtained.
2. Approval of a PD entitles the applicant to proceed with Preliminary or Final Site Plan review for the entire development or individual phases.
3. With each application for development plan approval, the developer of a planned development shall submit a Tracking Chart on the Cover Sheet of the Final Site Plan. At a minimum, the Tracking Chart shall include the information listed below. If the required progress report is not up to date or is not filed, additional development approvals shall not be granted.
 - a. Updated tracking information for the entire development indicating the status of approvals (with Project Numbers), phasing schedule (if updated), undeveloped areas with remaining number of dwelling units and/or square feet to be constructed, the number, size, type and locations of all structures and improvements that have been installed or constructed.
 - b. Subsequent developers or owners. The names of any subsequent developers and owners of any increments, phases or portions of the planned development.

E. Typographical or Drafting Errors. Notwithstanding any other provisions set forth above, amendments to correct typographical or drafting errors on the Official Zoning Atlas may be adopted by the Board at a regular meeting without the posting or personal delivery of prior notice and without a public hearing.

F. Resubmission of Application after Denial. An application for amendment of the Official Zoning Atlas shall not be resubmitted for consideration for a period of one (1) year after the date on which an application for substantially the same proposed amendment has been rejected. This section shall not apply to proposed amendments initiated by the County, or where the Board specifically authorizes resubmittal based upon new information.

342.5. Additional Requirements for Rezoning to the MP-I District.

- A. Filing of Application.** Any person wishing to rezone property into the MP-I District and to undertake development within the MP-I district shall file an application with the Department Director in accordance with the provisions of Section 342, and this Section. Such application shall include a copy of an Institution Master Plan.
- B. Review Procedures.** The review and approval procedures for an Institutional Development shall be the same as for a rezoning pursuant to Section 342, Amendments to Official Zoning Atlas.
- C. Institution Master Plan.** In addition to the application requirements for rezoning, the applicant shall provide an Institution Master Plan for review and approval. The plan shall provide sufficient detail for the Board to determine that compatibility between adjacent uses will be achieved upon build out. The plan shall include, at a minimum, the following information:
 - Property Boundary
 - General Range of Uses, including principal and accessory uses
 - Range of Density and/or Intensity, as appropriate
 - Building Height
 - External Access Points
 - Minimum Setbacks from Property Boundary
 - Upland Preservation Areas
 - Wetlands, wetland buffers and proposed wetland impacts

Chapter 3. Review Authority and Procedures

- Perimeter buffers

- D. Board of County Commissioner Approval.** In review of the Institution Master Plan, the Board of County Commissioners may limit the range of uses to ensure compatibility with adjacent existing or future land uses. The Board may also approve specific building heights, perimeter buffers, and setbacks not in strict compliance with Chapter 4 based upon a review of the plan.
- E. Further Development Review Procedures.** Upon approval of a Zoning Atlas Amendment and accompanying Institution Master Plan by the Board of County Commissioners, the applicant may proceed with approvals of site plans in accordance with this chapter. Such approvals shall be consistent with the approved Institution Master Plan and may be approved in phases. Future development shall occur in accordance with regulations in effect at the time, with the exception of the information contained on the Institution Master Plan (e.g., details of landscaping, lighting, parking, etc. will not be shown on the master plan but future approvals will be required to comply with the most current regulations).
- F. Uses Proposed.** Uses must be consistent with and allowed under the range of potential uses for the applicable Future Land Use Category of the Comprehensive Plan. Uses listed as permitted in Chapter 4 must be declared as either principal or accessory on the Institution Master Plan.

The following uses may be considered principal uses: Office, Hospital, Research and Development Activity, Churches or other places of worship, College/University, Schools of Special Education, Cultural Facilities, and Nursing Home.

All remaining uses permitted in Figure 6-1 shall be allowed as accessory uses if they are listed on the Institution Master Plan.

- G. Effect of Approval.** Upon approval of the Institution Master Plan by the Board through adoption of a Development Order, the applicant may apply directly for approval of a Preliminary/Final Site plan and may indicate phases on that plan. Subsequent applications may depart from the phasing plan if each site plan provides access and other common improvements adequate to serve all cumulative developments in the event other phases fail to develop timely.
- H. Modification.** Minor Modifications may be approved by the Director after a finding of consistency with the Institution Master Plan and Comprehensive Plan. Should future development conditions warrant a major modification to the Institution Master Plan, such an amendment shall be reviewed and approved in the same manner as the original plan.
- I. Expiration.** Upon approval, the Institution Master Plan shall not expire.
- J. Other Permits Required.** Nothing in this Section shall eliminate the obligation of the applicant to obtain any required permits from State or Federal agencies.
- K. Revocability.** In the event the Director determines, in his or her sole discretion, that the applicant has failed to suitably monitor the progress of the development under the Institution Master Plan so as to trigger or have a factual basis to conclude that the numerical thresholds will be exceeded such as to trigger review as a development-of-regional-impact, the Director shall notify the applicant in writing of his or her determination. The applicant(s) receiving such notice shall have the right to appeal pursuant to Section 370, LDC, of the decision or interpretation of the Director in the enforcement of this Code requirement. The applicant shall record a notice to buyers in the public records at such time as any parcel or portion of the property is sold or transferred to another legal entity of the requirement of a subsequent purchaser to comply with the monitoring requirements regarding numerical thresholds and development-of-regional-impact review.

Such appeal shall be heard by the Board. The Board, at its option, based upon evidence in the record and exclusive of all other remedies available to the Board pursuant to Land Development Code and applicable law, may revoke the approval of a portion of the Institution Master Plan for which no Preliminary/Final Site Plan has been issued in order to prevent issuance of further development orders and prevent the exceedance of numerical thresholds for development-of-regional-impact review. In the event the approval of all or a portion of the Institution Master Plan is revoked by the Board, the Board shall adopt a resolution providing for such revocation and a Notice of Revocation shall be recorded in the public records.

Section 343. to 344 Reserved.**Part VII. Other Applications.****Section 345. Zoning Compliance Permit.****345.1. Zoning Compliance Permit Required.**

Except as otherwise specifically provided in this code, 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 existing 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.

345.2. Review Procedures.

- A. Application Submittal.** An application for a zoning compliance permit shall be submitted to the Department Director.
- B. Department Director Review.** Upon receipt of a completed application, the Department Director or designee shall cause an analysis to be made as expeditiously as possible by qualified representatives of the County and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with the applicable provisions of this chapter. Final action shall be based on findings as to compliance with all applicable provisions of this chapter. The permit may be approved, approved subject to conditions, or denied.
- C. Actions Subsequent to Decision.** In the case of approval or approval with conditions, the Department Director or designee shall issue the zoning compliance permit. In the case of denial of an application, the applicant shall be notified as soon as possible, in writing, of the reasons for such denial.

345.3. ~~Expiration.~~

If the use, construction or activity authorized by approval of an application for a zoning compliance permit is not commenced within six (6) months of the date of issuance of the permit, or within such further time stipulated in such permit, the zoning compliance permit shall automatically expire. Any other approval, grant, certificate, building permit or special permit issued or granted by the County pursuant to or in conjunction with the zoning compliance permit shall become null and void unless any required work thereon is substantially underway or lawful use has begun within six (6) months after the effective date of the issuance of such approval, certificate, grant, building permit or special permit, unless otherwise provided in this chapter. The Department Director or designee shall determine whether the use, construction or activity is substantially underway or has begun upon review of substantial competent evidence.

Section 346. Certificate of Appropriateness.**346.1. Certificate of Appropriateness Required.**

No person may remove, relocate, alter, restore, renovate, demolish, destroy, excavate or build on a historic landmark, property listed with the National Register of Historic Places (listed after 01-01-17), in a historical and archaeological overlay district, or in a historic vista protection area without first obtaining a certificate of appropriateness. The following are the specific activities requiring a certificate of appropriateness in each designated district:

- A. Whitfield Estates Historical and Archaeological Overlay District.** The removal, relocation, alteration, restoration, or renovation that includes a change in exterior facade materials; the demolition or construction on any site that contains a principal building built prior to 1932.
- B. Terra Ceia Historical and Archaeological Overlay District.** The removal, relocation, alteration, restoration or renovation that includes a change in exterior facade materials; the destruction of any exterior portion of a building built prior to 1942; or the construction of any waterfront structure in excess of two hundred (200) square feet in area.

Chapter 3. Review Authority and Procedures

C. Cortez Fishing Village Historical and Archaeological Overlay District. The removal, relocation, alteration, restoration, renovation, destruction or building of any structure or the excavation of any site, except for mobile homes and recreational vehicles located in the Cortez Trailer Park.

346.2. Review Authority.

Unless the application meets criteria for administrative approval as adopted by the Historic Preservation Board by resolution, the Historic Preservation Board shall review all applications for a Certificate of Appropriateness.

346.3. Review Procedures.

A. Application Submittal. A person desiring a certificate of appropriateness shall submit a written application to the Department Director.

B. Department Director Review. Upon receipt of the complete certificate of appropriateness application, the Department Director shall review and act on the application in accordance with subsection 347.3 if the request qualifies for administrative review based on the Overlay District, property listed with the National Register of Historic Places (listed after 01-01-17) and/or within a historic vista protection area and the type of work requested as set forth in subsection 347.2.

C. Historic Preservation Board Review. Applications that do not qualify for administrative approval shall be forwarded to the Historic Preservation Board for review and approval subject to the provisions of Section 312.8.

D. Criteria for Board Review. In approving or denying applications for certificates of appropriateness for alterations, new construction, demolition or relocation, the Historic Preservation Board shall consider:

1. the relationship between such work and other structures in the landmark Historical and Archaeological Overlay District, property listed with the National Register of Historic Places (listed after 01 01-17), in a historic vista protection area or on the historic landmark;
2. the effect of the proposed work on the Historical and Archaeological Overlay District, property listed on the National Register of Historic Places (listed after 01-01-17), in a historic vista protection area or historic landmark upon which such work is to be done;
3. the extent to which the historic, architectural, or archaeological significance, architectural style, design, arrangement, texture, materials and color of the historic or archaeological landmark will be affected;
4. whether the denial of a certificate of appropriateness would deprive the property owner of reasonable beneficial use of his property; and
5. whether the plans may be reasonably carried out by the applicant.

E. Additional Guidelines for Alterations

1. ~~a-~~A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. ~~b-~~The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. ~~c-~~Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. ~~d-~~Most properties change over time; those changes which have acquired historic significance in their own right shall be retained and preserved.
5. ~~e-~~Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. ~~f-~~Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

Chapter 3. Review Authority and Procedures

7. ~~g.~~ Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 8. ~~h.~~ Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 9. ~~i.~~ New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the Requirements for Demolitions. No Certificate of Appropriateness for demolitions shall be issued by the Historic Preservation Board until one (1) or more of the following criteria have been met:
 - a. ~~a.~~ The applicant has demonstrated that no other feasible alternative to demolition can be found.
 - b. ~~b.~~ The portion of the structure being demolished has no historic value.
 - c. ~~c.~~ The applicant has demonstrated a substantial economic hardship in that the property in the historic district cannot be put to reasonable beneficial use without the approval of the demolition application.
 - d. ~~d.~~ In the case of an income-producing building, the applicant must demonstrate that he cannot obtain a reasonable return of economic investment from his existing structure.
 - e. ~~e.~~ The Historic Preservation Board has determined that the property no longer contributes to a historic district or no longer has significance as a historical and archaeological landmark. The Historic Preservation Board must also determine that the applicant did not cause or allow a change in the historic character of the structure by alterations, improvements or neglect. Demolition by neglect is a violation of this section.
 - f. ~~f.~~ The Historic Preservation Board may approve, deny or continue a decision for a period not to exceed one (1) year on an application for a Certificate of Appropriateness for demolition in order to:
 - i. ~~a.~~ Contact interested individuals and organizations for assistance in seeking an alternative to demolition; or
 - ii. ~~b.~~ Allow an applicant to supply additional information as requested by the Historic Preservation Board which may include, but is not limited to, evidence showing that plans for a new building on the site will be implemented.
- F. ~~H.~~ Additional Guidelines for Relocation.** When an applicant seeks to obtain a Certificate of Appropriateness for the relocation of an historic landmark, property listed on the National Register of Historic Places (listed after 01-01-17), a structure in the Historical and Archaeological Overlay District or in a historic vista protection area or wishes to relocate a building or structure to an historic landmark, to a property listed on the National Register of Historic Places or to a historic vista protection area or to a property in the Historical and Archaeological Overlay District, the Historic Preservation Board shall also consider the following: (1) the contribution the building or structure makes to its present setting; (2) whether there are definite plans for the site to be vacated; (3) whether the building or structure can be moved without significant damage to its physical integrity; and (4) the compatibility of the building or structure to its proposed site and adjacent properties.
1. ~~a.~~ Upon receipt of the complete Certificate of Appropriateness application, the Planning Director shall forward it to the Historic Preservation Board, who will, within a reasonable period of time, meet to review and approve the application.
 2. ~~b.~~ The Historic Preservation Board may adopt procedures consistent with the criteria set forth in Section 347.3 which would allow review by the Planning Department without further review by the Historic Preservation Board for certain Certificates of Appropriateness so designated by the Historic Preservation Board.
- G. ~~I.~~ Fees.** The application shall be accompanied by a Certificate of Appropriateness fee in an amount to be prescribed by the Board.
- H. ~~J.~~ Enforcement.** Any alterations, renovations, restorations, excavations, movement, demolition or erection of structures on properties regulated under this section without approval of a Certificate of Appropriateness shall constitute a violation of this Code and be subject to the provisions of Section 106 of this Code.

Chapter 3. Review Authority and Procedures

- I. ~~K.~~ The Historic Preservation Board shall approve, deny, or approve with conditions Certificates of Appropriateness.

346.4. ~~347.4~~ Type of Review.

The determination regarding review of an application for a certificate of appropriateness by the Department Director (DD) or the Historic Preservation Board (HPB) shall be based on the Overlay District, the Historic Landmark, the property listed on the National Register of Historic Places (listed after 01-01-17) and/or the historic vista protection area the where the property or structure is located and the type of work requested in the application as follows:

Type of Work Requested	Review/Approval Entity
All Historical and Archeological Overlay Districts, Historic Landmark, historic vista protection area and/or Listed with the National Register of Historic Places (listed after 01-01-17)	
Addition	
Ten percent (10%) or less of existing building square footage and consistent with existing building façade	DD
All Others	HPB
Carport (addition or enclosure)	HPB
Deck, patio or pergola	
- With structure	HPB
- Without structure	DD
Demolition	HPB
Door or garage door	
- Same material, style and size	DD
- Change in material (consistent with existing building	DD
- Change in opening	HPB
Exterior wall finish	
- Removal of non-historic finish	DD
- All other finishes	HPB
- Relocation	HPB
Roof	
- Same material	DD
- Change in material	HPB
Shed	DD
Window	
Same material, style and size	DD
Change in material or style (consistent with existing building)	DD
All others	HPB
Cortez	
Excavation	HPB
New construction (on vacant lot)	HPB
Roof	
Repair or change in material (consistent with the Cortez Village Design Guidelines)	DD
Terra Ceia	
Dock (greater than 200 square feet)	DD
New construction (on vacant lot)	N/A
Whitfield	
New construction (on vacant lot)	N/A

346.5. ~~347.5~~ Administrative Review.

- A. ~~A.~~ No public hearing shall be required on any application for a certificate of appropriateness reviewed by the Department Director.

- B. ~~B.~~ Administrative approval based on compliance with Section 347 as listed above.
- C. ~~C.~~ Copies of the written decision of the Department Director regarding a certificate of appropriateness that qualifies for administrative review shall be provided by first-class mail to the owner of the property and structure.
- D. ~~D.~~ Any decision of the Department Director regarding a certificate of appropriateness that qualifies for administrative review may be reviewed by a court of competent jurisdiction upon petition by an aggrieved party in accordance with applicable law.

Section 347. Developments of Regional Impact (DRI).

A Development of Regional Impact (DRI) shall be as defined in Chapter 380, Florida Statutes. All review shall occur as specified by the statutes.

Section 348. Local Development Agreements.

348.1. Purpose and Intent.

Pursuant to Sections 163.3220 through 163.3243, Florida Statutes, development agreements may be entered into by a developer and the County to secure the completion of improvements or performance of other developer obligations in consideration for any procedural or substantive right or entitlement, as may be authorized and required by this Code, the comprehensive plan and applicable law.

348.2. Application.

Application for a development agreement shall be made to the Department Director, and may be filed in conjunction with an application for development approval.

Development agreements shall be reviewed, approved and administered as provided in this section and Sections 163.3220 through 163.3243, Florida Statutes. If, in the course of such review, approval or administration of a development agreement, a conflict arises between this section and state law, state law shall govern. Amendments and modifications to development agreements shall be treated in the same manner as approvals of development agreements under this section.

348.3. Form of Agreement for Public Improvements.

Applicants shall be responsible for preparing a draft development agreement using the standardized form provided by the County, and shall specifically identify each substantive change to such form in the draft.

348.4. Review Procedures.

- A. **Staff Review.** All development agreements shall be reviewed and processed for completeness and sufficiency pursuant to the requirements of this Chapter.
- B. **Standards of Review.** All proposed development agreements shall be reviewed to assure that:
 - 1. Any requirement for Manatee County or a private party to invest in any new construction or improvement of any facility is based upon compliance with all other applicable level of service standards, unless compliance, with adopted level of service standards is made a condition of the local government land development agreement;
 - 2. Any construction or improvement complies with the County's design, engineering and construction standards; and
 - 3. Any rights or entitlements granted pursuant to the development agreement are consistent with this Code and the comprehensive plan.
- C. **Approval.** Development agreements are to be treated as quasi-judicial matters. Accordingly, the applicant shall bear the burden to demonstrate that a development agreement satisfies the requirements of this Section. Except

Chapter 3. Review Authority and Procedures

to the extent otherwise required by applicable law, the approval of any development agreement that requires the County to accept or to construct public improvements, or requires the County to accept funds or other consideration toward public improvements, shall be subject to the fiscal and managerial discretion of the Board of County Commissioners.

- D. Public Hearings.** At least two (2) public hearings shall be held prior to the approval of a development agreement by the Board. One (1) of the two (2) required public hearings may be held before the Planning Commission. The hearings must be noticed in accordance with this Chapter.

348.5. Recording.

The County, at the applicant's expense, shall record the development agreement in accordance with the State Statutes.

348.6. Administration of Development Agreements.

Development agreements shall be subject to periodic review, amendment or cancellation, modification or revocation, and enforcement, pursuant to and in accordance with this section.

348.7. Application of Subsequently Adopted Local Laws and Policies.

The County may apply subsequently adopted laws and policies to a development that is subject to a development agreement only in accordance with the requirements of the State Statutes.

Section 349. Environmental Preserve Management Plan (EPMP).

349.1. EPMP Required.

- A. Purpose and Intent.** An environmental preserve management plan (EPMP) is required to ensure improvements and uses within an Environmental Preserve are designed to adequately protect natural features on the site.
- B. Applicability.** EPMPs prepared and approved in accordance with the provisions of this section shall be utilized to assure compliance with all applicable requirements of this Code. The EPMP shall include appropriate measures for stormwater management, wetland protection, and habitat, wildlife and endangered species protection.

349.2. Plan Requirements.

The EPMP shall include a site plan that contains sufficient detail to ensure compliance with all applicable development standards in the Code. In circumstances where detailed development information is not available at the time of the EPMP, acknowledgement of the need to comply with applicable development standards will suffice.

The application for an EPMP shall be submitted by the Department Director to appropriate reviewing agencies including the Development Review Committee.

349.3. Review Procedures.

- A. Pre-Application Meeting.** The applicant is required to schedule and attend a pre-application meeting consistent with the requirements of Section 312.2.
- A-B. Planning Commission Review.** The Planning Commission shall hold a public meeting pursuant to this Chapter to review the proposed management plan.
- B-C. Board of County Commission Review.** The EPMP shall be considered by the Board at a public hearing pursuant to this Chapter.
- C-D. Modifications.** Where action, designs, or solutions proposed are not literally in accord with applicable general regulations, but the Board makes a written finding in the particular case that the public purposes of the regulation are satisfied to an equivalent or greater degree, the Board may grant modifications for the particular case. However, where floor area and similar building ratios, as well as maximum permitted densities have been established by these regulations, the Board shall not grant specific approval to increase such ratios, maximums,

or minimums.

Minor modifications may be approved by the Department Director, after a finding of Comprehensive Plan consistency.

349.4. Review Criteria.

Environmental preserve management plans shall show compliance with the standards outlined in the following sections:

- | | |
|--|------------------------------------|
| 352. Temporary uses. | 1002. Visibility triangles. |
| 360. Certificates of Level of Service. | 802. Floodplain management. |
| 310.3. Building permits. | 403.6. Historic vista protection. |
| 520. Standards for Temporary Uses. | 803. Utility Service Requirements. |
| 806. Lighting. | 801. Stormwater Management. |

349.5. Other Permits Required.

Nothing in this section shall eliminate the obligation of the County to obtain any required permits from state or federal agencies. A Certificates of Level of Service compliance, all required County permits, and approval for utility connections shall be obtained.

349.6. Effect of Approval.

The approval of an EPMP pursuant to this section shall satisfy the requirement for Final Site Plan approval for purposes of compliance with this Code. In circumstances where a property is zoned Planned Development, the approved EPMP shall supersede any previously approved plan and/or stipulation. All required Building Permits, Floodplain Management Permits, Erosion, and Sedimentation Control Plans, Certificates of Level of Service and Construction Drawing approvals for utility connections shall be obtained.

Section 350. Public School Determinations of Consistency.

350.1. Purpose and Intent.

This section sets forth the procedures and criteria for issuance of determinations of consistency for public educational facilities pursuant to Section 1013.33(6), Florida Statutes, and the alternative procedures adopted pursuant to Section 1013.33(8), Florida Statutes, under the Amended and Restated Interlocal Agreement ("Interlocal Agreement") for Public School Facility Planning between the School Board of Manatee County ("School Board"), the County and certain municipalities.

350.2. Applicability.

This section shall apply to the development of all public educational facilities by the School Board within the meaning of Section 1013.01, Florida Statutes. Pursuant to Section 1002.33(16), Florida Statutes, this Section shall not apply to the development of charter schools.

350.3. Review Procedures.

With respect to each proposed educational facility, the School Board and the County shall follow the procedures and requirements set forth in Section 1013.33(6), Florida Statutes, as amended, for the issuance of a determination of consistency with the comprehensive plan (including, without limitation, the requirement that a complete request be deemed approved if the County fails to act upon it within ninety (90) days), subject to the following conditions:

- A. Completeness.** In order to be deemed "complete", a request for determination of consistency must include the following items:
1. School Site Plan application;
 2. All applicable information required by the School Site Plan standards set forth in Exhibit "C" to the Interlocal

Chapter 3. Review Authority and Procedures

Agreement, as amended from time to time; and

3. Pedestrian plan for new educational facilities illustrating sidewalks which exist or are proposed on thoroughfare roads within a two-mile radius of the school site.
 4. Other items may be requested of the School Board and considered by the County, but are not required in order for the request to be deemed "complete".
- B. Statutory Time Limit.** The time periods set forth in Section 1013.33(6), Florida Statutes, shall begin to run from the date that the Director acknowledges in writing that the County has received a complete request for determination of consistency. If the County does not issue either (a) a written acknowledgement that the request is complete, or (b) a written determination that the request is incomplete with a list of the specific items from the School Site Plan standards set forth in Section 350.3.A that should be provided in order to complete the request, then, within ten (10) business days from the initial date of submittal and within five (5) business days of subsequent submittals, the request shall be deemed to have been determined to be complete. The ninety (90) day window for issuing the determination of consistency shall not apply if the school board submits a General School Plan to the County for review.
- C. Board Consideration.** A request for determination of consistency for a public school facility shall be decided by the Board.
- D. Quasi-Judicial Procedures.** The Board shall consider determinations of consistency in accordance with the requirements for quasi-judicial decisions pursuant to Section 312.8. No affected party shall be deemed to have waived any requirement of any statutory provision referenced herein unless such waiver is made by written instrument expressly stating such party's intent to waive such provision.
- E. Existing Schools.** With respect to the expansion of any existing educational facility, the County shall adhere to the requirements of Sections 1013.33, Florida Statutes. Existing educational facilities shall be considered consistent with the comprehensive plan. When the need for closure of an education facility is identified, the School Board's superintendent shall notify the County in writing and shall give due consideration to any concerns and alternatives set forth by the County. Any expansion of an existing educational facility shall only be subject to the informational requirements, procedures, timeframes, and review process requirements of this section, and only if the proposed expansion constitutes a major renovation or construction in that the expansion:
1. Increases school permanent FISH capacity by more than ten (10) percent;
 2. Provides for a change to the primary use of the educational facility (with respect to change in type of school from elementary, middle or high school to a different type of school); or
 3. Provides for the construction of a stadium.
 4. Review of any such expansion shall be limited to those aspects of the educational facility affected by the expansion.
- F. Compliance with Decision.** As required pursuant to the Interlocal Agreement, the School Board shall not act in a manner that is contrary to the County's decision regarding a determination of consistency. In the event the School Board does not agree with the County's decision, the School Board may initiate dispute resolution procedures in accordance with the Interlocal Agreement.

350.4. Standards and Criteria.

All determinations of consistency shall be subject to the following standards and criteria:

- A. Zoning Districts.** Public educational facilities shall be allowable uses in all zoning districts, except heavy manufacturing and conservation zoning districts subject to compliance with applicable development standards set forth in this section. Public Educational Facilities may be allowed in heavy manufacturing and conservation zoning districts at the discretion of the County.
- B. Criteria for Approval.** The Board shall review for consistency with the comprehensive plan in regard to impacts on natural resources, surrounding land uses and public facilities. If the request is determined to be consistent with the County's comprehensive plan land use policies and categories in which public school facilities are allowable uses, and with this section, then the County shall not deny the request for determination of consistency but shall issue a determination of consistency. The issues to be considered by the Board in deciding whether to grant a

Chapter 3. Review Authority and Procedures

determination of consistency request shall be limited to those specified in Section 1013.33, Florida Statutes.

- C. Conditions of Approval.** With respect to each proposed educational facility, the Board may place reasonable development standards and conditions upon the approval of a determination of consistency relating to environmental concerns, health, safety and welfare, and effects on surrounding property. Any condition requiring off-site improvements by the School Board shall be subject to the limitations established by Section 1013.51, Florida Statutes.

350.5. On-Site and Off-Site Improvements.

In conjunction with a determination of consistency, the School Board and the County shall determine the need for and timing of on-site and off-site improvements necessary to support a proposed educational facility construction or renovation and the needs and/or opportunities for construction of additional area improvements on a cooperative basis. Any improvements by the School Board required or agreed to in order to fulfill the requirements of this section shall be subject to the limitations established by Section 1013.51, Florida Statutes. A written agreement between the School Board and the County may be entered into concerning the timing, location, and the party or parties responsible for constructing, operating and maintaining such improvements.

350.6. Effect of Determination of Consistency.

Issuance of a determination of consistency by the County for an educational facility shall satisfy the requirements for development approval for the education facility, including without limitation:

- A. All development approvals required pursuant to this Code and the comprehensive plan; and
- B. All development approvals required from the County pursuant to Section 1013.33, Florida Statutes.

Accordingly, upon issuance of a determination of consistency by the County, the School Board shall not be required to seek any additional approvals from the County for development of the subject educational facility, so long as it is developed in accordance with the determination of consistency and any conditions imposed there under pursuant to this section.

Section 351. General Plans for Educational Facilities.

351.1. Purpose and Intent.

This section sets forth the procedures and criteria for submission by the School Board, at their option, of a General School Plan for purposes of long-range school planning. The submittal of a General School Plan is intended to facilitate implementation of the Public School Facilities Element of the comprehensive plan so as to provide for collaboration in the planning for future sites for educational facility site selection consistent with the comprehensive plan and growth and development patterns of Manatee County. The submittal of a General School Plan by the School Board shall be supplemental to the procedure for the future determination of a School Site Plan as to consistency pursuant to Section 350 of this Code.

351.2. Review Procedures.

- A. Application.** In order to be deemed "complete", a request for review of a General School Plan must include the following items:
1. School General Plan application;
 2. All applicable information required by the General School Plan standards set forth in Exhibit "B" to Ordinance 09-59.
 3. Other items may be requested of the School Board and considered by the County, but are not required in order for the request to be deemed "complete."
- B. Board Consideration.** The Board shall consider and comment on a General School Plan in accordance with the requirements for quasi-judicial decisions pursuant to this Chapter. A request for consideration of a General School Plan shall be decided by the Board.

C. Conditions. There shall be no conditions of approval placed upon the review of the General School Plan by the Board. Provided, however, the Board may place reasonable development standards and conditions upon the future consideration of a determination of consistency relating to environmental concerns, health, safety and welfare, and effects on surrounding property.

351.3. Review Criteria.

The Board shall review the degree to which the proposed General School Plan complies with the standards set forth in Form A-25 "General School Development Plan Submission Requirements for Completeness Review and General School Plan Standards".-

351.4. Effect of Review and Consideration of General School Plan.

The review of a General School Plan by the Board shall serve as a planning tool for the following:

- A. The General School Plan shall guide the siting of schools and remain in effect until such time the School Board submits a School Site Plan which is approved by the Board for the subject site. The action by the Board shall be codified as a resolution to approve or deny the proposed General School Plan.
- B. The General School Plan shall serve only as a planning tool and shall not be relied upon for determinations of satisfying school concurrency requirements as described in Article VII of the Interlocal Agreement and in Chapter 163, Part II, Florida Statutes.

Section 352. Temporary Use Permits.

352.1. Temporary Use Permit Required.

No temporary use which is not otherwise treated by this Code as a permitted use or Special Permit use in a particular zoning district shall be conducted or erected without a temporary use permit issued by the Department Director. The issuance of a temporary use permit shall not be deemed to amend the Official Zoning Atlas or this Code. The issuance of a temporary use permit does not waive any requirements for a Building Permit.

352.2. Review Procedures.

Applications for a temporary use shall be made at least thirty (30) days prior to the proposed commencement date for the use. The application shall include a description of the proposed activities, the time period for which the permit is requested, a site plan depicting the proposed use of the site and any temporary site or building improvements proposed, and any additional information and documentation as may be required by the Department Director. Plans for sanitation and public health protection including temporary bathroom facilities, inspection of food facilities, drainage, garbage and litter control, and recycling, shall be approved by the Department Director and the Health Department, when applicable.

Unless otherwise provided herein, the Department Director has the authority to approve a temporary use permit in accordance with procedures set forth in Section 315.

The Department Director may impose reasonable conditions upon the temporary use permit including, without limitations, any conditions or restrictions placed on the proposed use activities to address hours of operation, traffic control and access, lighting, sanitation, and noise control to ensure compliance with the standards above.

352.3. Duration of Temporary Use Permit.

Unless specifically authorized in Chapter 5, no temporary use permit shall allow continuation of the use for a period of more than six (6) months, unless approved at a public hearing of the Board of County Commissioners in accordance with Section 312.8. Such a request shall not require a Planning Commission review.

By the end of the time period for which the temporary use was permitted, including any renewal or extension periods, the use shall be discontinued, all temporary structures involved removed, and the site restored to an acceptable condition free of debris and code violations.

352.4. Extension of Temporary Use Permit.

An applicant who has obtained a temporary use permit may request an extension of the permit period by filing, before expiration, a letter stating the reasons for the request with the Department Director. The Director may grant, for good cause shown by the applicant, one renewal or extension of a temporary use permit for a maximum period not to exceed ninety (90) days, unless otherwise specified in this Chapter or by the authority initially approving the temporary use permit. Such renewal or extension may be granted, subject to the standards and procedures of this section. Only one extension may be granted under this subsection

352.5. Consolidated Permits.

Where an activity or project, such as a construction project, involves more than one (1) temporary use regulated under this section, a consolidated temporary use permit may be issued for all such uses involved in the activity or project.

352.6. Violations and Appeals.

Enforcement and violations of this section shall be addressed as specified in Chapter 1 of this Code. The denial or revocation of a temporary use permit may be appealed in accordance with the procedures set forth in Section 370 of this Code.

Section 353. Erosion and Sediment Control Plan.**353.1. Applicability.**

Development approval that, pursuant to this Code, requires a Final Site Plan or construction plan shall also be subject to the requirement of an Erosion and Sediment Control Plan (ESCP) pursuant to this Section.

353.2. Application Requirements.

Prior to commencement of construction activities, the applicant shall submit an ESCP to the Department Director for review and approval. Construction activities shall not commence unless and until such approval is obtained. Pursuant to Section 102, the County Administrator shall establish administrative procedures setting forth the requirements for information to be submitted with any application for an ESCP.

353.3. On-Site Meeting.

The applicant shall schedule an on-site meeting with Manatee County staff, as well as the engineer of record and the contractor. Final approval of the ESCP and authorization of construction will be granted only after an on-site meeting has been conducted. Prior to scheduling the on-site meeting the developer shall:

- A. Obtain all applicable approvals (Final Site Plan, construction plans, environmental resource permit and NPDES permit);
- B. Stake the boundaries of the wetland buffers, upland preservation areas or other environmentally sensitive areas, as indicated on the approved Final Site Plan/construction plans; and
- C. Stake all silt screen locations every one hundred (100) feet, as indicated on the approved Final Site Plan/construction plans.

353.4. Changes.

Prior to approval of the ESCP, the applicant shall make any changes to the ESCP that staff deem necessary to assure compliance with this Code and the Comprehensive Plan. Changes to an approved ESCP must be submitted to staff by the engineer of record for review and approval prior to implementation, and are subject to the approval of the Department Director. Additionally, changes to an ESCP that also constitute changes to a Final Site Plan are subject to the requirements of Section 324. Changes to an ESCP that also constitute changes to construction plans are subject to the approval of the Department Director.

Section 354. Mining Activity Permitting**354.1. Mining Approval Types**

- A. Phosphate mining operations require the approval of a Master Mining and Reclamation Plan meeting the requirements of the Manatee County Phosphate Mining Code (Chapter 2-20, Code of Ordinances)
- B. Major Earthmoving operations require the approval of an Earthmoving Site Plan meeting the requirements of Section 702.3 and shall follow the review and approval procedures for a Preliminary Site Plan in Section 322.
- C. Other mining operations require the approval of a Master Mining and Reclamation Plan in accordance with the procedures contained in this section.

354.2. Review and Approval Procedures.

- A. Pre-application Conference.** The developer of a proposed mining activity shall meet with the Department Director and other affected County agencies prior to the preparation or submission of a Master Mining and Reclamation Plan. The purpose of this meeting shall be to discuss informally the minimum requirements and design standards for proposed mining activities as well as to discuss existing or proposed developments which may affect, or be affected by the proposed activities. For the purpose of such discussion, it is advised that the applicant have a sketch plan indicating the proposed project area, its relationship to the surrounding area, and its general development scheme. Formal application or filing of a plan with the Department Director is not required for the Pre-application Conference.
- B. Filing of Application.** Following the Pre-application Conference, a developer wishing to undertake a mining activity shall file an application with the Department Director in accordance with the provisions of Section 342, Amendments to Official Zoning Atlas, and this Section. Such application shall include a copy of the Master Mining and Reclamation Plan.
- C. Review Procedures.** The review and approval procedures for Master Mining and Reclamation Plan shall be the same as for a rezoning pursuant to Section 342, Amendments to Official Zoning Atlas.
- D. Modifications.** In approving a Master Mining and Reclamation Plan, the Board may require such modifications as shall assure compliance with the purpose and intent of the EX district regulations.
- E. Rezoning Application.** In the event that a Master Mining and Reclamation Plan shall be disapproved by the Board, the application for rezoning shall thereby be deemed to be denied. In the event that the Board shall approve, or approve with modifications or conditions, a Conceptual Site Plan, the Board may thereupon grant the rezoning application accompanying said plan.
- F. Additional Information.** Prior to or in addition to approval of a Master Mining and Reclamation Plan, and upon a determination that additional information is necessary for proper review of the proposed mining activity, the Board may require the submission of additional information by the applicant. The review of such additional information shall follow the same procedures applicable to review of the Master Mining and Reclamation Plan with which such information is to be associated.
- G. Amendment.** Once a Master Mining and Reclamation Plan has been approved, and there is cause for amendment of same or any portion thereof, such amendment shall be processed in like manner as the original submission. However, there shall be no requirement to file an amended rezoning application unless the proposed amendment would so dictate.

354.3. Deviations from Approved Plans.

Deviations from the approved plans or failure to comply with any requirements or safeguard imposed by the Board during the approval procedure shall constitute a violation of this Code.

Section 355. Manufacturing Development Program.**355.1. Authority and Title.**

This Section is adopted to establish a local manufacturing development program for the County pursuant to Sections

Chapter 3. Review Authority and Procedures

163.325-163.3252, Florida Statutes (the "Manufacturing Competitiveness Act" or "Act"). This Section may be referred to as the Manatee County Manufacturing Development Program.

355.2. Purpose and Intent.

The manufacturing development program established pursuant to this Section is intended to provide a quick, efficient and comprehensive method whereby new manufacturing businesses may be established within a designated portion of Manatee County and thereafter expanded with minimum further development review. The process ensures that manufacturing businesses will be supported with adequate facilities and infrastructure and that potential adverse impacts to natural resources and adjacent land uses are sufficiently mitigated.

This Section provides for master development plan (MDP) approval authorizing specified manufacturing uses at specified development intensities for a specific site or geographic area. The MDP constitutes a comprehensive local government development approval and upon securing this approval (and except as provided in Section 355.6.E), only building permits to ensure compliance with the State Building Code and any other applicable State mandated life safety code shall be required to build, operate and subsequently expand or otherwise physically modify for an extensive period of time the manufacturing development established by the MDP.

It is also the intent of this Section that, in conjunction with the County's master development plan approval process, manufacturing businesses located within the Master Development Plan Eligibility Area (MDPEA) established pursuant to Section 355.3 shall be eligible to apply for state-level permits through the state-level coordinated manufacturing development approval process established pursuant to the Act.

355.3. Master Development Plan Eligibility Area (MDPEA).

The County has established the master development plan eligibility area (MDPEA) as the areas of land included within the manufacturing development overlay district established pursuant to Section 403.15 of this Code, inclusive of the areas of the unincorporated County delineated in Map 4-4.

355.4. Applicability and Eligibility.

An application for MDP approval shall comply with the following eligibility criteria:

- A. Location within the MDPEA. The area of land included in the application shall be located within the boundaries of the MD PEA;
- B. Future Land Use Category. The area of land included in the application shall be located within the Industrial Light (IL), Industrial Heavy (IH), Industrial Urban (IU) or the Florida International Gateway Overlay District (FIG) future land use category (FLUC) set forth in the Comprehensive Plan;
- C. Zoning. The area of land included in the application shall be located within the following planned development zoning districts set forth in Chapter 4 of this Code: Planned Development Urban Industrial (PDUI), Planned Development Encouragement Zone (PDEZ), Planned Development Port Manatee (PDPM) or Planned Development Industrial (PDI), as well as also within Planned Development Mixed Use (PDMU) with a General Development Plan specifically allowing light industrial use for that PDMU development.
- D. Configuration of the MDP. The MDP project may consist of either a single parcel of land, or of multiple parcels or tracts, so long as each parcel or tract is located in the MDPEA and is of sufficient size and configuration to accommodate a principal use authorized in the MDP.

355.5. Vested Rights.

Those existing development rights authorized by the County before the approval of the MDP, and associated with the area of land included in an MDP application, shall be recognized as vested development rights (subject to the requirements of this Code, the Comprehensive Plan and applicable law), if so requested by the manufacturer.

355.6. MDP Approval Process.

- A. **Master Development Plan Certification of Eligibility.** An applicant who intends to file a MDP application shall first apply for a master development plan certification of eligibility (MDPCE) which documents the applicant's eligibility to participate in the manufacturing development program. Issuance of a MDPCE shall be based upon the applicant demonstrating that:

Chapter 3. Review Authority and Procedures

1. The site that the applicant seeks to establish, expand, modify, or improve for a manufacturing use meets the criteria set forth in subsection 355.4; and
2. The proposed or existing use of the property qualifies as a manufacturing use.

The MDPCE establishes eligibility to participate in the manufacturing development program. It is the intent of this Section that an MDPCE shall also be recognized by agencies of the State of Florida as certification of the applicant's eligibility to participate in the state-level coordinated manufacturing development approval process as established in the Act. The Department Director shall establish the necessary forms for application for, and issuance of, MDPCEs in accordance with this Section and the Act.

- B. Pre-application Conference.** Upon obtaining a MDPCE, the applicant shall schedule and attend a pre-application conference with County staff. At the pre-application conference, the applicant and staff will meet to discuss the applicant's proposed development plans and the application process. The applicant and staff will discuss the development project and identify any requirements which may not be applicable for the specific proposed MDP, and discuss issues anticipated to arise during the proposed MDP review in keeping with this Section.
- C. Application Process.** In addition to being subject to the requirements of Section 312 (procedures of general applicability), applications for MDP approval shall be reviewed and processed in the same manner as site plans, pursuant to Chapter 3 Part IV (Site Plans), with only those modifications to the site plan process that are expressly set forth in this Section. Accordingly, a MDP may serve as the mechanism for granting other approvals required under this Code in the same manner as a Preliminary Site Plan or Final Site Plan. The application, required review submittals, and the review process shall provide for a comprehensive, unified staff review to avoid unnecessary costs, duplication, redundancy and waste of resources, and to ensure efficiency in the approval process for the MDP. Staff review shall be completed within ninety (90) days of the application being determined complete (unless extended by mutual agreement of the applicant and the County) and transmitted to the Board for action pursuant to subsection 355.6.G.
- D. Application Function and Content.** The application for MDP approval shall include a proposed MDP, consistent with the review criteria set forth in Chapter 3 Part IV and including the following:
1. A completed land development application form along with proof of applicant's interest in or ownership of the property, as applicable, and designation of an authorized agent.
 2. A site map prepared consistent with GDP requirements with site boundaries identified and a legal description of the land included within the application.
 3. An itemized list of intended uses allowed by the applicable FLUC. Uses may be more limited than those allowed by applicable zoning, but not more expansive. In all instances, principal uses authorized pursuant to this section shall be limited to manufacturing uses.
 4. Proposed development intensity, in terms of total maximum square footage, floor area ratio and height limits.
 5. Proposed development standards for buffers and perimeter landscaping, setbacks from perimeter boundaries, lighting, signage, and off-street parking.
 6. Identification of development impacts, if applicable to the proposed site, which the development conditions will address, including but not limited to:
 - a. Drainage;
 - b. Wastewater;
 - c. Potable water;
 - d. Solid waste;
 - e. Onsite and offsite natural resources;
 - f. Preservation of historic and archaeological resources;
 - g. Offsite infrastructure;
 - h. Public services;

Chapter 3. Review Authority and Procedures

- i. Compatibility with adjacent land uses;
- j. Vehicular and pedestrian access;
- k. Off-site transportation impacts; and
- l. Any other impacts required to be addressed pursuant to this Code or the Comprehensive Plan.

An existing planned development and site plan approved in accordance with Chapter 3 Part IV may serve as a proposed MDP so long as it meets the requirements of this Section.

E. Additional Requirements. When applicable, an application for MDP approval shall also be required to comply with the following requirements:

1. Any County-imposed or managed environmental permitting requirements;
2. Concurrency management system requirements; and
3. Platting and subdivision requirements.

F. Criteria for Approval. In deciding whether to approve, approve with conditions, or deny a MDP application, the Board shall consider the following criteria: -

1. Whether the application demonstrates that the proposed development site is located within the boundaries of the MDPEA;
2. Whether the land uses proposed in the application are limited to manufacturing uses, and consistent with the Act, and any accessory uses clearly incidental to manufacturing uses;
3. Whether the application demonstrates consistency with the Comprehensive Plan; and
4. Whether the application demonstrates compliance with Chapter 3 Part IV and this Section.

G. Public Hearings. The Planning Commission shall hold a public hearing and give its recommendation on the MDP within forty-five (45) days of the application being transmitted by staff. The Board shall hold a public hearing on the proposed MDP within forty-five (45) days of the Planning Commission's recommendation. The Board's decision shall consist of an approval, approval with agreed upon revisions, denial, or continuation to a date-certain to enable additional information to be provided. The Board's decision shall be based upon the application demonstrating compliance with the provisions and criteria in this Section. The consideration and approval of a MDP shall be treated as a quasi-judicial matter pursuant to Sections 312.8.B and 312.8.D.

355.7. Effect of Approval.

Notwithstanding any provisions of Chapter 3 Part IV that otherwise requires additional site plan approvals, the approval of an MDP application by the Board shall constitute a development order allowing an applicant to apply for and receive building permits for any portion or all of the development approved and authorized in the MDP, without further review of development impacts addressed in the MDP, so long as the applicant (a) complies with any requirements applicable pursuant to subsection 355.6.E, and (b) submits, along with the building permit application, a certification, signed by a licensed architect, engineer or landscape architect, attesting that the proposed development is in compliance with the MDP. The MDP shall be synonymous with and for the purpose of this Section function as the General Development, Preliminary and Final Site Plans identified in Sections 322 and 323 and throughout the LDC.

The development order shall not exempt or exclude the property owner from compliance with those building permitting requirements necessary to ensure compliance with the state building code and any other applicable state-mandated life safety code, nor shall it exempt the property owner from permitting and compliance with any State or Federal requirements as may be applicable.

355.8. Development Consistent with Master Development Plans.

The County shall ensure continuing compliance with a MDP through code enforcement and other available enforcement mechanisms as may be necessary, and may call, revoke, or cause the forfeiture of bonds or other securities provided by or on the behalf of the developer to ensure the satisfactory completion or implementation of the MDP and compliance with applicable regulations and standards.

355.9. Expiration of MDP.

Notwithstanding the requirements of Sections 322.5 and 323.4, a MDP shall expire twenty (20) years from the date of Board approval. Upon MDP expiration, no new physical development shall occur pursuant to the MDP, except as may have been authorized by a building permit issued prior to expiration. Any physical development activities otherwise conducted after the expiration of the MDP approval shall be in violation of this Code and subject to those penalties and remedies provided herein.

355.10. Modification of an approved MDP.

- A. Notwithstanding the requirements of Section 324, an applicant may request to modify an approved MDP by filing an application with Manatee County. The Director shall approve the revision if it is consistent with the comprehensive plan, complies with the land development code, and has no adverse impacts in regard to those items specified in subsection 355.6.D.6 other than those previously addressed during the original MDP application process or prior modification to the MDP.
- B. In those instances where a requested modification would result in potential adverse impacts in regard to those items specified in subsection 355.6.D.6 not previously addressed, the modification shall be reviewed and processed as a new application for MDP approval pursuant to subsection 355.6, subject to consideration and approval by the Planning Commission and Board.
- C. In no instance shall the County require a modification to MDP, except and unless such modification is required in response to enactment of a state law or local ordinance addressing an immediate and direct threat to the public safety. In such instances, the modification shall be limited to those aspects necessary to bring the MDP into compliance with the newly enacted state law or local ordinance. Such modifications shall be subject to approval by the County Administrator or designee.
- D. Review of a proposed modification to a MDP shall be limited to the proposed amendment and shall not subject any other aspect of the previously approved MDP to further review or new conditions for development.

355.11. Repeal of Manufacturing Development Program.

As provided in the Act, the County shall not repeal this Section or otherwise remove it from Code, until it has been in effect for at least 24 months (no earlier than September 3, 2017). Should the County repeal this Section after September 3, 2017, any application for a MDP submitted to the County before the effective date of repeal shall be reviewed in accordance with those provisions of this Section in effect when the application was submitted. The applicant that submits the application shall be entitled to participate in the manufacturing development coordinated approval process established in the Act.

Section 356. to 359 Reserved.**Part VIII. Concurrency Management.****Section 360. Certificate of Level of Service Compliance.****360.1. Purpose.**

This section is intended to prevent the issuance of Development Orders which result in a reduction in the adopted level of service standards for public facilities below the level required by the Comprehensive Plan.

360.2. Applicability.

The following development order requests shall not be issued unless the applicant has obtained a Certificate of Level of Service Compliance. All development shall obtain a certificate.

- A. Approval to commence development.

- B. Construction Drawing approval.
- C. Final Site Plan.
- D. Final Subdivision Plat.
- E. Administrative approval of a use with a Final Site Plan.
- F. Earthmoving Permit, minor or major.
- G. Off-street Parking Plan.
- H. Building Permits for the following:
 - 1. More than one thousand (1,000) square feet of non-residential floor area as either a new building or an addition.
 - 2. Dwelling unit as a whole unit but not an addition to a unit (see Section 360.4.A.2).
 - 3. Other use that would increase parking spaces, traffic generation, potable water use, wastewater generation, or solid waste generation beyond that of a dwelling unit or an office with one thousand (1,000) square feet of floor area.
 - 4. Installation of drainage, water, sewer or roadway improvements.
 - 5. Request for public water or wastewater service.
- I. Construction approval for required improvements (except as performed by Manatee County) to a site, such as the installation of drainage, water, sewer, parking or roadway improvements.

360.3. Optional Certification.

- A. **Concurrent Approvals.** An applicant may apply for and receive a certificate concurrently with the approval of the following Development Orders or approvals:
 - 1. Development of Regional Impact or Florida Quality Development.
 - 2. General Development Plans for Large Projects.
 - 3. Preliminary Site Plan.
 - 4. Preliminary Subdivision Plat.
 - 5. Special Permit with a Preliminary Site Plan.
- B. **Exceptions.** The optional certification provided in this section shall not be available for the wastewater, potable water and educational facilities components of concurrency. In the event an applicant does not apply for and receive a certificate concurrently with any of the forgoing Development Orders and approvals, such Development Orders and approvals shall not grant any rights or entitlements to a certificate, shall not exempt the proposed development from eventual requirements for a certificate, and shall not grant any rights to commence development without a certificate.
- C. **Review Deferral.** All applicants for a development order, or authorized representatives thereof, who are not applying for simultaneous review for issuance of a Certificate of Level of Service Compliance shall fill out, sign and submit a form to be provided by the County indicating that the applicant (or representative) recognizes and acknowledges that any approval of the development order application would not exempt a party seeking development order approvals on the subject parcel from review for, and receipt of a Certificate of Level of Service Compliance.

360.4. Special Permits, Rezoning and Site Plan Approvals.

A. Certificate Not Required.

- 1. A certificate shall not be required in connection with a Special Permit, rezoning or approval of a General Development Plan or Preliminary Site Plan. However, the County may consider the availability of public services and facilities when evaluating the appropriateness of any such approval, and may deny a request for any such approval if public facilities and services are not expected to be available as required pursuant to the

Comprehensive Plan.

2. The issuance of a development order for the construction of one single family dwelling unit on a legal lot of record existing prior to adoption of this Comprehensive Plan is exempt from review for compliance with adopted level of service standards. Nothing in this provision shall exempt any such proposed development from other applicable regulations.

B. Recommendation for Denial. In the case where there is a recommendation of denial of the requested future land use map, comprehensive policy plan, rezoning, or site plan application, the applicant is not precluded from applying for a development agreement in accordance with this Code, or otherwise proposing conditions of approval that would achieve consistency with the requirements of the Comprehensive Plan.

360.5. Application Review Procedures.

A. Staff Review. All applications for certificates shall be reviewed and processed for completeness and sufficiency pursuant to Section 312.4 and 312.5. Within a reasonable time after receipt of the sufficiency review comments ~~from other departments~~, the Department Director shall act upon the application.

B. Standards of Review and Approval. All proposed certificates shall be reviewed under, and shall only be approved if found to be in compliance with, the following standards:

1. The standards for concurrency and level of service set forth in the Comprehensive Plan;
2. Any professionally accepted techniques for measuring level of service in order to assure compliance with the Comprehensive Plan and applicable law; and
3. The procedures established for concurrency review.

C. Action by Department Director. Upon receipt of all comments from reviewing departments and agencies, the Department Director shall:

1. Approve the application and issue the certificate with conditions; or
2. Issue to the applicant a Notice of Intent to deny the application and:
 - a. If the applicant fails to respond within thirty (30) days of the date of such notice requesting to undertake proportionate fair share mitigation, the application shall be ~~deemed denied without further notice to the applicant~~.
 - b. If the applicant responds and requests to undertake proportionate fair share mitigation pursuant to Section 163.3180, F.S., the certificate shall be issued if and when the requirements of that section are satisfied.

D. Conditions of Approval. The Department Director may attach such conditions to the approval of a certificate as are necessary to assure compliance with this Section, which may include, but shall not be limited to, development phasing, facility phasing, and capital improvements programming, and may be required to be secured by land development agreements, construction contracts, and/or posting of performance security.

E. Effect of Approval. Issuance of a certificate shall satisfy the concurrency requirements of the Comprehensive Plan, subject to all conditions imposed pursuant to the certificate, and any other conditions or requirements imposed pursuant to any other applicable Development Order or approval, this Code or the Comprehensive Plan.

F. Succession. If a proposed development requires subsequent development orders, e.g., a Preliminary Site Plan followed by a Final Site Plan followed by a Building Permit, the original certificate will serve all such subsequent development orders, unless and until such certificate expires.

G. Modification. Requests for modifications to certificates shall be reviewed and approved in the same manner as applications for new certificates. An applicant that has received approval of a certificate may request approval of a modification to such certificate, and the Department Director may approve such request, so long as such modification:

1. Does not result in a reservation of additional infrastructure capacity over and above capacity reserved in the original certificate, unless there are no complete applications for certificates pending before the County that would require such additional capacity; and

Chapter 3. Review Authority and Procedures

2. Does not result in the release of the applicant from any obligation to construct public improvements, or provide payment in lieu thereof, for impacts to public facilities.

H. Appeals. Appeals of decisions to approve and issue, or deny, certificates shall be heard by a Hearing Officer.

360.6. Expiration.

All certificates shall expire three (3) years from the date of issuance except as otherwise provided in this Section. If a certificate is issued for transportation concurrency, a subsequent certificate for potable water, sanitary sewer and educational facilities shall be given the same expiration date as the original certificate for transportation. The issuance of a certificate for potable water at the final development stage shall not operate to extend the expiration of a prior certificate for other concurrency requirements. Certificates valid for more than three (3) years may be issued in connection with a development order for a development of regional impact, Florida quality development, a General Development Plan for a Large Project or a development agreement.

The certificate for Educational Facilities may be valid a maximum of five years unless a development agreement, a DRI development order or extension by a local government when the term of the extension is agreed to through written authorization from the School Board or its designee; provided, however, in no instance shall the term of the certificate for Educational Facilities exceed the Certificate of Level of Service issued by Manatee County for other public facility infrastructure except where a Local Development Agreement has been entered into and executed. If the related authorization for Horizontal Construction or Vertical Construction expires, or is otherwise terminated, then the educational facilities concurrency certificate shall be terminated.

- A. Building Permits.** Building permits shall be obtained prior to the expiration of a certificate. Construction may continue to completion after the certificate's expiration if the Building Permits remain valid and do not expire.
- B. Subdivisions.** Building permits for single family and duplex dwelling units on individual lots within a residential subdivision, which previously received a certificate, shall not be required to obtain a new certificate if:
 1. Said subdivision received Final Subdivision Plat approval;
 2. Such Final Plat was recorded in the public records before its certificate expired; and
 3. All necessary conditions of the certificate have been met.

360.7. Extensions.

No later than thirty (30) days before the expiration date of a certificate originally issued for three (3) years, the applicant may request one (1) extension, not to exceed two (2) additional years. Such extension shall be reviewed and approved administratively. In connection with any requested extension, a limit may be placed on the amount of capacity which may be carried forward and allocated to the two-year extension term, and a limit may be placed upon the timeframe for which the extension is granted. The Department Director shall determine whether the extension is warranted, based on criteria including, but not limited to, the following:

- A. Size of the project;
- B. Amount of capacity requested;
- C. Phasing;
- D. Location of the project;
- E. Capacity availability within the service area;
- F. Reasons for requesting the reservation time period extension;
- G. Whether the developer exercised good faith in attempting to secure issuance of a Building Permit;
- H. Whether the applicant has substantially completed all required improvements to public facilities or provided the County with payment in lieu of such improvements; and
- I. Whether the applicant has applied for or has made a proportionate fair-share contribution for the provision of transportation facilities or pre-paid estimated transportation impact fees.

The residential certificate extension requested per this Section (360.7) shall be sent to the School District to identify

impacts to educational facilities. The School Board shall provide a School Report to the Department Director. The Department Director shall consider the school report in determining if the extension satisfies the requirements of the Interlocal Agreement for Public Schools Facility Planning.

360.8. Extensions by Operation of Law

In the event the term of validity of the Certificate of Level of Service Compliance is extended by operation of law, the applicant may request an extension of the term of the validity of the Final Site Plan to coincide with the Certificate of Level of Service valid expiration date. A new site plan is not required to be submitted for the overall project or subdivision, unless the applicant proposes changes inconsistent with the original approval.

360.9. Procedure

The procedure to request an extension of the Certificate of Level of Service Compliance, as described in Sections 360.06 and 360.8 shall be set forth in the administrative regulations.

360.10. Roadway Level of Service Review Process

- A. Each project shall submit to Manatee County a transportation analysis (for each phase at time of detailed approval of that phase, if applicable) describing and analyzing total project traffic and the impact of that traffic on at least those roadways shown on the current Roadway Functional Classification Map. For DRI or FQD projects, the analysis required by Manatee County for purposes of review for Level of Service Compliance to the transportation impact area agreed on for preparing the Application for Development approval required by 380.06(10), F.S., otherwise the required transportation analysis must address all such roadways on which project traffic is projected to be equal to or greater than 5% of the adopted p.m. peak hour two-way Level of Service "Standard" capacity of the roadway ("Study Area"). The Level of Service Standard for a roadway shall be that level of service set forth in Table 5-1 of the Comprehensive Plan. The latest available version of the Link Sheet prepared by Manatee County Public Works Department Staff shall be utilized in the Traffic Study to determine operational levels.
- B. For DRI or FQD projects entirely within or having equal to or greater than 75% of their total area within a Regional Activity Center, the required transportation analysis must address all such roadways once project traffic is projected to be equal to or greater than 10% of the peak hour Level of Service "D" capacity of the roadway.
- C. Where a project's transportation impact is such that all roadways within the Study Area are impacted at less than the 5% p.m. peak hour two-way level of service, then the impact of the project traffic on the first Major Roadway of Access (see Section 360.9.H) and both end node intersections as identified in the most recent version of the Link Sheets on file at Manatee County shall be evaluated for ensuring the maintenance of the adopted Level of Service Standard on that roadway.
- D. Level of Service Standard capacity shall be determined using professionally accepted methodology. The professionally accepted methodology shall be specified in the County's adopted concurrency methodology for performing traffic studies as detailed in amendments to the Land Development Code and Administrative Procedures. The peak hour two-way volume on the functionally classified roadways available from the most recent version of the Link Sheets on file at Manatee County shall be utilized to conduct required transportation analyses, unless the project applicant conducts alternative traffic counts using accepted methodologies, and if such counts are accepted by the Department Director in the Study Area.
- E. For purposes of the transportation analysis, project traffic may be distributed only on those roadways or improvements either:
 1. shown on the Existing Roadways Functional Classification Map.
 2. scheduled for construction completion in the current or following year of FDOT's five-year work program (subject to limitations contained in policy 10.1.4.2).
 3. scheduled for construction completion in the adopted capital improvement program for the current or following fiscal year (subject to limitations contained in policy 10.1.4.2).
 4. scheduled for construction completion prior to the initial date of project impact on the roadway, if such

Chapter 3. Review Authority and Procedures

roadway or improvement is to be completed pursuant to a local government development agreement recorded pursuant to § 163.3239, F.S. (e.g, see policy 5.2.3.2). Where an improvement based on a local government development agreement is relied on to achieve acceptable levels of service, default on any such agreement by any party shall be identified (within any development order issued) as a basis for reconsideration and, if necessary, invalidation of the development order.

F. Upon satisfactory completion of the required transportation analysis, one of the following actions will be taken:

WHERE:

1. Manatee County may consider the issuance of Certificate of Level of Service Compliance, or issue a development order for the proposed project or project phase, if compliance with other goals, objectives, and policies in the Comprehensive Plan is achieved where:
 - a. Project traffic is projected to maintain adopted peak hour Level of Service Standards on all roadways shown on the Roadway Functional Classification Map and within the Study Area of the proposed project or project phase [as defined above], and
 - b. Project traffic is projected to maintain peak hour Level of Service Standard as defined by the latest available version of the Link Sheet prepared by Manatee County Public Works Department staff on any other roadways utilized for distributing project traffic or to be constructed pursuant to a local government development agreement.
2. Manatee County may consider the issuance of a Certificate of Level of Service Compliance if the Certificate of Level of Service Compliance is conditioned on construction of improvements necessary to meet Level of Service, or remedial actions to facilitate the issuance of a Certificate of Level of Service Compliance have been approved by the County through the appropriate process, where
 - a. Project traffic is projected to cause violations of adopted peak hour levels of service on one or more roadways shown on the Roadway Functional Classification Map, or
 - b. Project traffic is projected to cause a violation of adopted peak hour Level of Service "D" Standard on any other roadway utilized for distributing project traffic or to be constructed pursuant to a local government development agreement.

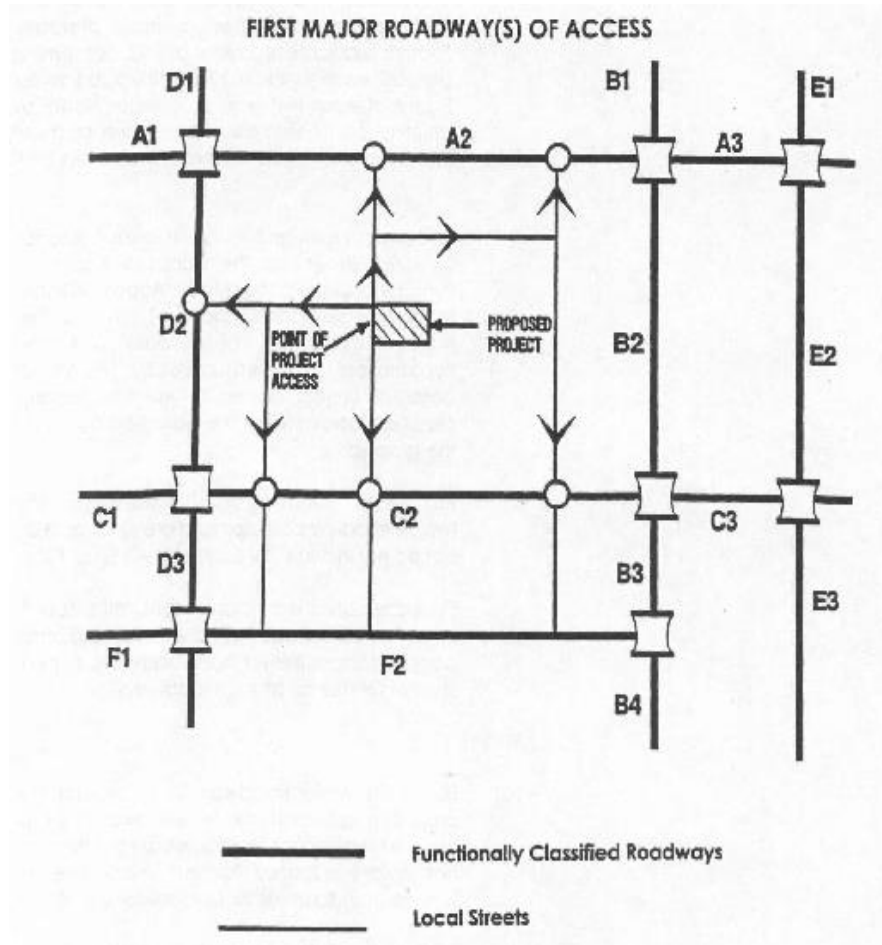
G. The Board may also consider violations of adopted peak hour level of service standards in determining whether to approve a development project.

1. The conditions, pursuant to F.2.a.above, set forth in the Certificate of Level of Service Compliance may be satisfied through one or more of the following:
 - a. construction of the required improvement(s).
 - b. approval of a local development agreement pursuant to the County's proportionate share provisions to construct one or more improvements to the transportation network.
 - c. In those situations in which construction of a required improvement, not safety or operationally related, would result in its limited life due to a future improvement funded and scheduled for construction, and upon approval of Manatee County, payment to the County of the full construction costs of such improvement for the County's use to make appropriate transportation system improvements.
2. Such remedial actions pursuant to F.2.b above are subject to the Board's authority to schedule and fund improvements pursuant to applicable law and may include, but not necessarily be limited to, one or more of the following:
 - a. change in proposed project access and implementation of assurances to achieve preferred access.
 - b. change in permitted land uses, density/intensity, or magnitude of the proposed development.
 - c. approval of a local government development agreement to ensure the provision of additional roadways or roadway improvements by the applicant, the County, or both parties to alleviate any level of service exceedances.
 - d. phasing of the proposed project and implementing a phased development order approval process

contingent on roadway improvements.

- e. reduction in the adopted level of service standard for the roadway(s) on which an exceedance was projected, through the plan amendment process.

H. A generic example indicating "First Major Roadway(s) of Access" is shown below:



Roadways A, B, C, D, E, and F are all shown on the Functional Classification Map. Subscripts indicate segments, or links, comprising parts of each functionally-classified roadway. Extent of each link (e.g., B2) is determined by defining points of intersection of two or more functionally-classified roadways indicated by a square (□).

Roadways not in bold are local roads (i.e., not shown on the adopted Roadway Functional Classification Map). Arrows on these roads indicate potential paths of travel to "First Major Roadway(s) of Access" for this hypothetical proposed project. Points of Potential project access to the functionally-classified road network are indicated by a circle (O) on the graphic.

- J. **Special Consideration of Level of Service "F"**. Pursuant to Policy 5.1.2.5 for roadways operating at peak hour Level of Service "F" or having an adopted "current year" Level of Service Standard of "F" (LOS F Facility) the transportation analysis shall include analysis of any existing, planned, and programmed parallel facilities with a determination of their available capacity and the extent to which they may receive traffic diverted from the LOS F Facility. The specific parallel facility(ies) shall be identified using professional accepted techniques and based on a determination that the parallel facility(ies) could reasonably be expected to carry significant traffic from the development under consideration. The results of the parallel facilities analysis shall be used to develop recommendations for Certificate of Level of Service Compliance conditions pursuant to Section F.2.

Section 361. to 364 Reserved.**Part IX. Modifications and Variances.****Section 365. Modification of Standards.****365.1. Purpose.**

It is recognized that because of the individual unique characteristics or circumstances of any given development, flexibility in the application of development requirements may be warranted in certain situations. Modifications of the standards provided in this Code may be requested by an applicant as part of the development review process. If an applicant requests multiple modifications or modifications that would apply to more than one lot/site, each modification shall be evaluated independently.

365.2. Application.

All requests for modifications shall be submitted in writing with the application for development review on forms provided by the County. The request shall be approved or denied during development plan review and, if granted, shall be noted on the final development plan.

365.3. Administrative Modifications.

The Department Director or designee shall have the authority to grant limited modifications, as set forth below, where it is determined that the proposed development meets the intent of the zoning district, the requested modification is the minimum necessary to allow reasonable development of the site and the requested modification is not injurious to the public health, safety and welfare. Administrative modifications are limited to ten (10) percent of the numerical requirements established in the following sections. In the case of residential projects that include at least 25% of the units as affordable (as defined in this Code), the administrative modifications are limited to thirty (30) percent of a numerical requirement.

- A. Section 337, Installation of Required Improvements
- B. Open Space requirements per Tables 4-4 to 4-9
- C. Section 401.3, Bulk and Dimensional Regulations
- D. Section 401.4, Schedule of Area, Height, Bulk and Placement Regulations
- E. Chapter 5, Standards for Accessory and Specific Uses and Structures
- F. Section 532.1.D, Protected Open Space Standards
- G. Chapter 7, Part I, Tree Protection, Landscaping, Buffers and Irrigation
- H. Section 800.8, Lot Requirements
- I. Section 800.9, Blocks
- J. Section 800.10, Non-Residential Subdivisions
- K. Section 805, Easements
- L. Section 902, Urban Corridor Design Standards
- M. Section 900.5 and 900.6, Entranceway Development Standards
- N. Section 1000, Right-of-Way Standards
- O. Section 1001, Street Standards

- P. Section 1001.1.B.3, Ingress and Egress Easements
- Q. Section 1001.D, Cul-de-Sacs, Dead End Streets and Stub Streets
- R. Section 1005, Off-Street Parking
- S. Section 1006, Off-Street Loading

365.4. Board Modifications.

Modifications of more than ten (10) percent but no more than thirty (30) percent of a dimensional requirement listed above, modifications previously denied or referred to the Board by staff, and modifications to the *non-dimensional* requirements contained in the listed sections, shall be reviewed and approved by the Board, without the requirement to rezone to Planned Development. Changes of more than thirty (30) percent of a dimensional requirement shall be processed as variances per Section 367, which are reviewed by the Hearing Officer.

365.5. Prohibited Modifications.

No modification shall be granted under this section for the following;

- A. Use of land;
- B. Development density which would exceed the maximum permitted in the future land use classification;
- C. Modifications to approved planned developments. See Section 324 for changes to approved Planned Developments.
- D. A reduction in sidewalk width that would result in a sidewalk with less than 5 feet clear space.

365.6. Review Criteria.

No modification may be granted under this Section unless it meets all the requirements listed below:

- A. The modification is consistent with the stated purpose and intent of this Code and with the comprehensive plan;
- B. The request is within the parameters listed in Sections 365.3 and 365.4 above;
- C. The modification will not have a material negative impact on adjacent uses, or the applicant proposes to mitigate the negative impact to be created by the proposed modification;
- D. The modification is not discriminatory. Similar situations in the general area and in past decisions under this Code shall be reviewed prior to a modification being granted;
- E. The modification will permit superior design, efficiency, and performance;
- F. If applicable, the modification is necessary to preserve or enhance significant existing environmental or cultural features, such as trees, scenic areas, historic or archeological sites or public facilities, related to the development site;
- G. Compliance with the requirement is technically impractical or undesirable based on site conditions, or approval of the waiver will result in superior design;
- H. The deferral of the installation of required improvements will allow for improved efficiency, performance, safety, or construction practices; provided, the development will provide an alternative adequate to achieve the purposes of the requirement, including security for the current construction cost, adjusted for inflation, of any required improvements which may be deferred; and
- I. The modification will not result in a negative impact on the public facilities, land use, traffic, or environment of the neighborhood and the general community.

The applicant may provide other information in addition to that required by the County to justify a request for a modification and demonstrate that granting the proposed modification will fulfill the intent of the LDC and the Comprehensive Plan.

365.7. Additional Requirements.

- A. The burden of presenting evidence sufficient to satisfy the applicable criteria set forth in this section, as well as the burden of persuasion on those issues, remains with the applicant seeking the modification.
- B. The applicant may propose conditions to ensure that the use of the property to which the modification applies will be reasonably compatible with the surrounding properties, including visual screening.
- C. A proposed change to an approved modification shall be added to the approved modification and considered in the aggregate. The total modification (approved modification plus proposed change) shall determine the approving authority per Sections 365.3 and 365.4, above.
- D. All modifications shall be duly noted in writing on the final plat or site plan documents and in the Development Order as a public record of each specific modification granted. If the modification is approved by the Board, it shall be stated in a resolution.

Section 366. Administrative Adjustments.**366.1. Types of Administrative Adjustments.**

- A. Errors in Yard Measurements.** The Department Director is authorized to approve a deviation to a required yard if it is determined that there was an error in the location of an existing building or structure relative to the required yard, provided that the requested adjustment shall not exceed ten (10) percent of the required yard or one (1) foot, whichever is greater.
- B. Front Yard Setbacks Consistent with Established Neighborhoods.** The Department Director may approve an adjustment to the front yard setback to allow a setback that meets or exceeds the average setback of the existing homes on the same side of the street, provided that:
 1. The use is either:
 - a. A new single-family or duplex dwelling within an established neighborhood.
 - b. An expansion of existing, non-elevated single-family or duplex dwellings in the Cortez Fishing Village HA Overlay District.
 2. The approved front yard setback is not less than twenty (20) feet, or fifteen (15) feet if located within the Cortez Fishing Village HA Overlay District; and the adjustment is less than ten (10) feet.
 3. The average front yard setback of existing homes shall be calculated based on the front yard setbacks of existing homes on the same side of the street for a distance of either four (4) homes on either side of the lot in question or the length of the block, whichever is less.
- C. Errors of Structure Encroachments into County Easements or Rights-of-Way.** If it is discovered that an error has been made in the location of a building or structure, including a swimming pool, fence, wall, or similar structure, such that the structure is partially located within a County easement or right-of-way, the property owner or authorized agent, may apply for an administrative adjustment to allow the structure to remain within the easement or right-of-way provided that:
 1. The adjustment is limited to five (5) feet or fifty (50) percent of the width of the easement, whichever is less;
 2. The structure does not obstruct, impede, or unreasonably interfere with the intended use of the right-of-way or easement; and
 3. The error was unintentional and unforeseen.

366.2. Review and Approval of Administrative Adjustments.

Requests for administrative adjustments may be requested in conjunction with a Preliminary or Final Site Plan application and shall meet the criteria listed above. If the adjustment is denied, the applicant shall comply with the code requirements or cure the encroachments, or apply for a variance pursuant to Section 367.

Property owners with errors of encroachment of easements or right-of-way shall ~~follow the process outlined in the~~

~~Administrative Adjustment Application Packet (A-9), which shall include a~~ release of Manatee County for any claims or damages that may result from such encroachment. After review by the appropriate agencies, the County may approve an Administrative Adjustment if the standards above are met.

366.3. Effect of Approval.

The granting of an administrative adjustment authorizes the applicant to proceed with any additional applications for development approval, certificates of occupancy, and other permits which the County may require for any proposed development of the property, or to continue and use or encroachment permitted by such adjustment.

Section 367. Variances.

367.1. Purpose and Scope.

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.

367.2. Prohibitions.

Even if a requested variance complies with the requirements of this Section, such variance shall not be granted if such variance:

- A. Allows the expansion or establishment of a use in a zone or district in which such use is not permitted by this Code;
- B. Permits the establishment or expansion of a use without the required review process;
- C. Relates in any way to a nonconforming use, except to the extent such use has been approved pursuant to this Code;
- D. Modifies the Concurrency Management requirements (Chapter 3, Part VIII)
- E. Purports to modify any definitions set forth in Chapter 2, Definitions;
- F. Results in an increase in density or intensity above that permitted by the future land use category of the site;
- G. Relaxes any requirements for accessibility by individuals with disabilities;
- H. Pertains to the visibility triangle (Section 1002);
- I. Pertains to impact fees (Chapter 11)
- J. Wetlands and Cultural Resources
- K. Watershed Overlays
- L. Will be inconsistent with the Manatee County Comprehensive Plan; or
- M. Results in approval of any action which would violate any floodplain management provision of Manatee County; any floodplain management provision of the National Flood Insurance Program; and/or any floodplain management provision of the Community Rating System Program.

367.3. Historic Overlay Districts.

Any proposed variance in any historical overlay district established pursuant to this Code must first be granted a Certificate of Appropriateness by the Manatee County Historic Preservation Board in accordance with the requirements of this Chapter.

367.4. Review Procedures.

A. Pre-Application Meeting. The applicant is required to schedule and attend a pre-application meeting consistent with the requirements of Section 312.2.

A-B. Application. All applications for variances shall be reviewed and processed for completeness and sufficiency. Within a reasonable time after receipt of the sufficiency review comments from other departments, the Department Director shall deliver to the Hearing Officer a copy of the application and a written report summarizing the facts of the case including all relevant documents and incorporating or summarizing the comments from the appropriate reviewing departments and agencies, and schedule a date for a public hearing. See Section 403.2.E.2 for additional requirements applicable to variances in the Airport Impact Overlay District.

B-C. Review.

1. Upon receiving the report from the Department Director, the Hearing Officer shall hold at least one (1) public hearing on the proposed variance. Notice of the public hearing shall be provided and the public hearing shall be conducted in accordance with this Chapter.
2. The Hearing Officer shall review the application, the report of the Department Director, and the evidence presented and shall issue a variance only if it is found that all the standards set forth in this section have been satisfied.
3. The Hearing Officer may impose such conditions and restrictions upon the variance as may be necessary to comply with the requirements of this section and the comprehensive plan, and to prevent or minimize adverse effects on other property in the neighborhood. Such conditions may include, but shall not be limited to: limitations on size, bulk and location; requirements for landscaping, signage, outdoor lighting, and the provision of adequate ingress and egress; hours of operation; and the mitigation of environmental impacts. Such conditions may also include limitations on the duration of a variance.

367.5. Review Criteria.

All variances shall comply with the following criteria:

- A. The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- B. The conditions upon which the request for a variance is based are unique to the parcel and would not be applicable, generally, to other property within the vicinity;
- C. The variance is not based on any conditions, including financial, occupational, or ability, which are personal to the applicant as applied to the property involved in the application;
- D. The alleged hardship has not been created by any person presently having an interest in the property or, if it was, it was created as a result of a bona fide error;
- E. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity;
- F. The proposed variance will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety;
- G. The variance granted is the minimum variance that will make possible the reasonable use of the property; and
- H. The property cannot be put to a reasonable use which complies fully with the requirements of the Code unless the variance is granted.
- 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.

367.6. Effect of Approval.

The granting of a variance authorizes the applicant to proceed with any additional applications for development approval, certificates of occupancy, and other permits which the County may require for any proposed development of

the property.

Section 368. to 369 Reserved.

Part X. Appeals.

Section 370. Appeals of Administrative Decisions.

Appeals from the decisions from any written order, requirement, decision, determination or interpretation made by an administrative official in the enforcement of these regulations shall be heard by the Board.

370.1. Application.

An application and notice of appeal authorized under the provisions of this Section shall be filed with the Department Director in accordance with the general requirements of Section 312 of this Code; provided however that the application shall be filed no more than **thirty (30) days** after the date of the decision to be appealed.

370.2. Hearing Scheduled.

Within **forty-five (45) days** after receipt of a complete application and notice of appeal, the Department Director shall schedule a public hearing. Published notice of the public hearing shall be given in accordance with the requirements of Section 312. Mailed and posted notices shall not be required.

370.3. Department Director Recommendation.

At least **ten (10) days** prior to the date of the hearing, the Department Director shall forward a copy of the application to the Board together with a report and recommendation summarizing the facts of the case, any relevant documents and any comments received.

370.4. Review and Decision.

The Board shall review the application and report and recommendation of the Department Director and conduct a public hearing on the application in accordance with the requirements of Section 312. After the public hearing is held, the Board shall issue a written decision and order granting the relief sought in the application, with or without conditions, or denying the appeal.

Section 371. Appeals of Quasi-Judicial Decisions.

Any final action, including final order, and/or any alleged impropriety of the approving authority may be appealed, within thirty (30) days of the date of the action taken, by any aggrieved person, including Manatee County, or any officer, or department thereof, with the appropriate court of record as provided by law. All such appeals shall be filed with the court of record and shall include a petition, duly verified, setting forth that such decision is illegal, and/or improper, and specifying the grounds of the illegality.