

ARTICLE 7

DEVELOPMENT APPROVAL PROCESS

7.01.00 Pre-Application Conference

A pre-application conference will be held, if requested, for each new proposed Permitted with Conditions Use, Site Development Plan, or Subdivision Plat submitted to the City for approval. The Development Director will conduct pre-application conferences as needed and, at his discretion, will summon various members of City staff and other persons whose expertise is relevant to a particular project.

Persons participating in pre-application conferences shall have knowledge and experience in one or more of the following areas: planning and/or zoning, public works, downtown redevelopment, law enforcement, fire/emergency services, parks and recreation, traffic engineering, environmental protection, community development, or others as appropriate.

7.02.00 Comprehensive Plan Amendments

There are three general types of Comprehensive Plan Amendments: Expedited State Review, State Coordinated Review, and Small Scale. The Expedited State Review Process is utilized for the majority of Comprehensive Plan amendments adopted by local governments. The State Coordinated Review Process is utilized for amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, or amendments that update a comprehensive plan based on an Evaluation and Appraisal Report. The Small Scale process is utilized for amendments that qualify as small-scale development amendments. Section 8.07.00 outlines the public notice requirements for the three types of Comprehensive Plan Amendments.

7.02.01 Intent and Purpose

An amendment to the Comprehensive Plan may either be a change to the goals, objectives, and policies of the Comprehensive Plan, known as a “text amendment”; or, the amendment of a land use classification shown on the Future Land Use Map, known as a “map amendment.” Any Plan Amendment may be initiated by the City, by a property owner or agent of a property owner, or by citizens or interested parties who have established standing to bring amendments to the City for consideration.

The basis for review of a proposed Plan Amendment is the same as the basis for the adoption of the Comprehensive Plan, which entails a review of data and analysis in support of the Plan Amendment: analysis of the impact of the Amendment on public facility Levels of Service and the Capital Improvements Budget of the City; and an analysis of the need for the proposed Amendment in relation to the existing structure of the City and the future as delineated in the goals, objectives, and policies of the Comprehensive Plan.

The City Commission transmits approved Plan Amendments to the DEO for review after first reading of the ordinance to amend the Comprehensive Plan. However, the City Commission shall adopt by ordinance a Small Scale Amendment before transmission. Criteria for submittal of Small Scale Amendments is detailed in Section 8.07.03 of this Code.

7.02.02 Contents of the Application for Comprehensive Plan Amendments

All requests for Comprehensive Plan Amendments shall be submitted in writing to the Development Director, together with all required attachments and applicable fees that have been established by resolution of the City Commission.

- (A) *Application Contents for Text Amendments.* The application shall contain the following items, as applicable:
 - (1) A description of the proposed Plan Amendment, specifying the goals, objectives, and policies of the Comprehensive Plan that are to be modified.
 - (2) Data and analysis that supports the requested change. Specifically, new data that would alter the assumptions in the Comprehensive Plan and would, therefore, justify the amendment of a goal, objective, or policy.
- (B) *Application Contents for Map Amendments.* The application shall contain the following items, as applicable:
 - (1) Owner's name, address, phone number, email address if available; agent/applicants name, address and phone number, email address if available; proof of ownership.
 - (2) The number of acres, the Future Land Use Classification requested, the current Future Land Use classification of the parcel and a legal description of the property. If the parcel has been recently annexed, include Hardee County's Future Land Use Classification of the parcel.
 - (3) A copy of the Property Appraiser's Plat Map and/or location map, with the parcel identified; and a copy of the Future Land Use Map with the parcel identified.
 - (4) A concurrency analysis of all public facilities and services for which a Level of Service has been established in the Comprehensive Plan. See Article 6, Section 6.01.00 "Concurrency."
 - (5) Plan Amendment Data and Analysis, the format of which is outlined in (C) below.

(C) *Plan Amendment Data and Analysis Required from the Applicant at the Development Director's Request.* Based on the data found in the Comprehensive Plan the data and analysis shall contain the following, as applicable.

(1) Inventory and Analysis of Site Characteristics

- a. A description of the terrain; type of vegetation on the site; statement regarding the existence of surface water or wetlands or both; and existence of any flood plains on the site.
- b. The type of soils present on the site and in the area; an analysis of the limitations for construction for each type of soil; and an analysis of absorption rate for septic fields. Identification of habitats present on the site as indicated by the soil types.
- c. An inventory of endangered plant and animal species on the site; an inventory of plant and animal species (mammals, birds, and reptiles) common to this site.
- d. A list of trees with an estimate of canopy that they provide; a list of herbaceous plants and vines; a list of grasses and grasslike plants.

(2) *Inventory and Analysis of Land Use:* location in the City; former use; existing surrounding land uses; and, analysis of type of buffer needed between proposed project site and existing land uses.

(3) *Inventory of Public Facilities:* location of existing sewer service and potable water facilities serving the development site with capacities and the future demand associated with the proposed development; the functional classification of roads serving the area with estimated daily traffic volumes; an analysis detailing the future volumes and their effect on roadway Levels of Service; and an analysis of recreation land and facilities needs generated by the proposed land use classification.

(4) A traffic study, as required.

7.02.03 Planning and Zoning Board Standards for Evaluation

The Planning and Zoning Board shall review every Comprehensive Plan Amendment. In reviewing and formulating recommendations to the City Commission on proposed Amendments to the Comprehensive Plan, and particularly, the Future Land Use Element and Future Land Use Map, the Planning and Zoning Board shall specifically consider and evaluate the proposed amendments against the following standards.

- (A) The proposed Plan Amendment is consistent with the goals of the City of Wauchula Comprehensive Plan. Objectives and policies of the Comprehensive Plan may be proposed for modification by the Amendment.
- (B) The proposed Plan Amendment contains an analysis of the Levels of Service for all public facilities and services; identifies the timing of improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.
- (C) In the case of a proposed Comprehensive Plan Amendment to the Future Land Use Map, the proposed Land Use Classification at the proposed location has been analyzed to identify adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibility and the general welfare of the City. Said analysis must address land uses as they now exist, **and as they may exist in the future**, as a result of the implementation of the goals, objectives, and policies of the Comprehensive Plan; and contains objectives and policies to mitigate or eliminate adverse impacts.

7.02.04 Public Hearings

No Plan Amendment may be considered by the Planning and Zoning Board or the City Commission until due public notice has been given of a public hearing. All procedures for advertisement and notification of a public hearing regulated under 166.041 F.S., shall be as delineated in Article 8, Section 8.06.00 of this Code; and Plan Amendments are further regulated under 163.3184 F.S., which regulations are found in Article 8, Section 8.07.00.

7.02.05 Findings and Recommendation to Approve a Plan Amendment

The Planning and Zoning Board may recommend approval of an application for a Comprehensive Plan Amendment only when all of the following conditions are met.

- (A) The proposed Comprehensive Plan Amendment is, or proposes objectives and policies, that will be consistent with the City of Wauchula Comprehensive Plan.
- (B) The proposed Comprehensive Plan Amendment will not degrade the Level of Service of one or more public facilities and services, or contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, **and** does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element.

7.02.06 Findings and Recommendation to Deny a Plan Amendment

The Planning and Zoning Board may recommend denial of any application for a Comprehensive Plan Amendment for one or more of the following reasons:

- (A) The proposed Comprehensive Plan Amendment is inconsistent with the City of Wauchula Comprehensive Plan.
- (B) The proposed Comprehensive Plan Amendment will degrade the Level of Service of one of more public facilities and services, and contains no commitment to undertake improvements to maintain acceptable Levels of Service.

7.02.07 Decision By City Commission

In not more than 60 days of receipt of the Planning and Zoning Board recommendation, the City Commission shall hold a public hearing, after due public notice, on all recommendations associated with a Plan Amendment from the Planning and Zoning Board. It may accept, reject, modify, return, or continue and seek additional information on those recommendations. No approval of a Plan Amendment shall be granted unless approved by a majority of the Commission members voting.

7.03.00 Rezoning

7.03.01 Purpose and Intent

A rezoning may be initiated by the City or by a property owner or agent of a property owner. The basis for review of application for rezoning entails a review of data and analysis in support of the rezoning; analysis of the impact of the rezoning on public facilities Levels of Service; and an analysis of the need for the proposed rezoning in relation to the goals, objectives, and policies of the Comprehensive Plan.

7.03.02 Contents of the Application

Rezoning requests shall be submitted to the Development Director on an application form provided by the City, together with applicable fees, which shall have been established by resolution of the City Commission. The application shall contain, at a minimum, the following information:

- (A) The property owner's name, address and telephone number; and the designated project applicant or representative if other than property owner.
- (B) A legal description of the property, including the size of the area in acres. For all property not included in a platted and recorded subdivision, a certified boundary survey of the property to be rezoned must be included.
- (C) The future land use classification; and a description of the proposed use of the property.
- (D) A copy of the property appraisers plat map with the parcel marked.

- (E) The location of existing sewer service and potable water facilities to the development site and whether or not the existing facilities have the capacity to serve the parcel.
- (F) The location of all public and private streets, driveways, and utility easements within and adjacent to the site; and a list of the businesses or properties or uses adjacent to the site.
- (G) Identify whether the property is vacant or the use has been discontinued and for how long.
- (H) Traffic studies and or other relevant studies as required by the Development Director.

7.03.03 Planning and Zoning Board Standards for Evaluation

The Planning and Zoning Board shall review every request for rezoning. In reviewing and formulating recommendations to the City Commission on rezoning applications, the Planning and Zoning Board shall specifically consider and evaluate the proposed rezoning against the following standards.

- (A) *Consistency with the Comprehensive Plan.* The proposed rezoning is consistent with the goals of the City of Wauchula Comprehensive Plan.
- (B) *Concurrency Analysis.* The proposed rezoning contains an analysis of the Levels of Service for all public facilities and services; identifies the timing of improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.
- (C) *Impact Analysis.* The proposed rezoning has been analyzed to identify future adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibility and the general welfare of the City.
- (D) *Zoning and Use of Nearby Property.* An analysis of the range of development that will occur as a result of the rezoning, in comparison to the existing pattern of development, and the future pattern established by the Comprehensive Plan. Depending on the uses permitted in the proposed zoning district, inconsistency in the two patterns may be created.
- (E) *Substantial Changes in Land Use Circumstances.* Analysis of the effect of significant changes in land use in the vicinity of the proposed rezoning. Such changes are substantial if they include: widening of a street, expansion of existing

permitted uses, the completion of a subdivision that was previously platted, the construction of a new public facility, such as a park, or any number of other examples. One such change may not be significant and may not justify the rezoning, but several would be and may justify rezoning to higher intensities.

7.03.04 Public Hearings

Due Public Notice. No request for rezoning may be considered by the Planning and Zoning Board or the City Commission until due public notice has been given of a public hearing. All procedures for advertisement and notification of a public hearing must be followed as delineated in Article 8, Section 8.06.00 of this Code.

7.03.05 Findings and Recommendation to Approve a Rezoning

The Planning and Zoning Board may recommend approval of an application for a rezoning only when **all** of the following conditions are met:

- (A) The proposed rezoning is consistent with the City of Wauchula Comprehensive Plan.
- (B) The proposed rezoning will not degrade the Level of Service of one or more public facilities and services, or contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, **and** does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element.
- (C) The proposed rezoning and all permitted uses are compatible with development on surrounding property. By this analysis the Planning and Zoning Board determines whether or not the proposed rezoning provides "appropriate use" of the property.

7.03.06 Findings and Recommendation to Deny a Rezoning

The Planning and Zoning Board may recommend denial of any application for a rezoning for one or more of the following reasons:

- (A) The proposed rezoning is inconsistent with the City of Wauchula Comprehensive Plan.
- (B) The proposed rezoning will degrade the Level of Service of one of more public facilities and services, and contains no commitment to undertake improvements to maintain acceptable Levels of Service.
- (C) The Public Welfare benefits in maintaining the present zoning classification are so great, that any hardship imposed on the property owner by denying the request for

rezoning, is justified.

7.03.07 Decision By City Commission

In not more than sixty (60) days of receipt of the Planning and Zoning Board recommendation, the City Commission shall hold a public hearing, after due public notice, on all recommendations associated with a rezoning from the Planning and Zoning Board. It may accept, reject, modify, return, or continue and seek additional information on those recommendations. No approval of an application for rezoning shall be granted unless approved by a majority of the Commission members voting.

7.04.00 Planned Unit Development

7.04.01 Procedures for Obtaining a Planned Unit Development (PUD) Zoning Designation

The PUD approval process shall address land use density and intensity, building types, location of major roads and interior road networks, and the design for public utility service(s). The City Commission may exercise broad discretion in the Master Development Plan review process, and such review process shall be deemed to be an integral part of the zoning decision pertaining to such property.

As a condition for processing a PUD application, the Development Director or the City Commission may require the owner of the property to undertake specific studies or reports to be submitted regarding soil types, environmental aspects of the land or the impact of the proposed development on City utilities, roads, or other facilities. Proximity to wetlands, nature of vegetation, site specific and off-site environmental characteristics and impacts, and other appropriate matters of impact on the community may be taken into consideration by the City Commission. The property owner may be required to provide whatever design features are necessary to minimize adverse impacts on the community or abutting properties, including the provision of any needed off-site improvements.

- (A) *Master Development Plan.* Development requirements in a PUD are established through an approved **Master Development Plan (MDP)**, to be consistent with the City's Comprehensive Plan. The MDP shall establish the overall development concept, dividing the development site into tracts and assigning generalized land use types to each (i.e., recreation, retail commercial, townhouses, low-density single family, etc.), and depicting the approximate locations of roads, water bodies, utility plants, and other features of the development site.

Tracts proposed for uses other than residential or commercial development shall be labeled on the Master Development Plan as to type of use proposed (i.e., recreation, open space, utility sites, etc.) and acreage. Written information as to land use type, density/intensity of land use, and acreage of tracts and rights-of-way shall be included with the PUD application and considered part of the Master

Development Plan.

- (B) *Master Development Plan Advisory Meeting.* At the option of the applicant, the Development Director shall schedule a Master Development Plan pre-application conference, at which time the applicant may outline his proposal to all appropriate City staff members. The purpose of the pre-application conference is to assist the developer in clearly understanding all relevant City Code requirements, identify development issues specific to the proposed project, and discuss any other procedural issues relative to the review of the request.
- (C) *Requirements for Master Development Plan Review.* The review and approval of a Master Development Plan constitutes a zoning change resulting in a PUD designation. The determination by the Planning and Zoning Board and City Commission concerning the appropriateness of the MDP shall be based on the same factors as any other change of zoning designation, including consistency with the Future Land Use Map and compatibility with surrounding land uses.

In addition to other requirements of the rezoning process, applications for PUD designation shall include the following, as required by the Development Director:

- (1) A letter of transmittal officially submitting the proposal for approval, signed by the developer or his authorized representative.
- (2) Firm evidence of unified control by the developer of the entire proposed PUD site and a signed statement that, if he proceeds with the proposed development, he will:
 - a. Abide by the officially approved Master Development Plan of the development, and such other conditions and modifications as may be included.
 - b. Provide proposed agreements, covenants, or other appropriate mechanisms for completion of the undertaking in accordance with the approved Master Development Plan as well as for the continuing operation and maintenance of such areas, functions, and facilities as are not to be provided, operated, and maintained at general public expense.
 - c. Bind development successors in title to any commitments made as a condition of development approval.
 - d. Secure written consents and agreements from all property owners of record within the PUD that they have given the applicant authority to act in their behalf and that said representative or agent has the delegated authority to represent the owner or owners and

they agree that all commitments made by the aforementioned representative or agent are binding.

- (3) A statement of the applicant's interest in the property to be rezoned, including certificate of title or attorney as to ownership and, if a contract purchaser, written consent of the seller/owner; or, if a lease, a copy of the lease agreement and written consent of the owner(s).
- (4) A certified boundary survey of the tract prepared by a surveyor registered with the State of Florida showing the location and type of boundary evidence related to the State Plane Coordinate System, and the accurate legal description of the property in metes and bounds and a computation of the total acreage of the tract to the nearest tenth of an acre. Survey must have been done within one (1) year prior to filing.
- (5) Five (5) copies of a scaled Master Development Plan of the entire proposal showing the following information:
 - a. A key map at a convenient scale showing existing roads, streams, street rights-of-way and street intersections; the location of the nearest public roads on all four sides; a statement indicating the distance to all public improvements such as schools, firehouses, public recreational areas and the like, that would serve the subject development; a description of how the proposed development is in conformity with the City of Wauchula Comprehensive Plan and all relevant laws, ordinances, and regulations.
 - b. Location, with pavement type, right-of-way, names, and other related appurtenances of all existing public streets adjoining or traversing the site. In the event no public street now adjoins the site, sufficient description by metes and bounds as to identify the location of the site shall be required.
 - c. Identification of the name, plat book, and page number of any recorded subdivision comprising all or part of the site.
 - d. Identification and location of any existing water courses, lakes, wooded areas, or other significant natural physical features upon the site, as well as on adjacent property within 250 feet of outside boundaries and proposed alterations to said features.
 - e. Location and spatial arrangement of all land uses proposed, including the number of acres in each land use, proposed residential densities, and development type (i.e., single-family residential, multifamily residential, commercial shopping center,

hotel/motel, mixed use, etc.).

- f. All existing and proposed means of vehicular access to and from the site, including an internal traffic circulation plan depicting arterial and collector streets.
- g. A transportation analysis, prepared by a professional in the field of transportation planning, to include an estimate of average trips/land use, total average daily trips, distribution of total peak hour trips on existing and/or proposed transportation network, and distribution splits onto existing and/or proposed transportation network (may be waived at Development Director's discretion).
- h. Location of existing structures and/or open space facilities of adjacent properties within 250 feet of any boundary line of the site (use of a recent aerial photo is adequate).
- i. A statement by the applicant of the major planning assumptions and objectives of the development project including but not limited to:
 - 1. Size and/or scope of development.
 - 2. Projected Population.
 - 3. Proposed timing and phases of development.
 - 4. Proposed ownership and forms of organization to maintain common open space and facilities.
- j. A general layout of the types, quantities, and location of trees and other such significant vegetative features (use of a recent aerial photo is adequate).
- k. A map of Soil Conservation Service Soil Classification by Soil Associations.
- l. A general floodplain map indicating areas subject to inundation and high groundwater levels up to the 100-year flood zone boundary, at a scale of one inch to 500 feet.
- m. Delineation of all wetland areas on the site including type (i.e., FDEP jurisdictional, SWFWMD isolated, and all others). For the purpose of Master Development Plan review, wetland areas may be assumed using the best available data sources including, but not

limited to, aerial photographs, recognized published reports/studies, etc.

- n. The most recent aerial photograph available, with the areas to be modified delineated.
- o. Preliminary drainage plan showing existing topographic contours at one (1) foot intervals, identification of the major natural drainage basin(s) of the site, areas for proposed stormwater management retention/detention basins, and location of outfall.
- p. A description of anticipated potable water and sanitary sewer demands of the proposed development and what facilities are available or projected to be available to meet this demand.
- q. Any other reasonable information that may be required by the Development Director that is commensurate with the intent and purpose of this Code.

Upon receipt of the materials described above, the Development Director shall transmit copies of relevant materials to the various City and county officials and agencies as appropriate.

When review of the proposed PUD is complete, the Development Director shall recommend approval, conditional approval, or denial to the Planning and Zoning Board for its review and consideration. The Development Director shall include with his recommendations the zoning application and a written report that shall include all pertinent documents, comments of the reviewing City officials, and any other applicable documentation or graphics.

(D) *Planning and Zoning Board Review and Recommendation.* The Planning and Zoning Board shall hear the request at a regularly scheduled public hearing, and recommend to the City Commission whether the proposed rezoning be approved, approved with modifications or conditions, or denied. The official minutes of the meeting shall include a summary of the reasons for the Board's advisory recommendation. In support of its recommendation, the Board shall make findings as to:

- (1) The suitability of the area for the type and pattern of development proposed in relation to the physical characteristics of the land, relation to surrounding areas, concurrency, and other requirements of this Code.
- (2) Conformity of the proposed development with the Comprehensive Plan of the City of Wauchula.

- (3) Conformity with these regulations, or as to desirable modification of such regulations in the particular case, based on determination that such modifications are justified as meeting public purposes.
- (4) Compatibility with surrounding land uses.
- (5) All such other review criteria as may be appropriate.

In consultation with the City Attorney, the Board shall also assess the adequacy of the following items relating to arrangements for ownership, operation, and maintenance of common properties and/or facilities that are not provided at public expense:

- (1) Evidence of unified control of the overall development site.
 - (2) Suitability of any proposed agreements, or contracts, or other instruments that are to be executed to create or provide the facilities.
 - (3) The need for such instruments or for amendments in those that have been proposed.
- (E) *Action by City Commission.* Upon completion of required action by the Planning and Zoning Board, the Development Director shall transmit the application to the City Commission and place the item on the next available regular agenda. That transmittal may include all pertinent documents submitted by the applicant, the Development Director's report and recommendation, the Planning and Zoning Board findings, and any other applicable documentation or graphics. The City Clerk shall keep all this material as part of the public record of the City Commission. The City Commission may:
- (1) Deny the application.
 - (2) Phase the application to ensure compliance with the standards herein and other standards and requirements in this Code.
 - (3) Modify the application so that these standards are met.
 - (4) Grant conditional approval or modification of the application, attaching whatever reasonable conditions or requirements the City Commission deems necessary to ensure compliance with these standards or maximum mitigation of the adverse impacts of the development.
 - (5) An approved Master Development Plan can serve as an approved site development plan if all the requirements of the site development process have been addressed and the ordinance adopting the Master Development

Plan reflects the designation.

7.04.02 Development Conditions

Conditions placed on a request by the City Commission may include requiring the applicant, at his cost and expense, to:

- (A) Finance or dedicate land for public rights-of-way, easements, parks and open space, school sites, or other such sites as may be necessary to protect the health, safety, and welfare of the residents of the PUD.
- (B) Finance or construct potable water, wastewater, or drainage facilities.
- (C) Any other reasonable conditions necessary to ensure compliance with these standards, if the applicant agrees in writing in a recordable agreement binding upon his successors and assigns, that no further processing of the development request, pursuant to the provisions of this Code, shall occur until the requirements of this article are met. Attachment of these conditions shall be voluntary on the part of the applicant, and agreement by the applicant to provide any conditions will not, in any way, obligate the City to approve the subject application. Any conditional approval shall be based solely on the fact that the development application, as modified or conditioned, meets the standards of this article, and may not be based solely on the granting of certain conditions deemed favorable by the City unless the standards of the Planned Unit Development district are thereby met.

7.04.03 Approval of a PUD

- (A) *General Uses.* Approval of a Planned Unit Development shall constitute a rezoning of the subject property and amendment to the Official Zoning Map. Any and all development of the approved PUD shall be in strict conformance with the Master Development Plan, as approved by the City Commission.

In the event of an amendment to the Comprehensive Plan, the Land Development Code, or other applicable regulations that occurs prior to completion of construction of the PUD, all subsequent development that has not received approval under Section 7.06.00 (Subdivision Regulations) or Section 7.05.00 (Site Development Plan Regulations) as of the date of the amendment shall be consistent with the new regulations. Approval of development under these sections of the Code shall be valid for one year. Unless construction begins on or before the first anniversary date, development approval shall be null and void, and the new standards shall apply.

Previous approval of a Master Development Plan shall not by itself convey the right to develop property in a manner that is inconsistent with the Comprehensive

Plan and current codes. Prior to approval of further Subdivision Plats or Site Development Plans within the PUD, the Master Development Plan shall be amended to reflect amended codes or other requirements.

- (B) *Special Exception Uses.* No separate approval of a Special Exception use shall be required within a PUD, provided that the proposed use and its location is noted on the Master Development Plan. Allowable uses for any tract within a PUD shall include those listed in the Table of Land Uses as either a Permitted or Special Exception Use for the Equivalent Zoning District for that tract. However, any use listed in the Table as a Special Exception may be denied if the City Commission determines the proposed use would be incompatible with surrounding land uses, either inside or outside the PUD. Additional uses proposed after approval and/or development of the PUD shall be authorized as a PUD amendment rather than through the Special Exception process.

7.04.04 Amendment or Termination of a PUD

Once PUD approval is granted, all development within the PUD development site shall be in conformity with the approved Master Development Plan. In the event a developer wishes to deviate significantly from the approved development pattern, he shall either submit an amended Master Development Plan or apply for a conventional zoning classification through the normal rezoning process.

The addition to or removal of any tract or parcel from a PUD shall require an amendment to the Master Development Plan. Any amendment, variation, or adjustment of a Master Development Plan shall require approval according to the following:

- (1) *Major Amendment.* Submission for review and approval by the Planning and Zoning Board and City Commission.
- (2) *Minor Amendment.* Submission for review and approval by the Development Director.

The Development Director shall determine whether a proposed Master Development Plan amendment is a major amendment or a minor amendment. The determination shall be based on, but not limited to the following: any substantial change to the MDP, including increase in density, change in permitted uses, change in stormwater runoff characteristics, rearrangement of designated open space or recreation areas, change in traffic patterns and trip generation, or other similar changes shall be considered a major amendment to the plan; any proposed minor changes in configuration or similar changes shall be considered a minor amendment to the plan. The Development Director may, at his discretion, forward any application for plan amendment to one or more individual departments for review and recommendation both as to its classification as a major or minor amendment and as to whether it should be approved, approved with conditions, or denied.

7.04.05 Development in Stages

Rather than construct the entire PUD at once, the developer may choose to build the project in stages. Phased development of a PUD is permissible under the following conditions:

- (A) Developer must submit a construction schedule covering all phases of the PUD to the Development Director. This schedule may be revised from time to time as necessary.
- (B) All roads, drainage, and utility facilities needed to support any stage shall be completed and available for use prior to issuance of any Building Permits.
- (C) At least 30% of the total acreage of each stage shall qualify as Designated Open Space, as defined in Article 2, Section 2.02.15 (E)(4)a., unless the entire project's Open Space is provided in the first phase. No less than one-half of this acreage shall be developed as Common Recreation Area, as defined in Article 2, Section 2.02.15 (E)(4)b. All recreation facilities shall be completed and available for use prior to issuance of Building Permits.
- (D) No individual stage of the PUD shall exceed the overall density approved on the Master Development Plan for the PUD as a whole.

7.04.06 Ownership and Maintenance of Common Property

The developer shall establish a property owner's association or similar legal entity for the perpetual ownership and maintenance of open space, drainage facilities, and other community facilities designated on the Master Development Plan and subdivision or Site Development Plans for individual tracts. These facilities include, but are not limited to, pedestrian or bike paths, playgrounds, landscaped open spaces, lakes, swimming pools, bath houses, tennis courts, parking lots, utilities, drainage channels, and retention/detention ponds. Roads shall also be included unless dedicated to the City of Wauchula for public use. Such organizations shall be created by covenants running with the land, and such covenants shall be included as part of the final Site Development Plan or Subdivision Plat of each phase and subject to approval of the City Commission.

In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment of a PUD fails to maintain the common areas as previously defined above, in reasonable order and condition, and in accordance with the adopted Master Development Plan and subsequent final development plans, the City may serve written notice upon such organization and/or the owners or residents of the PUD and hold a public hearing. If deficiencies of maintenance are not corrected within thirty (30) days after such notice and hearing, the City shall call upon any public or private agency to maintain the common open space for

a period of one year. If the City determines that the subject organization is not prepared or able to maintain the common open space, such public or private agency shall continue maintenance for yearly periods.

The cost of such maintenance by the designated public or private agency shall be assessed proportionately against the properties within the PUD that have a right of enjoyment of the common open space, and shall become a lien on said properties.

Applicable requirements of this subsection shall be inserted into the legal documents of the homeowners association or similar organization having legal ownership of common properties. These legal documents shall be structured to serve the following purposes:

- (A) To define what is owned and by whom, including the specific location and parameters of the individual units and the ownership interest in the common elements of the owners of the association or organization;
- (B) To establish a system of interlocking relationships binding each owner to all other owners for the purpose of maintaining and preserving what is owned and used in common;
- (C) To establish an array of protective standards or restrictions designed to establish limits and assure that a certain level of appearance is maintained;
- (D) To create an administrative vehicle, the owners association, to manage those elements shared in common and to enforce standards;
- (E) To provide for the operation and financing of the association;
- (F) To specify the process involved in effecting the transfer of control of the association and responsibility for the common elements from the developer to the unit owners collectively; and,
- (G) To set forth proper access and utility easements for the owners and the association.

All common areas are to be properly defined in legal descriptions and must be consistent with the Master Development Plan and subsequent final development plans of the PUD.

7.04.07 Private Roads

Internal roads serving the PUD may remain in the private ownership of the developer or may be conveyed to a property owner's association or similar entity created under the provisions of Section 7.04.06 above. However, such roads must be designed and constructed to meet all standards applicable to a public road serving the same function, including right-of-way widths. No private road that constitutes the primary access to

residential or commercial properties within a PUD shall be built on an easement.

The City of Wauchula shall have no responsibility for maintenance of private roads. Should such roads be offered for public dedication in the future, the City shall not accept the dedication unless the roads are in good repair and in conformity with all codes and standards in effect at the time of dedication.

If a guard house or other form of barrier is placed at the entrance to the PUD for the purpose of restricting access, the developer or property owner's association shall be responsible for ensuring entry to the property for emergency vehicles. The City shall have no liability for injury or loss of life resulting from restricted access to the development.

7.04.08 Bonding

Prior to commencement of construction within any tract of a PUD, the developer shall file the following items with the office of the Development Director:

- (A) A performance, labor, and material payment bond for the completion of the construction of all public improvements specified in the Preliminary Subdivision Plan or Site Development Plan within one year.
- (B) A performance, labor, and material payment bond for the completion of the construction of all common properties specified in the Preliminary Subdivision Plan or Site Development Plan within one year.
- (C) A maintenance warranty bond in the amount of 10% of the total cost of the construction of all public improvements, to be in force for a period of two years following acceptance by the City of the final construction of said public improvements.
- (D) In lieu of any bond, the developer may use an escrow account to insure the performance of the construction as planned if said account and the administration thereof is approved by the City Commission.

All bonds shall be from a company licensed as a surety in the State of Florida, listed by the U.S. Treasury Department and rated A:AAA in Best's Insurance Guide. Upon acceptance of all improvements described in Subsections A and B above, said performance and payment bonds shall be released.

7.05.00 Site Development Plan

7.05.01 Intent and Purpose

This section enables the City of Wauchula and the developer to collaborate in the

processing of certain development approvals in order to enhance planning and timely, integrated processing and review. The site plan is intended to provide an overview of the applicant's projected land development. In this context, the site plan will be used to determine if the proposed development is in compliance with current statutes, ordinances, regulations, the Comprehensive Plan, the Land Development Code, and other applicable local, regional, state, and federal requirements.

The Planning and Zoning Board shall review and approve Site Development Plans authorized under this Code in the manner prescribed below. The Development Director may review and approve a Site Development Plan for up to five acres, if he/she finds that no conditions need to be imposed before issuing a Building Permit.

It is the intent of this Section that the Site Development Plan process be a part of the Building Permit application process, in that the Site Development Plan is the instrument by which improvements to the site will be constructed and inspected, and by which final inspection and Certificate of Occupancy shall be issued. Site Development Plan approval shall be required prior to the issuance of a Building Permit for the following:

- (A) Division of an existing development site (such a division shall result in a new or modified Site Development Plan for previously existing development, in addition to a separate plan for new development).
- (B) A parcel of land proposed for a nonresidential use, including hotels, motels, and RV parks.
- (C) A parcel of land proposed for multiple-family residential use of three (3) dwelling units or more, or a manufactured home park or subdivision.
- (D) Assisted living facilities and group homes housing more than three (3) residents.
- (E) Clubhouses or similar facilities built on common property within a subdivision.
- (F) Any other type of development that the Development Director, determines to be appropriate for the site plan review process in order to protect the public health, safety, and welfare.

A change in the use of an existing development site from one (1) land use category to another, as listed in Table 2.02.01(A) may require a site plan to demonstrate that the requirements of the Land Development Regulations will be met.

7.05.02 Site Development Plan Review

Those developments subject to Site Development Plan review shall submit five copies of the Site Development Plan, with a completed application form, all necessary attachments, and the requisite application fee to the Development Director to initiate processing of the

plan, unless otherwise directed by the Development Director. Additional plans shall be provided for review by other state, regional, and county agencies upon staff request.

- (A) *Site Development Plan Preparation Requirements.* Where the proposed development site is two or more parcels, lots, tracts or sites, the Site Development Plan shall be prepared by a planning professional, architect, engineering professional or surveyor. At the Development Director's discretion, the same requirement may be applied to sites of less than five acres where the plan proposes high-intensity uses or activities that may have a substantial impact on surrounding properties.

Sketch plans and drawings submitted with Variance, Special Exception, or other zoning-related applications shall not be accepted for review as a Site Development Plan unless prepared in accordance with the guidelines of this section, except as provided in Section 7.05.03. In all cases, engineering plans addressing drainage, road construction, and other technical aspects of development design shall be sealed by a civil engineer registered in the State of Florida.

- (B) *Completeness of Plans.* Completeness of Site Development Plans shall be determined within ten working days by the Development Director, and if complete shall be scheduled for a Pre-Application Conference according to the requirements of Section 7.01.00.
- (C) *Staff Review.* The Development Director and other appropriate City staff members shall review the Site Development Plan with specific regard to the codes and ordinances of the City of Wauchula.

The staff review shall identify matters of development policy concern to which the developer shall address particular attention. Specific comments to be addressed based on staff's review of the plan shall be provided in writing. The applicant shall be permitted to respond to staff comments at this stage of review.

- (D) *Revised Plans.* Upon agreement by the applicant to incorporate the staff review comments into the plan, the applicant shall submit to the Development Director revised Site Development Plans in which all concerns of the staff have been addressed.

For Site Plans requiring Planning and Zoning Board review, when the Development Director determines that all staff comments have been adequately addressed, and that the requirements of all applicable City, state, and federal regulations have been met, he shall place the plan on the agenda for the next regular meeting of the Planning and Zoning Board.

7.05.03 Content of the Application and Drawing

- (A) *Sketch Plans:* At the Development Director's discretion, sketch plans may be used to demonstrate compliance with Land Development Regulations for change of use applications that do not result in increased impacts and have no additional development associated with the request.
- (B) Site Development Plans for sites of five acres or more and those determined by the Development Director to require the detail, shall be drawn to a minimum scale of one inch equals 100 feet on an overall sheet size not to exceed 22 by 36 inches and not less than 11 x 17. When more than one sheet is required, an index sheet of the same size shall be included showing the entire parcel with individual sheet numbers referenced thereon. The following information is required on or in an acceptable form so as to accompany the Site Development Plan respectively:
- (C) **Contents of the written application, as determined applicable by the Development Director:**
 - (1) The property owner's name, address, and telephone number; and the designated project applicant or representative if other than property owner.
 - (2) A legal description of the property, including the size of the area in acres. For all property not included in a platted and recorded subdivision, a certified boundary survey of the property. Note: A certified survey will be required for all parcels at the time of submittal of the Building Permit application.
 - (3) The future land use classification; and a description of the proposed use of the property.
 - (4) A copy of the property appraisers plat map with the parcel marked.
 - (5) The location of existing sewer service and potable water facilities to the development site and whether or not the existing facilities have the capacity to serve the parcel.
 - (6) A list of the businesses or properties or uses adjacent to the site.
 - (7) Identify whether the property is vacant or the use has been discontinued and for how long.
 - (8) The engineer's name, address, telephone number, and registration number.
 - (9) Zoning classification assigned to the property that is the subject of the site plan and the zoning of the surrounding properties.

- (10) Number of units proposed, if any, and resulting net density.
 - (11) Floor area of non-residential uses.
 - (12) Open space expressed in square feet and as a percentage of the overall site.
 - (13) Number of parking lots and spaces required and proposed.
 - (14) Calculation of impervious surface, including structures, accessory buildings, parking areas, loading zones, sidewalks, and other paved surfaces. To standardize the calculation, each parking space shall be considered to be 20 x 10 feet. For further information, see Article 3, Section 3.07.00, "Compatibility, Landscaping and Buffering Standards".
 - (15) Copy of letter from SWFWMD regarding necessary stormwater retention facility.
- (D) **Contents of the Drawing, as determined applicable by the Development Director:**
- (1) North arrow, scale, and date prepared.
 - (2) Location of all public and private streets, driveways and utility easements, within and adjacent to the site.
 - (3) The footprint of all proposed buildings and structures on the site, including setbacks. Location of parking spaces, with handicapped access space(s) marked.
 - (4) A drawing showing the placement and width of required landscape and buffer yards, including canopy trees; identification of mature trees for which credit can be given. For further information, see Article 3, Section 3.07.00, "Compatibility, Landscaping and Buffering Standards".
 - (5) A drawing showing the exterior building elevations showing views from all of the sides affected in the project. The drawing (scale typically 1/4" = 1') must show the elevation, overall height of the structure, identification of all proposed building materials (different types or textures), location of windows, doors, openings, and architectural features, and all proposed wall signs. Photos and information specific to the proposed building material types should be included. For further information, see Article 2, Section 2.06.00, "Building Design and Appearance Standards".
 - (6) Identification of watercourses, wetlands, and significant stands of mature

trees and understory vegetation that may provide wildlife habitats or other environmentally unique areas.

- (7) Sign(s) location, height, and size in square feet.
- (8) Phase lines, if the development is constructed in phases.
- (9) Location of on- and off-site stormwater drainage and retention required by SWFWMD.
- (10) Existing topography with a maximum contour interval of one foot.
- (11) Proposed finished grading by contours supplemented where necessary by spot elevations and in particular at those locations along lot lines.
- (12) The delineation of all wetlands and flood-prone areas as delineated by the National Wetlands Inventory and the Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA).
- (13) Delineation of all environmentally sensitive areas as determined by any appropriate agency.
- (14) All existing and proposed utilities, including but not limited to:
 - a. Water and sanitary sewer pipe sizes, rim and invert elevations, direction of flow and top and bottom elevations and fire hydrant locations and flows.
 - b. Telephone, electric, gas, and other utilities.
- (15) Location of major solid waste receptacles.
- (16) In addition, the drawing shall reserve a blank space, three inches wide and five inches high for the use of the approving authority.

7.05.04 Development Site to be Unified

When requesting Site Development Plan approval, the applicant shall furnish proof that the development site is unified by title, and not spatially divided by ownership; however, multiple ownership is permissible so long as each owner or investor holds a percentage or proportionate interest in the site as a whole. The development site shall be designed to provide all required facilities, including parking and stormwater retention; no such facilities shall be located off-site unless approved by SWFWMD for stormwater and the City Commission for other facilities and an agreement/legal recording is provided.

No development site, once granted Site Development Plan approval, shall be divided except through the Site Development Plan modification process established in Section 7.05.08.

7.05.05 Planning and Zoning Board Review and Action

The Planning and Zoning Board shall review and approve or disapprove Site Development Plans as required through Section 7.05.01. The Planning and Zoning Board shall review and evaluate the Site Development Plan with specific regard to the Comprehensive Plan, applicable City codes, and the advisory recommendations of City staff. The Planning and Zoning Board shall approve, approve with conditions, or deny the site plan.

In the alternative, the Planning and Zoning Board may, for the purpose of allowing the applicant an opportunity to address unresolved issues, continue consideration of the Site Development Plan. In the event a Site Development Plan is denied, the reason(s) for the denial shall be noted.

- (A) Where the proposed development involves only the expansion of existing structures, the Planning and Zoning Board may reduce or waive certain criteria, data, or other submission requirements as appropriate provided that the following conditions are met:
 - (1) No existing structure will be expanded by more than 30% of its total floor area and/or seating.
 - (2) No change in the existing use of the site is proposed.
 - (3) No existing nonconforming use would be expanded, and all other aspects of the site are in conformity with the requirements of this Code.
 - (4) The development site will not be reduced in size.
- (B) Under no circumstances shall any Site Development Plan be approved that is inconsistent with any term contained in this development code unless a Variance or waiver has been authorized in accordance with the provisions of Section 7.10.00 of this Code.

7.05.06 Approval of Site Development Plans

On approval of a Site Development Plan, a minimum of three (3) copies, and any additional copies as may be required by the City, of the approved Site Development Plan shall be submitted to the Development Director prior to processing of a Building Permit. The Development Director shall forward copies of the plan to appropriate City staff. The City Clerk shall retain and file one copy of the Site Development Plan to constitute a

permanent record of the Site Development Plan.

7.05.07 Effect of Site Development Plan Approval

- (A) Approved Site Development Plans shall remain valid if a Building Permit is obtained subject thereto within one year after final approval. Granting of extensions for approval may be made by the Development Director for a single period up to one year from the date when a Site Development Plan would otherwise expire. An extension may be granted if the Development Director concludes that the recipient of the approved Site Development Plan has proceeded with due diligence and in good faith, and that conditions have not changed substantially so as to warrant a new application. All such requests for extensions must be submitted in writing, not less than 30 days before the expiration of the approved Site Development Plan stating the reason for the time extension request.
- (B) Upon approval of the Site Development Plan, the applicant may proceed to submit construction drawings to the appropriate City staff for permitting. These shall include, but are not limited to, building plans, drainage and stormwater management facilities, road and driveway construction specifications, and tree removal plans.
- (C) Nothing contained herein shall preclude the City from accepting for review and processing building construction plans related to the structural, mechanical, electrical, and plumbing systems prior to stamped approval of a Site Development Plan, subject to such conditions as may be established by the City relative to such pre-plan certification processing.
- (D) In such instances, no Building Permit will be issued until the Site Development Plan has been stamped approved and is on file in the Building Office. All building and construction permits issued for any project requiring Site Development Plan review shall be consistent with the stamped approved Site Development Plan. The approval of a Site Development Plan shall not, under any circumstances, be construed to waive or otherwise diminish the applicable City requirements for construction or installation of structures or materials. Whenever a conflict between the Site Development Plan and such construction details occurs, the more restrictive or that requiring the higher standard shall prevail.

7.05.08 Modification of Site Development Plans

Any modification, variation, or adjustment of a stamped approved Site Development Plan shall require approval of a Site Development Plan amendment.

The Development Director shall determine whether a proposed Site Development Plan modification is a major modification or a minor modification. The determination shall be based on, but not limited to the following: any substantial change, including increase in

density, change in permitted uses, change in stormwater runoff characteristics, change in traffic patterns and trip generation, or other similar changes shall be considered a major modification; any proposed minor changes in configuration or similar changes shall be considered a minor modification.

The Development Director may approve a minor modification. If the proposed change or amendment is determined to be other than a minor modification, the Development Director shall forward any revisions to appropriate members of City staff, outside consultants, and schedule a hearing by the Planning and Zoning Board, if required, to consider approval of the change.

7.05.09 Integration of Other Review Procedures

Any development involving the following provisions of this code shall be coordinated as set forth below:

- (A) *Development Built in Phases.* Development built in phases or stages must clearly show the various phases or stages of the proposed development on the Site Development Plan and on all subsequent Site Development Plans. Amenities and stormwater management systems proposed for all phases shall be constructed in the first phase of development if the subsequent phases rely on the amenities or stormwater management systems. A Site Development Plan must be submitted for each successive phase of the development.
- (B) *Site Development Plan Concurrent with Variance or Special Exception Uses.* For developments requiring approval of a Variance or a Special Exception, a request for such approval shall be submitted to the Planning and Zoning Board and City Commission, and the Special Exception shall be approved prior to final approval of the Site Development Plan. A Site Development Plan, Variance request, and a Special Exception request may be processed concurrently.
- (C) *Site Development Plan Concurrent with Planned Unit Development.* An approved Master Development Plan can serve as an approved site development plan if all the requirements of the site development process have been addressed. The ordinance adopting the Master Development Plan should reflect this designation.
- (D) *Site Development Plan Concurrent with Building Design and Appearance Standards.* Properties required to meet Building Design and Appearance Standards in Section 2.06.00 must submit exterior building elevation drawings as outlined in Section 7.05.03(D)(5).

7.05.10 Non-Compliance

Failure to comply with a stamped approved Site Development Plan or any of the conditions upon which such approval was contingent, including time limits for performance, shall be cause to deny issuance of a Building Permit or, where a permit has been issued pursuant to a stamped approved Site Development Plan, to render such Building Permit invalid. Any action, construction, development, or use of property undertaken in violation of the provisions of this Section for a site plan shall constitute a violation of this Code and may be subject to a stop-work order.

7.06.00 Subdivision Regulations

7.06.01 General

- (A) *Purpose and Intent.* The purpose of this Section is to establish minimum procedures and standards to further the provisions of State Law that regulates and requires the platting of land for development; in an effort to ensure proper legal description, identification, memorialization and recording of real estate boundaries; aid in the coordination of land development in Wauchula in accordance with orderly physical patterns; promote the health, safety, and general welfare of the residents; ensure the purchaser of land in a subdivision that necessary improvements of lasting quality have been installed; ensure that the citizens and taxpayers of Wauchula will not have to bear the costs resulting from haphazard subdivision of land; to maintain the authority of the city to require installation by the developer of adequate and necessary physical improvements; assure equitable handling of all subdivision plats by providing uniform procedures and standards for observation both by the subdivider and the city; guide the future growth and development of the city in accordance with the Wauchula Comprehensive Plan. Where provisions for subdividing land are either more restrictive or less restrictive than other land development codes, resolutions, or rules adopted by the City, those provisions that are more restrictive and impose higher standards or requirements shall govern.

Subdivision approval procedures are set forth herein as a four-step process: the Concept Plan Review, which is optional, Preliminary Plat review; Construction Plan review and approval, and Final Plat approval. This process is intended to permit comprehensive review by the City and to benefit the developer by identifying potential problems and their solutions at appropriate times during the process. As with all stages of the development approval process, it is the responsibility of the developer to check all State and local regulations governing the subdivision of land and to adhere strictly to the procedures therein.

- (B) *Applicability.* These regulations shall apply to all subdivisions, including those intended for commercial and industrial development. The provisions of this Section are applicable to the division of a parcel of land, that is defined to mean

the division of contiguous land holdings by a single owner or multiple owners, regardless of how said parcels are described or recorded, into four or more parcels, lots, tracts, or sites for the purpose of transfer of ownership or building development.

If the establishment of a new street is not involved, parcels of five acres or more are not considered a subdivision if the street lines or public easements are not changed.

- (C) *Variances.* At the Preliminary Plat approval stage, and subject to final approval by the City Commission, certain Variances may be considered. Where the Planning and Zoning Board finds that extraordinary hardships may result from the strict application of the planning and engineering standards set forth in these regulations, it may consider those Variances that are recommended by the City Administrator and that the Planning and Zoning Board determines are necessary to ensure that substantial justice is done and the public interest is upheld. Provided however, that the effect of the Variance shall not be to nullify the purposes and intent of these regulations nor the Comprehensive Plan of the City of Wauchula.

7.06.02 Minor Subdivisions

Florida Statutes 177.031 defines a subdivision as “the division of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and resubdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.”

A Minor Subdivision is the division of land into less than three lots (a one lot split) or the division of land into three or more lots that does not include the establishment of new streets and alleys. A minor subdivision for a one lot split may be approved administratively through survey or legal description.

- (A) The intent of this division is to establish an administrative review and approval process for small scale residential development and land subdivision.
- (B) Within five days of submittal of plans for a building or land development permit, the Development Director shall determine if minor subdivision approval is applicable and shall notify the applicant of any requirements.
- (C) *Lot Divisions by Survey or Legal Description:*
- (1) The Development Director may administratively approve a minor subdivision property for residential use by means of a survey or metes and bounds legal description rather than a plat under the following conditions:

- a. The approval does not result in the creation of more than one new lot.
 - b. The approval does not create a lot, or lots, that do not meet applicable zoning district standards for width, depth, and area.
 - c. Each lot has frontage on a public road, and no new public streets are needed to serve either property.
 - d. Water and sewer lines are existing at the site or do not need to be extended to the site.
 - e. There will be no necessity for drainage facilities serving other properties to cross the lot or lots affected by the administrative approval. Certification shall be provided by a professional engineer registered in the State of Florida.
- (2) In requesting the administrative approval of a minor subdivision (lot division by legal description), the applicant shall provide the following information:
- a. A copy of the deed to the property. If the applicant does not own the property, he must obtain written permission from the owner, including a notarized signature, authorizing him to make the application.
 - b. A copy of the official property appraiser's map indicating the subject property and all other properties within 200 feet.
 - c. A certified survey.
 - d. Any established application fee plus the per lot fee for subdivision shall be charged.
- (D) *Lot Divisions by Minor Plat:* The Development Director may administratively approve a minor subdivision property for residential use under the following conditions:
- (1) The approval does not result in the creation of four or more new lots.
 - (2) The approval does not create a lot, or lots, that do not meet applicable zoning district standards for width, depth, and area.
 - (3) Each lot has frontage on a public road, and no new public streets are

needed to serve either property.

- (4) Water and sewer lines are existing at the site or do not need to be extended.
- (5) There will be no necessity for drainage facilities serving other properties to cross the lot or lots affected by the administrative approval. Certification shall be provided by a professional engineer registered in the State of Florida.
- (6) In requesting the administrative approval of a minor subdivision, the applicant shall provide the following information:
 - a. A copy of the deed to the property. If the applicant does not own the property, he must obtain written permission from the owner, including a notarized signature, authorizing him to make the application.
 - b. A copy of the official property appraiser's map indicating the subject property and all other properties within 200 feet.
 - c. A certified survey.
 - d. A minor subdivision drawing shall include a boundary survey of the property, along with a sketch, and metes and bounds description of each land lot/parcel within the property boundary to be subdivided. Individual land lots/parcels within the surveyed boundary shall be identified as lots/parcels.
 - e. Any established application fee plus the per lot fee for subdivision shall be charged.
- (E) *Adjustments to Existing Plats:* Minor adjustments to a subdivision plat may be authorized by the Development Director without the requirement to replat, where all of the following conditions are satisfied:
 - (1) No more than four new lots or tracts may be created.
 - (2) No new street is proposed, or additional right-of-way is needed.
 - (3) No vacation or elimination of streets, setback, access control, or easements are required or proposed.
 - (4) Such action will not result in significant increases in service requirements or interfere with maintenance of existing levels of service.

- (5) All easement requirements have been or will have been satisfied.
- (6) Such division will not result in a tract or lot without direct access to a street.
- (7) A nonconforming lot, either by dimension or area as prescribed by the applicable zoning district, will not be created.
- (F) In granting approval, the Development Director may impose such conditions, safeguards, and requirements as deemed necessary to implement the intent and purpose of this Section. The Development Director may require any division or combination of previously platted property to comply with the complete platting process as set forth in this Section.
- (G) Except as provided for in (C), the developer shall agree to prepare and submit a final minor Subdivision Plat to the Development Director within 45 days of the issuance of a land development permit. The Development Director shall be responsible for placing all minor Subdivision Plats on the City Commission agenda for approval and acceptance. The plat shall be recorded with the Clerk of the Circuit Court of Hardee County prior to issuance of a certificate of occupancy.
- (H) The minor Subdivision Plat for recording shall conform to all requirements set forth in F.S. 177.

7.06.03 Procedure for Subdivision of Land

Whenever any subdivision of land is proposed and before any contract is made for the sale of any part thereof and before any permit for the installation of utilities, either public or private; construction; paving and drainage; or structures in a proposed subdivision shall be granted, the subdivider, or his authorized agent, shall apply for and secure approval from the City Commission of the proposed subdivision through submission of the following documents:

- (A) Concept Plan Review
- (B) Preliminary Subdivision Plat
- (C) Construction Plans
- (D) Final Subdivision Plat

Upon completion of all subdivision infrastructure improvements, or guarantee thereof, the subdivider shall apply for and receive approval of a Final Subdivision Plat before applying for permits to build structures on the lots thus created.

7.06.04 Concept Plan Review

- (A) The developer shall present a subdivision Concept Plan to the Development Director who shall review the plan as to its conformance to the Comprehensive Plan, zoning, and other applicable Land Development Regulations. The Concept Plan shall show, at the minimum:
- (1) Proposed use (type of units, whether they are single-family attached or detached, or multi-family and what type)
 - (2) Basic street layout including streets adjacent to the tract
 - (3) Proposed general lot layout, typical lot sizes, and typical lot setbacks.
 - (4) Boundaries
 - (5) Significant topographical and physical conditions
 - (6) Total acreage of plat project
 - (7) Density of plat project, as applicable
 - (8) Future Land Use and zoning designations of the proposed project and abutting properties
- (B) The Concept Plan may be a sketch, but must be drawn to scale.
- (C) A meeting will be called by the Development Director to include City staff to review the Concept Plan. The applicant may attend the meeting to explain the concept of the subdivision. The staff will comment on the concept, informing the applicant, if in attendance, of regulations he may not be aware of. For example, the concept plan may show the spacing of fire hydrants as incorrect and the fire official can give him the correct regulations on the spot.
- (D) The Development Director shall be complete the review not more than fifteen (15) working days after submission, and shall meet with the applicant to relay his findings. If the applicant requests comments in writing, those comments shall be detailed in a letter to the developer not less than fifteen (15) working days after submission, and shall form the basis for preparing the preliminary plat.

7.06.05 Preliminary Subdivision Plat

The purpose of the Preliminary Subdivision Plat (PSP) is to provide sufficient information regarding a proposed development to enable the City to evaluate the

proposed subdivision as it relates to the Comprehensive Plan and the Unified Land Development Code, to allow city staff to perform a technical review of all proposed site improvements, and shall be the basis upon which the final plat is prepared.

The developer may present a preliminary Subdivision Plat at any time after receiving the comments of the Development Director in response to the submission of a Concept Plan (See Section 7.06.04). The Preliminary Subdivision Plat shall demonstrate the manner in which the comments from the Concept Plan Review, if conducted, have been incorporated into the plat.

7.06.05.01 Submission of Preliminary Subdivision Plat (PSP)

- (A) *Submittal.* The Preliminary Subdivision Plat Review shall be initiated when the following items have been submitted:
- (1) Completed application forms with all necessary attachments.
 - (2) The preliminary subdivision review fee, as established by resolution of the City Commission.
 - (3) Three copies of the Preliminary Subdivision Plat, a survey, and a topographic map.
- (B) *Required Information.* The Preliminary Subdivision Plat shall be drawn to a scale not less than one inch equals fifty feet (1" = 50') on a single 24" x 36" sheet unless allowed otherwise at the discretion of the City and shall include the following:
- (1) Name, address, and telephone number of the applicant and the person preparing the plan.
 - (2) Title block identifying the name and/or title of the proposed subdivision. The name shall not duplicate or closely approximate the name of any other subdivision recorded in the Public Records of Hardee County, Florida.
 - (3) Date, north arrow, and scale.
 - (4) Layout of proposed streets.
 - (5) Locations and names of adjoining subdivisions, streets, and platted rights-of-way, whether or not the platted streets have been built.
 - (6) All existing restrictions on the use of the land, including easements, rights-of-way, jurisdictional wetlands areas, either

assumed or confirmed.

(7) Zoning classification.

(C) Procedure.

- (1) *Staff Review:* As determined by the Development Director, the applicant will submit the necessary number of copies of the PSP. Copies of the PSP and all attachments shall be distributed to members city staff and other appropriate persons for review. The Development Director and other persons to whom the PSP has been submitted shall review the PSP for accuracy, content, and consistency with the requirements of the Comprehensive Plan, the design standards as set forth in this Code, and all other applicable provisions established by this Code. The Development Director will enumerate specific conditions for final approval of the proposed subdivision. All comments made during the review process will, in the opinion of the Development Director, be adequately addressed before submittal of the PSP to the Planning and Zoning Board.

The PSP shall be reviewed by staff in terms of the following criteria:

- a. completeness and substantial compliance with the approved concept plan, as applicable;
 - b. degree of compliance with the technical requirements set forth in applicable articles of this Code, and other city regulations;
 - c. suitability of proposed street names (the City Commission shall have the authority to approve or disapprove any street name);
 - d. deficiencies or issues which require further attention.
- (2) *Planning and Zoning Board Action:* At a properly advertised public hearing, the Planning and Zoning Board shall review exhibits, staff reports, and comments by reviewing agencies and individuals and shall approve, approve with conditions, or disapprove the Preliminary Plat. Approval of the Preliminary Plat **shall be deemed an expression of approval of the subdivision layout, and nothing more, and a motion shall be so made,** and shall be reported to the City Commission.

- (3) *City Commission Action:* The City Commission does not review a Preliminary Plat. The action of the Planning and Zoning Board regarding the plat should be brought to the attention of the Commission as an agenda item for discussion at a regularly scheduled workshop or meeting.

7.06.05.02 Effect of Preliminary Subdivision Plat

Approval of the Preliminary Subdivision Plat authorizes the developer to prepare construction plans for public infrastructure improvements. After approval of the construction plans by the Development Director, the developer may proceed with permitting for construction of the infrastructure improvements. See Section 7.06.06.02.

No improvements shall be made in the subdivision, other than clearing, grubbing, and preliminary grading, until the Preliminary Subdivision Plat has been approved by the Planning and Zoning Board, and detailed plans for construction of improvements have been approved by the Development Director.

7.06.05.03 Term of Preliminary Subdivision Plat

Preliminary Subdivision Plats shall remain valid for one year from the date of approval. Extensions for approval may be granted for a single period up to one year from the date the plan would otherwise expire. An extension may be granted if the Planning and Zoning Board concludes that the owners or successors of the preliminary Subdivision Plat have proceeded with due diligence and in good faith and the conditions have not changed substantially as to warrant a new application.

All such requests for extensions shall be submitted in writing not less than thirty (30) days before the expiration of the Preliminary Subdivision Plat, stating the reason for the time extension request. Upon expiration of a Preliminary Subdivision Plat, municipal services allocated thereto shall be forfeited.

7.06.05.04 Amendment of Preliminary Subdivision Plat

Any amendment, variation, or adjustment of a Preliminary Subdivision Plat shall require approval of an amendment according to the following:

Major Amendment: Submission for review and approval by the Planning and Zoning Board

Minor Amendment: Submission for review and approval by the Development Director

The Development Director shall determine whether a proposed modification

amounts to a major or minor amendment to the Preliminary Subdivision Plat. The determination shall be based on, but not limited to the following: any substantial change to the PSP, including increase in density, change in permitted uses, change in stormwater runoff characteristics, change in traffic patterns and trip generation, or other similar changes shall be considered a major amendment to the PSP; any proposed minor changes in configuration or similar changes shall be considered a minor amendment to the PSP. The Development Director may, at his discretion, forward any application for PSP amendment to one or more individuals for review and recommendation both as to its classification as a major or minor amendment and as to whether it should be approved, approved with conditions, or denied. The proposed major amendment shall, after staff review be placed on the agenda for review and approved, approved with conditions, or disapproved.

7.06.06 Construction Plans

After approval of the Preliminary Plat and prior to the review of the Final Plat by the Planning and Zoning Board, the developer shall prepare and submit three copies of the Construction Plans to the Development Director. The purpose of the Construction Plan is to allow City staff to review and approve all proposed site improvements prior to construction.

The construction plans shall consist of complete working drawings and design specifications, and shall be the basis for evaluating the quality and completeness of the proposed engineering design, compliance with all applicable regulations, the establishment of a construction schedule, and site improvement permitting.

The developer shall submit, in triplicate, estimate of quantities, unit prices and estimated costs for each of the following:

- (A) Streets, drainage, and storm sewers;
- (B) Water distribution system; and,
- (C) Sanitary sewer system.

7.06.06.01 Submission of Construction Plans

- (A) *Submittal.* Construction Plans review will be initiated when the following information has been provided.
- (B) *Required Information.* Unless otherwise permitted by the Development Director, the construction plan shall be drawn to a scale of not more than 1 inch = 50 feet. The size of sheets shall be 24 inches by 36 inches and shall show, in addition to the data provided on the Preliminary Subdivision Plat, the following:

- (1) Name, address, and seal of registered engineer and surveyor responsible for the plan and accepted data.
- (2) Final alignments, dimensions, grades, and profiles of proposed streets, utilities, drainage, and other improvements to be constructed.
- (3) Such other calculations, computation, and details as may be necessary to determine the limits of wetlands, the groundwater table, off-site impacts of the proposed development, and other technical matters that may be specified by the Consulting City Engineer.
- (4) Any permit or permits from an agency or agencies approving access to State, county, or local roadways.
- (5) Any permit or permits from an agency or agencies approving the proposed stormwater management system.
- (6) Any permits permitting agencies approving the utilities plan.
- (7) A statement as to the ownership and title of the property and whether any mortgages exist on the same.
- (8) Site location block or map on the drawing showing the subdivision's relationship to City limits and major roads, section lines, and boundary lines of the tract with accurate linear and angular dimensions.
- (9) Legal description of the property, U.S. survey section, township, and range lines.
- (10) Survey or scaled drawings showing exiting property lines, streets, water or drainage courses, railroads, bridges, sewers, water mains, fire hydrants, and public utilities and easements within the boundaries and those improvements and dedications that are adjacent to and within 500 feet of the subdivision.
- (11) A topographic map of the site, showing vertical elevations of not more than one-foot intervals, or at intervals deemed necessary by the City engineer to ensure positive drainage; and the location and the elevation of all water, wetland and flood-prone areas.
- (12) In the event a developer intends to develop a given tract of land in

stages or sections, a complete drainage map or plan showing existing and proposed drainage conditions and grades for satisfactory disposal of proposed street and surface drainage for the entire area, shall be submitted.

- (13) Tabular data block including total site acreage, acres of the site in wetlands, acres of the site in water bodies, area and delineation of the site within the 100-year flood zone as identified by FEMA, total number of lots, acres in stormwater management, and acres of site in common area, open space and recreation use.
- (14) If the developer is seeking credit for existing trees on the site, a sketch survey of all trees having a measured trunk diameter of twelve inches or more measured at 4.5 feet above grade, and having a height of ten feet or more.
- (15) A draft of any protective covenants proposed for the subdivision.

7.06.06.02 Construction Prior to Platting

Upon approval of Construction Plans, the applicant may proceed with permitting for installation of improvements.

- (A) Construction of streets, drainage facilities, and/or other subdivision improvements prior to actual platting shall be permitted only upon specific application thereof and upon specific approval by the City Commission. In granting any such approval, the City Commission may impose such conditions, restrictions, and/or time schedules as may be deemed necessary in the public interest.
- (B) Improvements shall include tree removal, clearing and grubbing, installation of streets and utilities and installation of stormwater management systems. Whether constructed prior to or following the recording of the Final Plat, the stormwater management system, including all facilities, shall be constructed for the entire area of the plan, regardless of any phasing plans relative to Final Plat recording.
- (C) If the subdivider proceeds with permitting and installation of improvements prior to recording of the plat, a contract with the City for the construction of the required improvements, establishing a financial guarantee that all required improvements shall be constructed, shall be executed.
- (D) An acceptable guarantee for required improvements shall be in an amount not less than the estimated cost of the improvements, as approved by the

City Administrator, but may be reduced from time to time in proportion to the work completed, and shall take the form of a Performance Bond, subject to the approval of the City Commission, City Administrator, and City Attorney.

- (E) No residential building permit shall be issued until the final plat has been accepted by the City and recorded with the Clerk of the Circuit Court for Hardee County, except where approval has been given for residential units as models. Final certificates of occupancy for models shall not be issued until the Final Plat has been accepted by the City and recorded with the Clerk of the Circuit Court for Hardee County.

7.06.06.03 Performance Bond

If at the time of application for Final Plat approval all improvements are not satisfactorily installed, the subdivider shall post a bond in an amount estimated as sufficient to secure to the City the satisfactory construction, installation, and dedication of all required improvements. The performance bond shall also secure all lot improvements on the individual lots of the subdivision as required by these regulations. Such Performance Bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the City Commission as part of the approval action on the Final Plat and shall be incorporated in the bond and shall not in any event exceed two years from date of final City approval. The City Commission may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the City Attorney.

The City is responsible for running sanitary sewer and public water lines to a development site. However, the division of responsibility for payment of the cost of extension shall be the subject of the Development Agreement (See Article 6, Section 6.02.00 "Development Agreements.") The developer is responsible for the cost of lines within the development and the cost for connections to sanitary sewer and public water systems. The City reserves the right to impose impact fees to cover the expense to the City rather than include the cost in the Performance Bond.

7.06.06.04 Construction Inspection

The City shall provide for periodic inspection of required improvements during construction to ensure their satisfactory completion. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the subdivider shall be responsible for modifying and/or completing the improvements so as to comply with such

standards and specifications. Wherever the cost of improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.

7.06.06.05 Engineering drawings

Three sets of City-approved engineering as-built drawings shall be submitted with the Final Plat. All as-built drawings shall contain a certification by a professional engineer or registered land surveyor of personal verification of the exact location and dimensions of all completed improvements, as well as certification that all utilities have been installed in accordance with specifications.

7.06.06.06 Maintenance Guarantee

The developer shall guarantee the materials and workmanship of pavement, curb and gutter, sidewalks, water system, wastewater (sewage) system, and the drainage system in the subdivision for a period of one year after final acceptance by the City Engineer. A bond shall be required for the maintenance and repair requirements to cover faulty plans, materials, or workmanship. The bond shall be effective for one year and in an amount set by the City Administrator unless special circumstances dictate the extension.

The developer shall furnish and install street signs and posts and same shall be of such quality and design as approved by the City.

The developer shall furnish and install permanent monuments at all block corners, angle points, point of curve, points of tangent and at such other control points as shall be required by the City Administrator.

7.06.07 Final Plat

The intent of the Final Plat is to establish a legal record of the subdivision. Whenever the provisions of this Code have been complied with, the City Engineer has accepted the Construction Plans, and while the approval of the Preliminary Subdivision Plat is in effect, the developer may present a Final Plat and Performance Bond for review by the Planning and Zoning Board and approval by the City Commission. The Final Plat may not be approved unless it is in strict conformance with the details of the Preliminary Plat and any changes required by, and approved by, the City. At the option of the subdivider, the final plat may constitute only that portion or phase of the approved Preliminary Site Plat which is proposed to be recorded at that time.

Final plat approval is required prior to the issuance of any building permits within the subdivision. Following review by the Planning and Zoning Board and approval by the City Commission, the plat shall then be submitted to the Clerk of the Circuit Court for recording within the public records of Hardee County.

7.06.07.01 Submission of Final Plat**(A) General Procedure.**

- (1) *Staff Review.* The applicant shall submit the original mylar, along with four reproducible copies of the plat. The development director, city attorney, and other city staff as appropriate, shall determine the completeness of the final plat and compliance with the Preliminary Site Plat. They shall verify the accuracy of information provided, and evaluate the degree of compliance with the technical requirements as established in this Code and other applicable city and state requirements. All staff reviewing the plat shall, upon completion of their review, forward their recommendations to the Development Director, recommending approval or denial of the final plat.
- (2) *Planning and Zoning Board.* The Planning and Zoning Board shall review the Final Plat and staff comments pertaining thereto, and shall make a recommendation to City Commission to approve or disapprove the plat. Any conditions of approval shall be stated with the motion to recommend approval of the plat and shall be made clear to the developer. The Planning and Zoning Board may defer action if additional information, staff review, subdivision improvements, or completion assurances are needed. In any case, the Planning and Zoning Board shall be provided with a written statement by the Building Official to the effect that all required public improvements have been completed to his satisfaction or that satisfactory guarantees of completed installation have been provided.
- (3) *City Commission Action.* The City Commission shall review the recommendation of the Planning and Zoning Board and take action on the Final Plat. The ordinance shall be advertised as delineated in Article 8, Section 8.06.00 “Public Hearings/Public Notice.”

The action of the City Commission shall be forwarded in writing to the subdivider or his authorized representative. Should any adverse review comment or recommendation be made by the city Commission which may require a revision of the proposed final plat, the development director shall so notify the subdivider or his authorized representative, so that necessary revisions may be made for reconsideration by the City Commission.

- (4) *Recording.* Upon plat approval, and with certification that a final

inspection of the improvements has been made and approved, or an acceptable financial guarantee has been provided for the satisfactory completion of the improvements, the final plat shall be forwarded to the City Clerk for signature. Upon signature by all designated staff and the Mayor, the applicant shall be notified that the plat is complete and may be recorded at the office of the Clerk of the Circuit Court for Hardee County. The developer shall be responsible for recording the Final Plat and for returning one reproducible copy of the recorded plat to the Building Official. The Final Plat shall be recorded prior to the issuance of any Building Permits within the subdivision.

- (B) *Submittal.* The final plat shall conform with Chapter 177, Florida Statutes and shall be clearly and legibly drawn, in ink, on mylar, to a scale of not more than one inch equals 100 feet. The overall sheet size shall be consistent with the standards established by the Clerk of the Circuit Court for Hardee County for recording. Where the final plat of a proposed subdivision requires more than one sheet, each sheet shall be keyed to a master map with appropriate marks of identification. Each sheet shall be provided with a one-inch margin on each of three sides and a three-inch margin on the left side of the plat for binding purposes.
- (C) *Required Information.* Although it may constitute only that portion of the Preliminary Subdivision Plat that the developer proposes to record and develop at the time, the Final Plat for recording shall be prepared in conformance with the requirements specified herein. The Final Plat shall be submitted with the request for approval, and shall show, in addition to the data provided on the Preliminary Subdivision Plat, the following:
 - (1) Name of plat.
 - (2) Each plat shall show a description of lands platted and the description shall be the same in the title certification. The description shall be so complete that from it, without reference to the plat, the starting point and boundary can be determined.
 - (3) All required final permits and approvals issued by agencies and governing bodies having jurisdiction over properties being subdivided shall be furnished to the City Administrator. The Final Plat shall not be approved by the Planning and Zoning Board and the City Commission without proper submission of the final permits and approvals.
 - (4) All easements or rights-of-way provided for public services or utilities, and limitations of such easements.

- (5) All lots shall be numbered either by progressive numbers or, if in a block, progressively numbered or lettered in each block. Lot lines shall be marked with accurate dimensions in feet and hundredths of feet, and bearings or angles to street lines.
 - (6) The accurate location of all monuments and the designation of specific control corners.
 - (7) A statement shall be included on the Final Plat indicating the final length of roads, water, and sewer lines installed.
 - (8) The purpose of all areas dedicated must be clearly indicated or stated on the plat. Accurate descriptions of any such areas to be dedicated or reserved for public use shall state the purpose thereon.
 - (9) In the event the plat includes open space, clubhouses, playgrounds, or other amenities to be owned and used in common by residents of the development, a plat note shall be added requiring the creation of a homeowners or property owners association that shall be responsible for such facilities.
 - (10) All interior excepted parcels shall be clearly indicated and labeled "Not A Part Of This Plat."
 - (11) Any existing or proposed private restrictions and trusteeships and their periods of existence shall be filed as a separate instrument, and reference to such instrument shall be noted on the Final Plat.
 - (12) City signature spaces for the Mayor, City Clerk, City Administrator, and the Chairman of the Planning and Zoning Board.
 - (13) The Clerk of the Circuit Court of Hardee County of the Circuit Court certificate and the land surveyor's certificate and seal.
 - (14) City signature spaces for the professional surveyor and mapper either employed by or under contract to the local governing body for conformity to Florida Statutes Chapter 177. .
- (D) *Plat Documentation Requirements.* The following documentation shall accompany the Final Plat:
- (1) The Final Plat for recording shall conform with all requirements set forth in F.S., Chapter 177, including dedications and reservations

executed by the developer and certification by a registered land surveyor.

- (2) A title opinion by an Attorney at Law, licensed in Florida, or a certification by an abstractor or title company stating that the court records identify that the title of the land as described and shown on the plat is in the name of the person or persons or corporation executing the dedication. In addition, a document entitled, "Consent to Platting of Lands and Partial Release of Mortgage," shall be filed together with the Final Plat for each person or corporation holding a mortgage on all land included on the plat, where such person or corporation has not signed the Final Plat.
- (3) Certification by a registered land surveyor that the plat represents a survey made by that individual and, further, that all necessary monuments, lot sizes, and lot dimensions are correctly shown thereon. Impressed thereon, and affixed thereto, shall be the personal seal and signature of the registered land surveyor by whom, or under whose authority and direction, the plat was prepared.
- (4) Certification that all real estate taxes have been paid.

7.06.08 Vacating of Plats and Replats

7.06.08.01 Vacating of Plat by Owner

The owner of any land subdivided into lots may petition the City under the provisions of Chapter 177.101, F.S., to remove (vacate and annul) the existing plat, or portion thereof, from the official records of the City of Wauchula and Hardee County. The applicant vacating a plat, or a part thereof, shall file the petition, proof of publication of notice of intent, certificate of title, Statement of taxes and resolution, and shall pay the appropriate filing fee as established by Resolution of the City Commission. Following review by the appropriate City departments and recommendation by the Planning and Zoning Board, the petition shall be acted on by the City Commission. The applicant shall be responsible for recording the petition and the proof of publication with the Clerk of the Circuit Court for Hardee County. This proof must be submitted to the City for confirmation.

7.06.08.02 Vacating of Plat by City

The City Commission may, on its own motion, order the vacation and annulment of all or any part of a subdivision within its jurisdiction. Such action may include the vacation of dedicated rights-of-way and easements, provided that:

- (A) The Subdivision Plat was lawfully recorded not less than five years before the date of such action by the City Commission; and
- (B) No more than 10% of the total subdivision, or part thereof, has been sold as lots by the original subdivider or his successor in title. Such action shall be based on a finding by the Commission that the proposed vacation and annulment of the plat will result in greater conformity with the comprehensive plan of the City, and the public health, safety, and welfare will be promoted.

Before acting on a proposal for vacation and annulment of subdivided land the Commission shall hold a public hearing, with notice of intent as set forth by Chapter 166, F.S. Notwithstanding these provisions, the City may require conformity with existing standards for all or parts of subdivisions as outlined in this Section.

7.06.09 Access to Individually Owned Parcels

No owner of any parcel of land in a subdivision shall be deprived by the vacation and annulment of a plat, or a portion of a plat, of reasonable access to such parcel, nor of reasonable access therefrom to existing facilities to which such parcel presently has access; provided that such access remaining or provided after such vacation need not be the same as that previously existing.

7.07.00 Cluster/Zero Lot Line Development

The purpose of this Section is to encourage creative development design in the City of Wauchula and to provide a mechanism for preserving open space, protecting natural resources, or reserving land for recreational facilities to serve the City's residents. It may be used in implementing various policies of the Comprehensive Plan.

Cluster/zero lot line development may be granted in any district where single family detached development is permitted as a principal use. The City Commission may limit the approval to permit cluster subdivision development only, or zero lot line development only; or, both techniques may be authorized for use in conjunction with each other.

7.07.01 Cluster Subdivision

Clustering of single family detached dwelling units on a development site may be permitted where the Comprehensive Plan requires preservation of a natural resource, where land is needed for open space or low-intensity recreational use, or where the developer wishes to create an amenity for residents of the site or for the City as a whole. Approval or denial of the clustering concept at a particular location shall be based on consistency with the Comprehensive Plan, compatibility with surrounding land uses, and

compliance with the following requirements:

- (A) *Density.* Gross density of the subdivision shall not exceed the maximum permitted density for the zoning district wherein the site is located, as shown in Table 2.03.01(B). For purposes of calculating density, the development site shall include all platted residential lots, together with roads, drainage facilities, utility sites, and all other common property within the perimeter of the subject property, regardless of whether such facilities will ultimately be dedicated to the City.
- (B) *Development Site to be Unified.* In making application for approval of a cluster development, the applicant shall furnish proof that the development site is unified by title, and not spatially divided by ownership (however, multiple ownership is permissible so long as each owner or investor holds a percentage or proportionate interest in the site as a whole). The site shall have the zoning designations required to accommodate the principal residential uses proposed.
- (C) *Platting.* Information supplied to the Development Director in support of the application for a cluster/zero lot subdivision shall include a Preliminary Subdivision Plat that fulfills all of the requirements of section 7.06.05. The application for a cluster/zero lot line subdivision and Preliminary Subdivision Plat shall be procured and reviewed in conjunction with each other, unless the Preliminary Subdivision Plat has been previously approved.

The Development Director may subsequently approve minor changes to the development concept that do not involve increases in density, additional points of access to existing roads, or substantial rearrangement of lots.

- (D) *Lot Size and Lot Coverage.* The normal minimum residential lot size and lot coverage requirements established in Table 2.02.01(C) shall be waived under this section. Where cluster subdivision development is proposed, minimum lot requirements shall be as follows:

Table 7.07.01(A) Minimum Lot Requirements for Cluster Subdivisions

District	Min. Lot Size	Min. Lot Width	Max. Lot Coverage
R-1A	10,000 s.f.	75 feet	35%
R-1	6,000 s.f.	40 feet	40%
R-2	5,000 s.f.	40 feet	45%
R-3	4,500 s.f.	40 feet	50%

- (E) *Open Space.* The preliminary and final Subdivision Plats for the cluster subdivision shall designate a specific parcel as an open space tract, that will encompass the natural feature(s), or open space area that the developer intends to

preserve. No residential, commercial, industrial, or public institutional use shall be permitted within an amenity tract.

- (1) Open space shall primarily consist of undisturbed natural land, with passive or low-intensity recreation facilities. Such areas shall be accessible and available for the use and enjoyment of all residents of the subdivision. Permitted uses include boat ramps, playing fields, nature trails, and boardwalks.
- (2) The minimum size of the open space tract shall be 50% percent of the total area of all platted residential lots and streets.
- (3) Where eight or more dwelling units are in one building or group of buildings in the same project or in successive projects under the same ownership or management, there shall be provided an open space equivalent to 500 square feet for each dwelling unit for common recreational purposes. In no case shall the plot be less than 4,000 square feet. Where children are permitted in the units, this space shall be fenced with an adequate metal fence not less than four feet in height and so constructed as to prevent children climbing over it; and it shall be connected to the units by walkways that shall not be crossed by driveways or vehicular traffic. This requirement may be used to satisfy the open space requirements in (2) above.
- (4) Where natural features are being preserved, open space tracts may include wooded areas, wetlands, and floodplains. However, lands not in their natural state may be used for recreational purposes and shall be free of waste or debris, dangerous or hazardous materials, and all structures not related to the property's designated use. Open space tracts may include drainage or utility sites and facilities. Water bodies may be included, but shall not count toward the minimum land area for an open space tract. Other areas may be excluded if, in the Development Director's opinion, the use of such areas in an open space tract would be inconsistent with the intent of this subsection.
- (5) Prior to submitting the Final Subdivision Plat for approval, the Development Director shall verify that the plat includes a notation indicating the ownership and maintenance responsibility for the open space tract, including all recreation facilities, existing or planned. No open space tracts or associated facilities shall be dedicated to the City of Wauchula, unless specifically accepted by the City Commission.

7.07.02 Zero Lot Line Development

The purpose of this subsection is to promote architectural design flexibility and efficient

use of land in residential subdivisions. Under this concept, the dwelling unit may be placed against a side lot line in order to maximize usable open area within each residential lot. The requirements provided below shall apply in addition to those of Article 3 and Section 7.06.00.

- (A) *Lot Sizes.* The permitted lot sizes in a zero lot line development shall be those permitted for cluster/zero lot line subdivision per section 7.07.01.
- (B) *Platting.* Building Permits shall not be issued in a zero lot line subdivision until all requirements of Section 7.06.00 have been met.
- (C) *Building Envelope and Maintenance Easements.* All zero lot line Subdivision Plats shall show building envelopes wherein all structures shall be located. No structures shall be placed outside the designated building envelope. No windows, doors, air conditioning units, or other openings or projections of any kind shall be permitted where the structure meets the side lot line. Structures on abutting lots may share a common zero lot line, and may be structurally joined by a common fire wall or by porches, garages or privacy fence/wall.

For each unit constructed along a side lot line, an easement five feet in width shall be created on the neighboring property. The purpose of this easement is to permit maintenance and repair of the exterior portion of the structure or structures bordering the zero side yard. All maintenance easements shall be shown on the final plat, along with an indication of the lot to which each easement is assigned.

- (D) *Setbacks.* Each dwelling unit in a zero lot line subdivision shall be set back 15 feet from one side lot line. No setback is normally required from the opposite lot line, but a setback may be provided such that the unit is detached in a conventional sense. On corner lots, the front setback requirement shall apply to both road frontages.

Front and rear setbacks for principal structures shall be those required by the zoning district.

Detached accessory structures shall be limited to a total of 400 square feet, regardless of their number.

7.08.00 Uses Permitted with Conditions

The City of Wauchula finds that there are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating conditions specific to their design and/or operation, in addition to the general requirements provided by this Zoning Code. Such conditions ensure compatibility among building types so that different uses may be located in proximity to one another without adverse effects to either. Uses Permitted with Conditions are those uses that may be treated as a permitted use if the use or structure complies with specifically

identified conditions. It is the purpose of this Section to describe the standards and the review process for a Use Permitted with Conditions.

Uses Permitted with Conditions are permitted, as identified in the Table of Land Uses 2.02.01(A), Article 2, if they meet the listed conditions in Section 3.08.00, and subject to all other applicable standards. At the Development Director's discretion, any development larger than 5 acres or any development that may have compatibility concerns may be sent to the Planning and Zoning Board for approval. The regulations that govern Uses Permitted with Conditions are set forth in Section 3.08.00. Where standards provided in Section 3.08.00 exceed and/or create greater restrictions than those of the underlying zoning district, Section 3.08.00 shall supersede any other provision of this Code. Where no standard is established in Section 3.08.00, that of the relevant zoning district and/or conditions as assigned by the Planning and Zoning Board shall apply.

7.08.01 Application

- (A) *Application; Fees.* All requests for Uses Permitted with Conditions shall be submitted to the Development Director, together with all applicable fees as provided by resolution.
- (B) *Contents.* The application shall contain the following items, as applicable:
 - (1) A legal description and/or parcel ID and street address of the property.
 - (2) Notarized authorization of the owner if the applicant is other than the owner or an attorney for the owner.
 - (3) Site plan or sketch plan drawn to scale showing:
 - a. The dimensions of the property;
 - b. The existing and proposed location of structures on the property including signage, vehicular accessways and circulation areas, off-street parking and loading areas, sidewalks, refuse and service areas, required yards and other open spaces, and landscaping or buffer areas;
 - c. The measurements of existing and proposed adjacent rights-of-way, setbacks, distances between buildings, widths of accessways and driveways, and sidewalks.
 - (4) A tabular summary describing the proposed use of the property including:
 - a. Existing and proposed use of property;

- b. Conditions on the use, such as hours of operation, numbers of residents, etc.;
- c. Area of the property, pervious and impervious areas, and existing and proposed structures.
- d. Number of required and provided off-street parking and loading spaces, existing and proposed density, and number of existing and proposed units.

(5) Other pertinent information as determined by the Development Director.

7.08.02 Process

(A) Application.

A pre-application conference is optional at the applicant's and/or the Development Director's request if the applicant intends to operate a use or develop a structure that is intended to be occupied by a use set forth as a use Permitted with Conditions in Table 2.02.01(A). The purpose of the conference is to advise the applicant of any additional information required for the review of the application for a use Permitted with Conditions. Within ten (10) days of the receipt of the application and all information requested, the Development Director shall inform the applicant if the application materials are sufficient for review and whether or not the application will require Planning and Zoning Board review.

It is anticipated that there may be instances in which the applicant may not know at the time of the pre-application conference/original application all of the uses to which structure(s) in a development will be assigned, therefore, the applicant may seek a determination on whether a proposed use qualifies as a Use Permitted with Conditions from the Development Director at any time. An application shall be submitted with information, as the Development Director shall request. Within ten (10) days of receipt of the application and all the requested information, the Development Director shall inform the applicant of whether the application materials are sufficient for review and whether or not the application will require Planning and Zoning Board review.

No person, however, shall have any right to operate a use identified as a Use Permitted with Conditions unless all of the conditions specified in the Section 3.08.00 related to that use and/or conditions set by the Planning and Zoning Board are currently and continuously complied with. It shall be a violation of this Code to operate any use delineated in this Article without complying with the applicable conditions.

(B) Review and Approval

At the Development Director's discretion, any development larger than 5 acres or any development that may have compatibility concerns may be sent to the Planning and Zoning Board for approval. All other applications will be approved administratively.

- (1) *Administrative.* The Development Director, and any necessary staff, will review the application for Use Permitted with Conditions to determine if the proposal meets the conditions as outlined in Section 3.08.00. If the proposal meets the required conditions, the Use Permitted with Conditions is approved and the applicant can move forward as a permitted use.
- (2) *Planning and Zoning Board.* The Planning and Zoning Board shall hold a public hearing for each application. The Development Director shall submit a written report containing his/her recommendations relating to the proposed Use Permitted with Conditions to the Planning and Zoning Board prior to the meeting at which the application will be heard. A copy of the report shall be made available to the applicant. The Planning and Zoning Board may recommend and may impose conditions or safeguards found to be necessary to ensure the compatibility of the Permitted with Conditions Use with surrounding properties or the community in general. These may include, but are not limited to, requiring restrictions on hours of operation and size of buildings, additional landscape and buffer areas, limiting vehicular access points and location of off-street parking, and similar conditions.

(C) Basis of Review

In considering any application for a Use Permitted with Conditions permit, the Development Director and the Planning and Zoning Board may give consideration to the following minimum criteria, to the extent they are pertinent to the particular application:

- (1) Character of the neighborhood;
- (2) Compatibility with adjacent property uses and zoning;
- (3) Suitability of the property for which the conditional use is being requested;
- (4) Consistency with permitted uses in the area in which the permitted with conditions use is sought.
- (5) Extent to which the proposed use will negatively impact the aesthetics of the property and adjoining properties;

- (6) Impact of additional storm water runoff to the existing system or to the watershed area if no storm sewer is available;
- (7) Impact of noise pollution or other environmental harm;

Conditions provided in Article 3.08.00 should be utilized for consideration of conditions to be applied to address potential incompatibility issues when reviewing proposed Uses Permitted with Conditions.

7.08.03 Nonconformities

Uses that were classified “Permitted” prior to the effective date of the Land Development Code Update, but that are designated as Uses Permitted with Conditions in this Land Development Code Update, shall be allowed to continue without meeting the required conditions for that use as stated in Article 3.08.00. They are considered nonconforming uses and must satisfy the requirements of nonconforming uses included in Section 7.11.00.

7.09.00 Procedure for Obtaining a Special Exception

A Special Exception use is a type of use that is essential to or would promote the public health, safety, or welfare in one or more districts, but that would impair the integrity and character of the district in which it is located, or in adjoining districts, **unless restrictions or conditions** on location, size, extent, and character of performance are imposed in addition to those imposed in this Code. Special Exceptions shall be granted only for those identified by an "S" in the Table of Land Uses 2.02.01(A), Article 2.

The regulations that govern Special Exceptions are set forth in Section 3.09.00. Where standards provided in Section 3.09.00 exceed and/or create greater restrictions than those of the underlying zoning district, Section 3.09.00 shall supersede any other provision of this Code. Where no standard is established in Section 3.09.00, that of the relevant zoning district and/or conditions as assigned by the Planning and Zoning Board shall apply.

The Planning and Zoning Board shall hear and decide applications for Special Exceptions authorized under this Code in the manner prescribed below.

7.09.01 Application

- (A) *Application; Fees.* All requests for Special Exceptions shall be submitted in writing to the Development Director, together with all applicable fees as provided by resolution.
- (B) *Contents.* The application shall contain the following items, as applicable:

- (1) A legal description and street address of the property.
- (2) Notarized authorization of the owner if the applicant is other than the owner or an attorney for the owner.
- (3) Site plan or sketch plan drawn to scale showing:
 - a. The dimensions of the property;
 - b. The existing and proposed location of structures on the property including signage, vehicular accessways and circulation areas, off-street parking and loading areas, sidewalks, refuse and service areas, required yards and other open spaces, and landscaping or buffer areas;
 - c. The measurements of existing and proposed adjacent rights-of-way, setbacks, distances between buildings, widths of accessways and driveways, and sidewalks.
- (4) A tabular summary describing the proposed use of the property including:
 - a. Existing and proposed use of property;
 - b. Conditions on the use, such as hours of operation, numbers of residents, etc.;
 - c. Area of the property, pervious and impervious areas, and existing and proposed structures.
 - d. Number of required and provided off-street parking and loading spaces, existing and proposed density, and number of existing and proposed units.

7.09.02 Review of Proposed Special Exception

- (A) *Completeness Review.* Within ten working days of receipt of an application for a Special Exception, the Development Director shall:
- (1) Determine that the information is incomplete and inform the applicant of any deficiencies.
 - (2) Determine that the plan is complete and proceed with the following procedures.
- (B) *Report to Planning and Zoning Board.* The Development Director shall submit a

written report containing his/her recommendations on the proposed Special Exception to the Planning and Zoning Board prior to the meeting at which the application will be heard. A copy of the report shall be made available to the applicant. The Planning and Zoning Board review shall include a concurrency management review of the proposed use pursuant to the standards and procedures in Article 6 of this Code.

- (C) *Planning and Zoning Board Hearing.* The Planning and Zoning Board shall hold a public hearing on each application.
- (D) *Conditions and Safeguards.* The development and use of the site of an approved Special Exception shall be in accordance with the approved site plan and application materials. The approved site plan shall be filed with the Development Director, and all development shall be in compliance with that plan. The Planning and Zoning Board may recommend and may impose on the grant of any Special Exception any conditions or safeguards found to be necessary to ensure the compatibility of the Special Exception with surrounding properties or the community in general. These may include, but are not limited to, requiring restrictions on hours of operation and size of buildings, additional landscape and buffer areas, limiting vehicular access points and location of off-street parking, and similar conditions. Violation of any such condition or safeguard shall be deemed a violation of this Code and may result in a revocation of any Special Exception, in addition to any other remedy for such violation provided in this Code.
- (E) *Denial.* The Planning and Zoning Board may deny any application for any Special Exception, for one or more of the following reasons:
 - (1) It is inconsistent with the City of Wauchula Comprehensive Plan.
 - (2) It would violate the concurrency management standards in Article 6 of this Code.
 - (3) It does not meet the requirements of the applicable Special Exception regulations.
- (F) *Findings.* The Planning and Zoning Board shall make written findings, based on one or more of the reasons listed above, in support of a denial of an application for a Special Exception.

7.09.03 Modification of Special Exception Use

Once Special Exception Use approval is granted, all uses and development within the development site shall be in conformity with the approved Special Exception Site Development Plan or sketch. Any amendment, variation, or adjustment of an approved

Special Exception Use Site Development Plan or Sketch shall require approval according to the following:

- (1) *Major Amendment.* Submission for review and approval by the Planning Board.
- (2) *Minor Amendment.* Submission for review and approval by the Development Director.

The Development Director shall determine whether a proposed Special Exception amendment is a major amendment or a minor amendment. The determination shall be based on, but not limited to the following: any substantial change to the site development plan or sketch, including increase in density, change in permitted uses, change in stormwater runoff characteristics, change in traffic patterns and trip generation, or other similar changes shall be considered a major amendment to the approved special exception; any proposed minor changes in configuration, addition of permitted accessory uses that do not negatively impact the site, or similar changes shall be considered a minor amendment to the approved special exception. The Development Director may, at his discretion, forward any application for Special Exception Use amendment to one or more individual departments for review and recommendation.

7.09.04 Expiration or Abandonment of Special Exception Use

If a Special Exception does not begin to serve the purpose for which it was granted permission within 180 days from the date of approval, it shall expire. Once initiated, the Special Exception use may continue indefinitely until the expiration of any time limit established as a condition of approval. However, if such use is abandoned for 180 days, it shall expire.

7.10.00 Variances

A variance is an approved modification to the development standards established by this Code. A variance may only be granted for height, area, size of structure, or size of yards and open spaces, or other dimensional requirements, and once granted runs with the land. The request for a variance is considered and approved or denied by the City Commission and public notice is given as detailed in Article 8, Section 8.06.00 “Public Notice/Public Hearings.”

- (A) A variance may be granted if such variance will not be contrary to the public interest, and when owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the development requirements of the zoning district or this Code would result in unnecessary and undue hardship.
- (B) The Commission shall have the power to hear and decide requests for variances where, by reason of the exception of narrowness, shallowness, or unusual shape of a site on the

effective date of this Code, or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not dwelling unit or population density) of this Code would deprive the applicant of reasonable use of the land in a manner enjoyed by other landowners in the same zoning district. The Commission may impose any reasonable conditions or restrictions in granting said variance.

- (C) Establishment or expansion of a land use otherwise prohibited by this Code shall not be allowed by variance; nor shall the presence of nonconforming uses on neighboring properties in the zoning district or abutting districts provide the basis for establishing otherwise prohibited uses.
- (D) If an undeveloped lot of record is existing before the adoption of this Code, and is too small to allow conformance with the dimension and area regulations of any zoning category, the owner may apply for a variance.
- (E) Once granted, a variance runs with the land and continues in perpetuity, even if the property changes ownership.

7.10.01 Criteria for Granting a Variance

The granting of a Variance shall be based on a determination by the City Commission that the request will not be contrary to the public interest and the intent of this Code, and that strict enforcement of the regulation in question would create an undue and unnecessary hardship for the applicant. Considerations of health, convenience, or economics shall not be considered as justification for a variance. For each variance granted, the City Commission shall approve the variance based on the following criteria:

- (A) Special conditions and circumstances exist that are peculiar to the land or structure involved and that are not applicable to other lands or structures in the same land use classification.
- (B) The special conditions and circumstances do not result from the actions of the applicant.
- (C) The requested variance, if approved, will not confer on the applicant any special privilege that is denied by the provisions of this Code to other lands or structures in the same land use classification.
- (D) Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the identical land use classification and will constitute an unnecessary and undue hardship on the applicant.

- (E) That the variance granted is the minimum variance that will make possible a reasonable use of the land or structure.
- (F) That the granting of the variance will be in harmony with the general intent of this Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

7.11.00 Nonconformities

Nonconformities are land uses, structures, lots, and other elements of development that do not conform to the provisions of this Code but were created in accordance with those land development regulations (if any) in effect at the time of their establishment. Subject to the provisions listed below, nonconformities may continue to exist if otherwise lawful and in existence on the date of adoption of this Code. The casual, intermittent, temporary, or illegal use of land or structures prior to the effective date of this Code shall not qualify such use or structure for the privileges outlined in this Section.

7.11.01 Nonconforming Uses

It is the intent of this Code to permit lots, structures, uses of land and structures, and characteristics of use that were lawful before this Code was adopted, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendments to continue until they are removed but not to encourage their continuation. Such uses are declared by this Code to be incompatible with permitted uses in the districts involved. It is further the intent of this Code that nonconformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses of land shall be brought into conformance as soon as reasonably possible, but nonconforming uses may continue provided:

- (A) There shall be no enlargement, increase in intensity, or alterations to the use, its permanent structure, or both.
- (B) Such uses may not be enlarged, extended, altered or replaced, except for a change to a use permitted in the district in which located, except as provided in (C) below.
- (C) A nonconforming use may continue indefinitely and exist in a building that is transferred from one owner to another. The nonconforming use cannot be reinstated once the structure has had another use or has been vacated for six months or more.
- (D) No use shall be moved in whole or in part to any other portion of the lot or parcel

occupied by such use at the effective date of this Code.

- (E) When a structure devoted to a nonconforming use is damaged or deteriorated, as determined by the Zoning Administrator, to the extent of 50% or more of the structure's assessed taxable value as listed by the Hardee County Tax Assessor, such structure, if restored shall thereafter be devoted to conforming uses.
- (F) A dwelling or manufactured home made a nonconforming use by the adoption of this Code or amendments thereto, which is the homestead of the owner, may be replaced or reconstructed because of destruction or deterioration, so long as the damage or deterioration does not exceed 50% of the structure's assessed taxable value as listed by the Hardee County Tax Assessor.
- (G) Nonconforming uses of land where no principal structure exists, other than Agriculture, shall be discontinued within six months of the adoption of this Code or amendment thereto, whichever date rendered the use nonconforming.

7.11.02 Nonconforming Lots of Record

Lots not meeting the standards established in this Code for minimum width, depth, and area but recorded in the public records of Hardee County prior to the date of adoption of this Code or amendment thereto may be used for building purposes with the following provisions:

- (A) Single family dwelling units shall not be built on lots of less than 50 feet in width and 5,000 square feet in size without a Variance authorized by the City Commission.
- (B) Contiguous lots that are of single ownership, and do not separately meet width, depth, and area requirements of the applicable land use classification, shall be considered a single lot for development purposes.
- (C) Nonconforming lots of record shall not be reduced in size, width, or depth without a Variance authorized by the City Commission.
- (D) All development permitted on nonconforming lots of record shall be subject to normal setbacks and all other requirements of this Code.

7.11.03 Nonconforming Structures other than Signs

A structure that is nonconforming, due to noncompliance with the dimensional requirements of the official schedule of district regulations of this Code and which is used for a use *permitted* in the district in which it is located may remain, provided:

- (A) That it is not moved in whole or in part to another location on the same parcel or

lot that it occupies.

- (B) Transported to any other parcel of land unless such transport would render the structure conforming to all applicable provisions of this Code.
- (C) Enlarged or expanded in any manner, unless such enlargement reduces the degree of nonconformity and is carried out in accordance with the provisions of this Code. Structures that are nonconforming by size, but not by use, may be enlarged if the addition will reduce a nonconformity of floor area and will meet required setbacks.
- (D) Rebuilt, repaired, or renovated in excess of 50% of the assessed taxable value of the structure, as determined by the Hardee County Property Appraiser.
- (E) Structures that are nonconforming by setback, but not by use, may be enlarged if all new construction meets required setbacks.

7.11.04 Nonconforming Manufactured Home Subdivisions and Parks

- (A) Manufactured Home Parks

Existing manufactured home parks that are nonconforming by use shall not be redesigned, expanded in area, **or modified to accommodate additional manufactured homes. Replacement of existing manufactured homes in such parks shall be prohibited.**

Manufactured home parks that are nonconforming by design only may be expanded in area and/or modified so as to reduce or eliminate those aspects of design that render it nonconforming. The Development Director may authorize additional manufactured home sites in such subdivisions upon submission of a Site Development Plan showing a redesign of the subdivision that conforms with the regulations for manufactured home parks in Article 3.

- (B) Manufactured Home Subdivisions

No new manufactured home sites may be added to an existing manufactured home subdivision that is nonconforming. However, existing vacant lots within the subdivision may be utilized and additional property and common facilities may be incorporated into the site if such activities will eliminate nonconforming conditions or reduce the degree of nonconformity.

7.11.05 Nonconforming Manufactured Homes

The replacement of an existing manufactured home on property that is not designated for manufactured home use on the Official Zoning Map shall be prohibited.

7.11.06 Amortization of Nonconforming Uses

- (A) Certain nonconforming uses which, by their nature, would present a substantial likelihood of detrimental effect on adjoining uses and on the health, safety and welfare of the community at large, may continue only for a period of two years from the date of this ordinance, or any amendment thereto specifically including the use as an amortized nonconforming use. Amortized nonconforming uses shall include:
 - (1) Nonconforming signs and billboards that are in existence at the time of adoption of this ordinance.
- (B) The decision of an administrative official determining that a certain use constitutes an amortized nonconforming use and the length and duration of any amortization may be appealed to the Planning and Zoning Board. In determining whether a certain use constitutes an amortized nonconforming use and the duration of any such amortization, the Board shall consider the following factors:
 - (1) The exact nature and extent of the amortized nonconforming use;
 - (2) The type of uses adjacent to the amortized nonconforming use;
 - (3) The potential for disruption or environmental contamination of adjacent uses by the amortized nonconforming use;
 - (4) The length of time that the amortized nonconforming use has existed;
 - (5) Improvements and investments made by the property owners in the development of the amortized nonconforming use; and
 - (6) The realistic investment backed expectations of the property owners in the development of the amortized nonconforming use.
- (C) It shall be the property owner's burden to prove, by the substantial competent evidence, including the provision of detailed financial statements, that the schedule of amortization does not allow for the realization of the land owner's realistic investment backed expectations and that the land cannot be used consistent with the provisions of the City's Comprehensive Plan.
- (D) Notification of Nonconforming Use and Expiration of Use
 - (1) The Development Director shall identify every nonconforming use within 120 days after the adoption or amendment of this Code and shall notify the owner/manager/operator by registered letter of: the existence of this

provision and its requirements; and, the specific date the business/use/sign shall cease.

- (2) The Owner/Operator/Manager of the nonconforming use shall apply for a certificate of use within 90 days after notification by the City or adoption or amendment of this Code, whichever is greater.
- (3) The Development Director shall inspect each identified, nonconforming uses annually to determine the progress of the owner/manager/operator toward conformity with this Code.
- (4) The Development Director shall determine by his/her inspection that the scope of operations has been reduced by 50%, on or about the first anniversary of the adoption of this Code.
- (5) The Development Director shall notify the owner/manager/operator by registered letter the date by which all operations shall cease, six months prior to the second anniversary of the adoption of this Code.

7.11.07 Nonconforming Communications Towers and Antennas

- (A) *Abandonment.* In the event the use of any communications tower or communications antenna has been discontinued for a period of 180 consecutive days, the tower or antenna shall be deemed to have been abandoned. Upon such abandonment, the owner/operator of the tower or antenna shall have an additional 180 days within which to reactivate the use, transfer the ownership/operation to another actual user, or dismantle the tower. The owner of the real property shall be ultimately responsible for all costs of dismantling and removal, and in the event the tower is not removed within 180 days of abandonment, the City may initiate legal proceedings to do so and assess the costs against real property.
- (B) *Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.* Legally nonconforming communications towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain Special Exception Use approval. The type, height, and location of the tower on site shall be the same type and intensity as the original facility. Building permits to rebuild the facility shall comply with applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained, or said permit expires, the communications tower or antenna shall be deemed abandoned.