

ORDINANCE NO. 3618

AN ORDINANCE
To Be Entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, AMENDING THE CITY CODE, SUB-PART B, LAND DEVELOPMENT CODE, CHAPTER 118 LAND USE REGULATIONS, ARTICLE 6. SPECIAL DEVELOPMENT AREAS, SECTION 118.6.2 SUN CITY (PELICAN PRESERVE) FORT MYERS SPECIAL DEVELOPMENT AREA; SECTION 118.6.3 FORUM SPECIAL DEVELOPMENT AREA, C. CONCEPTUAL MASTER PLAN; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS: The City of Fort Myers Land Development Code contains the regulations for land development within the City and has been amended from time to time at the request of land owners to update information within the code; and has been amended from time to time by the City to make minor corrections and revisions; and

WHEREAS: WCI Communities Inc., owner, requested amendments to the Land Development Code, Chapter 118 Land Use Regulations, Article 6. Special Development Areas, Section 118.6.2 Sun City (Pelican Preserve) Fort Myers Special Development Area, to revise the legal description and Conceptual Master Plan (Map H) to add 185 acres, more or less, to Pelican Preserve; and

WHEREAS: The City of Fort Myers elects to further amend Section 118.6.2 Sun City (Pelican Preserve) Fort Myers Special Development Area, to change the name of the development from Sun City Fort Myers to Pelican Preserve, and make minor revisions and corrections; and

WHEREAS: The City of Fort Myers elects to amend Chapter 118 Land Use Regulations, Article 6. Special Development Areas, Section 118.6.3 Forum Special Development Area, to change the resolution number for the Development Order and to make minor revisions; and

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WHEREAS: The City of Fort Myers has solicited public comment in accordance with its duly adopted public participation procedures; and

WHEREAS: The Planning Board, sitting as the Local Planning Agency of the City of Fort Myers, considered amendments to Section 118.6.2 and Section 118.6.3 of the Land Development Code for consistency with the Comprehensive Plan, and the Land Development Code, Section 98.2.2; and made a recommendation of approval to the City Council after conducting a public hearing on January 4, 2012, with fifteen (15) days public notice having been provided to obtain public comment, and considered all written and oral comments received during the public hearing including support documents.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, that:

SECTION 1. The City Code of the City of Fort Myers, Florida, Sub-Part B, Land Development Code, Chapter 118 Land Use Regulations, Article 6. Special Development Areas, Section 118.6.2 Sun City (Pelican Preserve) Fort Myers Special Development Area is hereby amended to read as follows:

118.6.2 Pelican Preserve Special Development Area

A. Purpose and Intent. It is the purpose of this division to improve and protect the public health, safety and welfare by pursuing the following objectives:

- 1.** Encourage innovation in community development.
- 2.** Foster the safe, efficient, and economic use of the land and public facilities and services.
- 3.** Facilitate the provision of adequate public services, such as transportation, water,

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sewerage, drainage, electricity, open space, and parks.

4. Encourage patterns of land use which decrease trip length of automobile travel and encourage trip consolidation.
5. Improve the design, quality and character of new development.
6. Foster a more functional pattern of relationships between residential, office, commercial and recreational land uses.
7. Set forth the standards and guidelines for the future development of the Pelican Preserve Special Development Area.

B. Interpretation

1. These provisions apply to the development of land within the property designated as the Pelican Preserve Special Development Area located within the city. The land development code will apply if the area of regulation is not otherwise addressed by this division, as amended.
2. The interpretation and application of the Pelican Preserve Special Development Area will be reasonably and uniformly applied to all property within the city that is designated as the Pelican Preserve Special Development Area.

C. Conceptual Master Plan

1. The development plan is for those lands described as follows:

Description
Parcel in

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Section 35, Township 44 South, Range 25 East
and
Sections 1 and 2, Township 45 South, Range 25 East
Lee County, Florida

A tract or parcel of land lying in Section 35, Township 44 South, Range 25 East and Sections 1 and 2, Township 45 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

Commencing at the 4" concrete monument marking the South One Quarter corner of Section 1, Township 45 South, Range 25 East, Lee County, Florida; thence S.89°56'14"W., along the south line of the Southwest One Quarter of said Section 1, for 84.66 feet to the **POINT OF BEGINNING** of the herein described parcel;

Thence continue S.89°56'14"W., along said south line, for 2,508.89 feet to the southwest corner of said Section 1 and the southeast corner of said Section 2; thence S.89°03'49"W., along the south line of the Southeast One Quarter of said Section 2, for 2,645.12 feet to a 3"x5" concrete monument marking the South One Quarter corner of said Section 2; thence continue S.89°03'49"W., along the south line of the Southwest One Quarter of said Section 2, for 476.16 feet to a PK nail and disc stamped LB 6952 and a point on a curve; thence northerly 200.18 feet along the arc of a non-tangential curve to the left having a radius of 2,599.95 feet through a central angle of 04°24'41" and being subtended by a chord which bears N.01°38'43"W. for 200.13 feet to a PK nail and disc stamped LB 6952; thence N.03°51'03"W., for 959.31 feet to a PK nail and disc stamped LB 6952 and a point of curvature; thence northerly 490.29 feet along the arc of a tangential curve to the right having a radius of 2,700.06 feet through a central angle of 10°24'15" and being subtended by a chord which bears N.01°21'04"E. for 489.62 feet; thence N.06°33'12"E., for 1,166.54 feet to a PK nail and disc stamped LB 6952 and a point of curvature; thence northerly 826.44 feet along the arc of a tangential curve to the left having a radius of 1,100.00 feet through a central angle of 43°02'49" and being subtended by a chord which bears N.14°58'12"W. for 807.14 feet; thence N.36°29'36"W., for 266.36 feet to a PK nail and disc stamped LB 6952 and a point of curvature; thence northerly 1,249.07 feet along the arc of a tangential curve to the right having a radius of 1,900.00 feet through a central angle of 37°40'00" and being subtended by a chord which bears N.17°39'36"W. for 1,226.70 feet to a PK nail and disc stamped LB 6952; thence N.01°10'24"E., for 248.58 feet to a PK nail and disc stamped LB 6952; thence S.89°25'36"W., for 214.71 feet to a 5/8" iron rod capped LB 6952;

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thence N.00°02'17"W., for 68.31 feet to a 5/8" Iron rod capped LB 6952; thence N.01°00'06"W., for 2,642.68 feet to a 4" concrete monument stamped LB 642; thence N.00°58'02"W., for 1,048.01 feet to a PK nail and disc stamped LB 6952 and a point on a curve; thence northerly 766.45 feet along the arc of a non-tangential curve to the left having a radius of 1,050.00 feet through a central angle of 41°49'24" and being subtended by a chord which bears N.21°16'16"E. for 749.55 feet to a 5/8" iron rod; thence N.00°21'33"E., for 721.50 feet to a 5/8" iron rod; thence N.45°21'33"E., for 42.43 feet to a 4" concrete monument; thence S.89°38'27"E., for 2,224.05 feet to a 4" concrete monument; thence S.02°16'01"E., for 1,168.38 feet to a 5/8" iron rod capped LB 642; thence N.89°54'24"E., for 1,324.86 feet to a 5/8" iron rod capped LB 642 and a point on the east line of the Northeast One Quarter of said Section 35; thence S.03°20'25"E., along said east line, for 1,284.37 feet to a 5/8" iron rod capped LB 6952 marking the East One Quarter corner of said Section 35; thence S.00°01'58"E., along the east line of the Southeast One Quarter of said Section 35, for 2,635.65 feet to a 6" concrete monument marking the common corner for said Sections 1, 2, and 35; thence N.89°28'05"E., along the north line of the Northwest One Quarter of said Section 1, for 2,596.58 feet to a 5/8" iron rod marking the north One Quarter corner of said Section 1; thence S.89°57'18"E., along the north line of the Northeast One Quarter of said Section 1, for 771.84 feet; thence S.00°02'40"W., for 32.13 feet; thence S.04°20'55"E., for 56.38 feet; thence S.02°45'49"E., for 27.98 feet; thence S.03°34'02"W., for 47.09 feet; thence S.06°06'37"E., for 26.74 feet; thence S.17°42'01"E., for 68.03 feet; thence S.25°44'31"E., for 108.40 feet; thence S.17°51'57"E., for 72.48 feet; thence S.04°11'20"E., for 341.65 feet; thence S.08°30'29"E., for 77.08 feet; thence S.05°55'39"W., for 100.64 feet; thence S.10°28'55"W., for 221.23 feet; thence S.03°30'57"W., for 57.81 feet; Thence S.06°23'56"W., for 60.08 feet; thence S.12°09'56"E., for 77.36 feet; thence S.05°46'11"E., for 71.32 feet; thence S.12°47'54"W., for 240.47 feet; thence S.14°30'22"W., for 48.91 feet; thence S.81°06'27"W., for 46.60 feet; thence S.05°47'10"W., for 70.71 feet; thence S.00°38'31"E., for 29.36 feet; thence S.06°54'31"W., for 116.34 feet; thence S.14°11'30"W., for 96.75 feet; thence S.03°15'37"W., for 70.14 feet; thence S.02°05'57"W., for 97.03 feet; thence S.07°32'51"E., for 52.30 feet; thence S.18°12'26"E., for 32.71 feet; thence S.29°44'39"E., for 32.04 feet; thence S.27°02'49"E., for 37.12 feet; thence S.16°36'49"E., for 29.35 feet; thence S.01°49'49"W., for 38.11 feet; thence S.08°44'40"W., for 134.08 feet; thence S.11°54'08"W., for 37.50 feet; thence S.03°43'04"W., for 94.21 feet; thence S.02°26'14"E., for 36.59 feet; thence S.06°14'49"W.,

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for 51.84 feet; thence S.20°25'22"W., for 51.68 feet; thence S.00°46'03"E., for 56.29 feet; thence S.00°22'30"W., for 109.12 feet; thence S.05°53'01"E., for 101.70 feet; thence S.11°06'54"E., for 92.16 feet; thence S.25°45'44"E., for 33.77 feet; thence S.05°58'51"E., for 95.82 feet; thence S.17°00'34"E., for 21.29 feet; thence S.33°17'48"W., for 79.04 feet; thence S.35°01'01"W., for 139.86 feet; thence S.49°37'19"W., for 30.84 feet; thence S.60°34'25"W., for 60.78 feet; thence S.39°37'09"W., for 51.21 feet; thence S.14°22'07"W., for 40.14 feet to a point of curvature; thence southerly 39.03 feet along the arc of a tangential curve to the right having a radius of 200.02 feet through a central angle of 11°10'44" and being subtended by a chord which bears S.19°57'29"W. for 38.96 feet; thence S.42°35'01"W., for 53.52 feet; thence S.20°19'56"W., for 15.12 feet; thence S.44°18'16"W., for 18.67 feet; thence S.02°26'40"W., for 67.89 feet; thence S.05°30'03"E., for 66.59 feet; thence S.19°02'35"W., for 14.16 feet; thence S.14°23'40"W., for 41.24 feet; thence S.22°16'47"W., for 71.77 feet; thence S.23°32'36"W., for 41.70 feet; thence S.00°20'33"W., for 62.72 feet; thence S.09°33'45"E., for 57.83 feet; thence S.21°13'45"E., for 45.96 feet; thence S.30°38'29"E., for 33.49 feet; thence S.70°11'58"E., for 36.91 feet; thence S.89°30'23"E., for 21.48 feet; thence S.03°51'37"W., for 50.88 feet; thence S.00°41'27"W., for 100.52 feet; thence S.08°10'35"W., for 59.60 feet; thence S.04°00'45"W., for 156.87 feet; thence S.01°51'58"E., for 84.51 feet; thence S.01°06'25"W., for 72.22 feet; thence S.06°28'39"W., for 89.64 feet; thence S.28°38'02"W., for 52.58 feet; thence S.41°37'12"W., for 113.91 feet; thence S.62°18'41"W., for 75.66 feet; thence S.84°28'07"W., for 96.88 feet; thence S.33°20'13"W., for 100.09 feet; thence S.41°39'23"W., for 58.11 feet; thence S.29°37'59"W., for 74.56 feet; thence S.36°03'29"W., for 110.17 feet; thence S.26°43'12"W., for 22.55 feet to the **POINT OF BEGINNING** of the parcel described herein;

Containing 52,369,412 square feet or 1,202.24 acres, more or less.

Bearings are based on the south line of the Southwest One Quarter of Section 1, Township 45 South, Range 25 East, as having an assumed bearing of S.89°56'14"W.

2. The development plan for those lands submitted as Pelican Preserve Special Development Area will generally follow the pattern of land uses as depicted on the

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conceptual master plan for the Pelican Preserve Special Development Area as shown on Map H. The specific location of uses may be amended, switched, shifted or changed with administrative approval by the planning manager and public works department director, as long as the total number of dwelling units or commercial square footage designated on the approved conceptual master plan is not increased and is consistent with Ordinance No. (3618) the local development order for the Pelican Preserve Development of Regional Impact (DRI). Phase lines are shown for the general purpose of showing development sequence; however, they can be changed by the developer during the platting process.

D. Definitions

2. Specific. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Abutting properties means properties having a boundary line or a portion of a boundary line in common, with no intervening street right-of-way or easement.

Accessory use or structure means a use or structure of a nature customarily incidental and

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subordinate to the principal use or structure, and, unless otherwise provided, on the same premises. The term "on the same premises," with respect to accessory uses and structures, shall be construed as meaning on the same lot or building parcel or on an abutting lot or building parcel in the same ownership. Where a building is attached to the roofline of a principal building, it shall be considered as a part thereof, and not an accessory building, except where otherwise stated. If an accessory structure is built on an adjacent lot or building parcel, the adjacent lot or building parcel shall be combined into a single lot of record with the lot or parcel on which the principal structure is located, and the lot may not be sold to a separate owner without written confirmation from the city that the parcel meets the requirements of the Pelican Preserve Special Development Area and land development code as a stand alone parcel.

Adult day care center means any building, or part of a building, whether operated for profit or not, in which is provided, through its ownership or management, for a part of a day, base services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.

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Assisted living facility (ALF), multifamily, means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes, through its ownership or management, to provide housing, meals, and one or more personal services, for a period exceeding 24 hours, to one or more adults who are not relatives of the owner or administrator.

Automobile service station, major repair, includes any major body work performed on vehicles, including, but not limited to, painting, finish work, body repair, muffler installation, brake relining, upholstering, engine rebuilding, etc. Specifically excluded is any major salvage or stripping operation, such as salvage yards.

Automobile service station, minor repair, means an establishment primarily engaged in the retail sale of motor fuel or lubricants, but which may also include facilities for washing, polishing, waxing, oil changes, transmission fluid changes, greasing, tire repairs (with no recapping or vulcanizing) and other minor repairs, and emergency road service, including towing and emergency repairs and services, and radio or cellular phone sales and installation.

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Automobile wrecking and automobile wrecking yard

means the dismantling, crushing, shredding, or disassembling of used motor vehicles or trailers, or the storage, sales or dumping of dismantled, partially dismantled, obsolete, or wrecked motor vehicles or trailers, or their repairs.

Building lot means a parcel of land occupied, capable

of being occupied or designed to be occupied by one or more principal buildings or uses, for the district in which located, and the accessory buildings or uses customarily incidental to it, including such open spaces as required.

Building lot or parcel frontage means the distance

measured along a straight line between the points of intersection of the side lot or lot lines with the street right-of-way easement.

Building lot or parcel measurement, depth, means the

distance between the midpoints of straight lines connecting the foremost points of the side lot or parcel lines in the rear.

Building lot or parcel measurement, width, means the

average distance between straight lines connecting front and rear lot or parcel lines at each side of the lot or parcel, measured as straight lines between the foremost points of the side lot or parcel lines in front (where they intersect with the street line) and the rear

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most points of the side lot or parcel lines in the rear; provided, however, that the width between the side lines at their foremost points in the front shall not be less than 80 percent of the required lot or parcel width, except in the case of lots on the turning circle of a cul-de-sac, in which case the 80 percent requirement shall not apply.

Building lot types means the following:

- (1)** Corner lot means a lot located at the intersection of two or more streets. A lot abutting on a curved street shall be considered a corner lot if lines drawn tangentially to the street at the intersection of the side lot lines and the street meet at an interior angle of less than 135 degrees.
- (2)** Interior lot means a lot, other than a corner lot, with only one frontage on a street.
- (3)** Through lot means a lot, other than a corner lot, with frontage on more than one street. Through lots abutting two streets may be referred to as "double frontage lots."

Building parcel or site means a portion of land or property located within a larger platted tract of land, which is intended for development under the land use designation.

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Carport means a freestanding or attached structure, consisting of a roof and supporting members, such as columns or beams, unenclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor driven vehicles owned and used by the occupants of the building to which it is accessory.

Change of occupancy means the discontinuance of an existing use and the substitution therefore of a use of a different kind or class. Such term is not intended to include a change of tenants or proprietors, unless accompanied by a change in the type of use.

Child care center means an establishment where four or more children, other than members of the family, occupy the premises, and are cared for away from their own home by day or night. This term includes a day nursery, day care service, day care agency, nursery school, or play school. The term does not include foster homes.

Clinic, medical or dental, means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by one person or group of persons practicing any form of the healing arts, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists,

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homeopaths, optometrists, dentists, or any such medical profession, the practice of which is lawful in the state in another city. A public clinic is one operated by any governmental organization for the benefit of the general public. All other clinics are private clinics.

Clinic, veterinary, means any structure or premises used primarily for the diagnosis, treatment, and medical and surgical care of birds and animals. Such term may include indoor kennels for the boarding of animals, particularly those animals which require overnight observation and care due to surgery or other medical treatment. Such term may also include outdoor runs to provide for the proper exercise of three animals at a time, unless the outdoor runs are adequately screened to protect any adjacent property from the visual and noise impacts of the animals.

Cocktail lounge or bar (nightclub) means any establishment, or part thereof, devoted primarily to retailing for on-premises consumption of malt, vinous, or other alcoholic beverages.

Commercial vehicle means any vehicle that has a rated load capacity in excess of one ton or more and is used in conjunction with a commercial or business activity.

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Community means all of the Pelican Preserve Special Development Area submitted for conceptual master plan approval.

Community facility includes a campus style set of buildings designed to provide recreational amenities, outdoor recreational facilities, and community center uses. The recreational amenities include, but are not limited to, a volleyball court, lawn bowling, tennis, softball field, outdoor pool, aerobics pool, gym, social hall, library, coffee shop, theater, sports bar, post office, art facilities, woodshop, lap pool, painting room and related reception area, locker rooms, restrooms, business center and administrative area.

Condominium means that form of ownership of real property which is created pursuant to the provisions of F.S. ch. 718, which is comprised of units that may be owned by one or more persons, and in which each unit owner has an undivided share in common elements.

Contiguous property. See the definition in this subsection (2) of the term Abutting property.

Convalescent home. See the definition in this subsection (2) of the term Nursing home facility.

Day nursery. See the definition in this subsection (2) of the term Child care center.

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Depth of a lot. See the definition in this subsection (2) of the term Building lot or parcel measurement, depth.

Design review committee (DRC) means a group of individuals that have the responsibility for enforcing the design review guidelines and procedures within an approved special development area. This committee has the authority and responsibility to review all exterior activities, including, but not limited to, construction, landscaping, new installations, modifications, alterations, repairs or reconstruction, and deviations from this division, as well as other sections of the land development code. The committee is selected by the developers, or by the homeowners' association once the developer is completely finished with build out of the special development area and consists of four to ten individuals with various areas of professional expertise relating to development and design.

Drive-in bank or financial institution means a drive-in bank or financial institution which provides drive-in teller service, where the patron makes withdrawals or deposits, or receives other financial services without departing from his vehicle. Drive-in banking facilities may

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include pedestrian or vehicular automatic teller machines.

Drive-in business means an establishment, other than a drive-in restaurant or refreshment stand, drive-in bank or financial institution, or drive-in theater, where a patron is provided products or services without departing from his automotive vehicle.

Dwelling unit means rooms connected together, which could constitute a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing sleeping and sanitary facilities and one kitchen. Such term shall not include rooms in hotels, motels, boardinghouses, bed and breakfast facilities or institutional facilities.

Dwelling unit types, duplex, means a single, freestanding, conventional building on a single lot, designed for two dwelling units under single ownership, or wherein each dwelling unit is separately owned or leased, but the lot is held under common ownership.

Dwelling unit types, multiple-family building, means a group of three or more dwelling units within a single conventional building, attached

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side-by-side, or one above another, or both, and wherein each dwelling unit may be individually owned or leased, but the land on which the building is located is under common or single ownership. Dwelling units, other than caretaker's quarters, which are included in a building, which also contains permitted commercial uses, shall also be deemed to be multiple-family dwelling units.

Dwelling unit types, patio unit, means a single, freestanding, conventional building, designed for one dwelling unit and which could be used for occupancy by one family. Patio units are identified separately from single-family detached dwellings with conventional development standards in that, typically there is a reduction in the minimum lot area square feet or floor area, lot width and setbacks. (See Table A.)

Dwelling unit types, single-family attached, means a single, freestanding, conventional building, designed as two dwelling units attached by a common wall or roof, but wherein each unit is located on a separate lot under separate ownership.

Dwelling unit types, single-family detached, means a single, freestanding, conventional building, designed for one dwelling unit and which could be used for occupancy by one family.

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Dwelling unit types, townhouse, means a group of three or more dwelling units, attached to each other by a common wall or roof, wherein each unit has direct exterior access and no unit is located above each other, and each unit is completely separated from any other unit by a rated firewall or a fire and sound resistant enclosed separation or space, and wherein each dwelling unit is on a separate lot under separate ownership.

Dwelling unit types, triplex, means a single, freestanding, conventional building on a single lot, designed for three dwelling units under single ownership, or wherein each dwelling unit is separately owned or leased, but the lot is held under common ownership.

Dwelling unit types, zero lot line, means a dwelling unit with at least one wall of a building on a side or a rear line of the lot on which it stands.

Essential services means services designed and operated to provide water, sewer, gas, telephone, electricity, cable television or communications to the general public by providers which have been approved and authorized according to laws having appropriate jurisdiction.

Family means all people occupying a single dwelling unit who are related by law, blood or

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marriage, and it shall also include four or less people who are not related by law, blood or marriage. Nothing in this definition shall preclude domestic servants from being housed on the premises. Such term shall not be construed to mean a fraternity, sorority, club, monastery, cult, covenant or institutional group.

Floor area, gross, means the area within the inside perimeter of the exterior walls, with no deduction for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of areas open and unobstructed to the sky.

Frontage of a building. See the definition in this subsection (2) of the term Building lot or parcel frontage.

Frontage of a lot. See the definition in subsection (2) of the term Building lot or parcel frontage.

Garage, parking, means a building, or portion thereof, designed or used for the temporary parking of motor vehicles.

Gasoline dispensing system means a gasoline dispensing system which is card-operated, for governmental or commercial entities only, in accordance with the applicable National Fire Protection Association standards.

Gateway Services Community Development District means a community development

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district (CDD) formed under F.S. ch. 190 to provide landscaping, parks and recreation, lighting, potable water, sanitary sewer, irrigation/reuse water, roads, drainage, etc. Such district has the responsibility to review plans of development that will be conveyed to the district for ownership and maintenance to ensure compliance with its criteria manual in accordance with its National Pollutant Discharge Elimination System (NPDES) permit from the Environmental Protection Agency (EPA) and South Florida Water Management District (SFWMD) permit. The criteria manual serves as the district's basis of review.

Geriatric outpatient clinic means a site for providing outpatient health care to persons 60 years of age or older, which is staffed by a registered nurse or a physician's assistant.

Guesthouse or cottage means an accessory dwelling unit which might, or might not, include cooking facilities, which is incorporated, attached to, or detached from a principal dwelling, and which is used exclusively for the noncommercial accommodation of friends or relatives of the occupant or owner of the principal dwelling.

Hospice means a centrally administered corporation, not for profit, as defined in F.S. ch. 617,

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providing a continuum of palliative and supportive care for terminally ill patients and their family, and includes hospice residential units which provide a homelike living facility, other than a facility licensed under other parts of F.S. ch. 400, or under F.S. ch. 395, that is operated by a hospice for the benefit of its patients and is considered by a patient who lives there to be his primary residence, and as this term may hereafter be defined under F.S. § 400.601.

Hospital means a building or group of buildings having facilities for overnight care of one or more human patients, providing services to in-patients and medical care to the sick and injured, and which may include as related facilities, laboratories, out-patient services, training facilities, central service facilities and staff facilities; provided, however, that any related facility shall be incidental and subordinate to principal hospital use and operation. A hospital is an institutional facility within the terms of this division.

Institutional facility means a hospital, assisted living facility, extended care facility, convalescent home, life care facility, rest home, home for the aged, adult foster home, children's home, rehabilitation center, licensed skilled nursing facility, and other uses which, in the opinion

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of the planning manager, or his designee, are consistent.

Land preparation means any activity involving re-contouring of the land, including, but not limited to, clearing, sloping, grading, excavating, filling, road construction, utility installation, landscaping, and other similar activities.

Loading space, off-street, means a space logically and conveniently located for pickups and/or deliveries or for loading and/or unloading.

Long-term care facility means a skilled nursing facility, nursing facility, assisted living facility, adult facility care home, board and care facility or any other similar adult care center, or such other definition provided in F.S. ch. 400.

Lot. See the definition in this subsection (2) of the term Building lot.

Model home means a residential structure used for demonstration purposes or sales promotion, not occupied as a dwelling unit or contractor's office, and open to the public for inspection.

Motor home means a vehicular unit built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.

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Nursery, plant, means any lot, structure or premises used as an enterprise for the purpose of growing or keeping plants for sale or resale.

Nursery school. See the definition in subsection (2) of this section of the term Child care center.

Nursing home facility means any facility which provides nursing services as defined in F.S. ch. 464, pt. I, and which is licensed according to F.S. ch. 400, pt. II.

Parcel. See the definition in this subsection (2) of the term Building parcel or site.

Recreation, commercial, includes recreational facilities operated as a business, that may be open to the public. Such term includes, but is not limited to, art galleries, museums, amphitheaters, indoor model car racecourses, billiard or pool halls, coin-operated amusement establishments, dance halls, golf courses, miniature golf driving ranges, golf pitch and putt, pools, tennis courts, bowling alleys, gymnasiums, health clubs, racquetball, handball or squash courts, skating rinks, swimming pools and aquatic centers, and indoor theaters.

Restaurant means an establishment where food is ordered from a menu, and is prepared and served for pay primarily for consumption on the premises. This definition is not intended to preclude incidental food takeout service.

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Restaurant, drive-in or refreshment stand, means any place or premises where provision is made on the premises for the selling, dispensing, or serving of food, refreshments, or beverages in automobiles and/or in other than a completely enclosed building on the premises, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages in automobiles on the premises. A restaurant which provides drive-in facilities of any kind in connection with regular restaurant activities shall be deemed a drive-in restaurant for the purpose of this division. A barbecue stand or pit having the characteristics noted in this definition shall be deemed a drive-in restaurant. This definition shall not apply to any full service sit-down restaurant with outdoor seating.

Restaurant, fast food, means an establishment where food is prepared and served to the customer in a ready-to-consume state for consumption either within the restaurant building, outside the building but on the same premises, or off the premises, and having any combination of two or more of the following characteristics:

- (1) A limited menu, usually posted on a sign rather than printed on individual sheets or booklets;

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- (2) Self-service rather than table service by restaurant employees;
- (3) Disposable containers and utensils; or
- (4) A kitchen area in excess of 50 percent of the total floor area. A cafeteria or delicatessen shall not be deemed a fast food restaurant for the purpose of this division.

Sales facility means a temporary facility in which real estate sales take place for the Pelican Preserve community.

School, commercial, means a for profit educational facility.

School, private, means an educational facility that meets academic standards as provided by the state.

Self-service fuel pump service station means an establishment primarily for the purpose of retail selling of motor vehicle fuels. Ancillary sales may include some convenience commodities, such as tobacco or dairy products and auto washes.

Site plan means the development plan for one or more lots, building lots, tracts or parcels, which depicts the existing and proposed conditions of the lot, and all of the other requirements set forth in subsection E below.

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Street, private, means a street that is maintained by the developer or the Gateway Services Community Development District.

Street, public, means a street that is maintained by the city or any governing public body.

Supermarket means a self-service retail market, which primarily sells food items, but also may sell household items, personal items and other merchandise. Such facility is generally, but not necessarily, part of a chain store system, which may exist as an individual structure or as an integrated structure within a shopping center.

Tract means a designated area of land or property established by plat.

Trailway means a minimum five-foot wide pathway constructed of either asphalt, concrete, or wood plank.

Variance means a departure from the provisions of this chapter or from the city code (excluding building codes) relating to building and other structural setbacks, lot dimensions such as width, depth or area, structure or building height, open space, buffers, street setbacks, off-street parking or loading requirements, building coverage, impervious areas, landscaping and similar type regulations, but not involving the actual use of the property, building or structure, procedural

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requirements or definitions. A variance shall not be authorized which increases the allowable density of multifamily residential structures, or which increases the floor area ratio of commercial or industrial square footage. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the land use district or classifications. A variance may be granted when the approval of the variance is beneficial to the project or development and imposes no negative impact on surrounding development. No variance can be granted that would be detrimental to the public health and safety.

Vehicle sale or rental includes, but is not limited to, the sale or rental of new or used automobiles, boats, buses, campers, mobile homes, motorcycles, trucks, vans and recreational vehicles or trailers, but excluding farm implements and heavy construction equipment.

E. Development Review Procedures

1. All developers or builders within Pelican Preserve Special Development Area must obtain building permits from the city. All applications for building permits must be on the standard city application and must

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include any necessary attachments. In order for a building permit application to be considered complete, it must include written documentation from the Pelican Preserve Design Review Committee, which demonstrates the fact that the builder or developer submitted an application to the Pelican Preserve Design Review Committee (and the Gateway Services Community Development District if the proposed improvements will be conveyed to the Gateway Services Community Development District for ownership) and received approval from them prior to submittal to the city. It is the responsibility of the Pelican Preserve Design Review Committee to provide evidence of when the Gateway Services Community Development District's approval is required.

- 2.** The developer shall be required to file a preliminary subdivision plat, and record all final subdivision plats and subsequent replats prior to the development of property within the area designated as the Pelican Preserve Special Development Area in accordance with chapter 130. The construction of all or a portion of Treeline Avenue must be in accordance with county standards for arterial roadways. Treeline Avenue will be owned and maintained by the county. The following uses

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may be issued building permits prior to the completion of 50 percent of the dollar value of all site improvements (see the exception set forth in section 130-97):

- a.** The construction of golf courses and water management facilities.
- b.** Other site amenities, including clubhouses and guardhouses.
- c.** The construction of model homes, provided the developer submits a covenant of unified control which also acknowledges the use of the model home is temporary. The certificate of occupancy shall note that the model home is for temporary use as a model only until such time as a final plat is recorded.

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F. General Standards

1. Surface water management

- a.** Construction, operation, and maintenance of the water management system shall be conducted by the developer, its successor or assigns, the Gateway Services Community Development District (created pursuant to F.S. ch. 190) or a property owner's association that would be responsible for the water management system.
- b.** A surface water management system (South Florida Water Management District Permit No. 36-00678-S) has been designed and partially implemented for the Pelican Preserve community. This system incorporates the use of lakes, natural cypress areas, flow ways, swales, control structures, and spreader swales. The water management plan combines manmade and natural system features, such as natural cypress strands and seasonal ponds, to provide the necessary surface water storage capacity for the community.

Private street design standards. Private streets shall be permitted and approved, provided they comply with the design

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standards of chapter 134, pertaining to traffic circulation and parking, except as follows:

- a.** Traffic impact statement variation. A traffic impact statement (TIS) shall not be required for an approved development of regional impact. Individual parcels or site plan submittals within Pelican Preserve Special Development Area shall be required to submit traffic information as outlined in the Pelican Preserve Development of Regional Impact and shall be utilized to track the traffic impacts and mitigation requirements as provided for in the development of regional impact.
- b.** Section 134.2.6.A, pavement width variation. Private roads located within a subdivision shall be allowed to have a minimum 40 foot right-of-way and 11 foot wide lanes.
- c.** Section 134.2.10, cul-de-sac streets variation. Cul-de-sacs shall be a minimum pavement diameter of 72 feet for residential areas, with a minimum pavement width of 22 feet. The cul-de-sac shall be a minimum pavement diameter of 110 feet for commercial areas. The city will

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consider a reduction in the pavement diameter when stabilized surfaces and access points are provided or hammerhead turning facilities are installed.

- d.** Section 134.2.14, curb-cut alignment variation. Where two local streets are proposed to be aligned, they shall be directly across from each other or separated by at least 125 feet center-to-center of the pavement.
- e.** Section 134.2.15, number of access points variation. Residential corner lots on local streets shall be allowed to have a driveway separation of 50 feet between driveways.
- f.** Section 134.2.16, frontage roads variation. The number of access points onto Colonial Boulevard were approved in the development order for Pelican Preserve and are reflected on Map H of the Pelican Preserve Development of Regional Impact development order. The number of access points will be limited to no more than one access point every 660 feet, or more, based on the layout of the development. Since the access points are limited, the site must be designed to ensure access.

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Therefore, a frontage road shall be provided along Colonial Boulevard, unless, through the administrative deviation process, the developer can provide an acceptable alternate plan for internal circulation in accordance with the provisions of section 134.2.12.A, pertaining to continuation of existing street patterns.

- g.** Section 134.2.25, sidewalks/sidewalk ramps variation. The developer will provide an eight-foot asphalt or concrete sidewalk along Colonial Boulevard and a sidewalk on Treeline consistent with the cross section being built by the county. The developer will provide five-foot concrete sidewalks along both sides of the street for all collector roads. A five-foot sidewalk along one side of the road shall be provided for all local roads. Local cul-de-sac roads of less than 600 linear feet shall not be required to provide the sidewalk. A green space between one foot and ten feet shall be provided between the pavement edge and sidewalk.
- h.** Section 134.2.27, street names/traffic control devices variation. All street

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signs and traffic control devices shall have a common architectural theme throughout the entire Pelican Preserve Special Development Area. The signage shall meet the safety requirements of the Manual of Uniform Control Devices, except as approved by the public works department director.

3. Public access. All public streets shall be constructed in accordance with the requirements of chapter 130, pertaining to subdivisions, and chapter 134, pertaining to traffic circulation and parking. All publicly dedicated streets shall connect to, or be an extension of, an existing public street.

4. Agricultural uses. Nonconforming use of property within Pelican Preserve for agricultural purposes (including the grazing and housing of livestock) will be permitted to continue upon showing that such agricultural activity will not unreasonably interfere with the use and enjoyment of nearby residential structures and upon the submission of documentation which indicates that the agricultural use existed prior to the annexation of the property into the city. Nursery activity is permitted within Pelican Preserve Special Development Area for the propagation of vegetation and landscape

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material, which will be installed within Pelican Preserve.

5. Model units. Model units and/or sales facilities intended to promote the sale of the units within Pelican Preserve are a permitted use in all zoning districts.

6. Open space.

a. Due to the large areas of open space (i.e, golf courses, lakes, conservation areas, recreation areas), a minimum of ten percent open space shall be provided on an individual lot basis, except that those parcels fronting on arterial roads or collector roads shall maintain a minimum of 25 percent open space.

b. Pelican Preserve shall be required to provide 40 percent of the gross acreage (approximately 406± acres) as open space. The open space area may include golf courses, passive recreation areas, and/or bodies of water, including stormwater management areas.

7. Signage.

a. Signage guidelines are to be in conformance with chapter 126, pertaining to signs, except as set forth herein. Variations may be approved as

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long as the variance is consistent with the administrative approval process set forth herein, and the written verification from the Pelican Preserve Design Review Committee.

- b.** Pelican Preserve shall maintain an express set of signage guidelines for the community.
- c.** The Pelican Preserve Design Review Committee shall review all signage proposals within Pelican Preserve to ascertain compliance with the signage guidelines for the community.
- d.** All applications to the city for a sign permit shall include written verification from the Pelican Preserve Design Review Committee that a completed application for consideration of the signage proposal has been reviewed and approved by the Pelican Preserve Design Review Committee.
- e.** Community signage is allowed at entrances and community property corners. All other criteria set forth in chapter 126 shall apply to signage.

8. Fences and walls.

- a.** Fences and walls shall be treated as a structure for building permit purposes,

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and a permit shall be obtained prior to the erection thereof.

- b.** All fences shall be of sound, sturdy construction and shall not detract from the surrounding area.
- c.** Fences and walls on property may be of varying materials and colors, but shall be of internally compatible design.
- d.** The terms "fence" and "wall" may be used interchangeably for purposes of this section.
- e.** The planning manager and parks manager, or public works department director may authorize the use of barbed wire in conjunction with chain link fencing where it is found to be necessary to provide security around hazards such as electrical substations, utility sites, water management structures, etc.
- f.** Except as may be otherwise permitted pursuant to a building parcel/building site plan approval, no wall or fence shall be erected or maintained within 25 feet from the corner intersection of a street right-of-way.
- g.** No fence shall block the sight line of passing motorists so as to constitute a traffic hazard.

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- h.** Residential walls shall be limited to a height of eight feet from the average ground level, unless an increased height is permitted in accordance with the requirements below.
- i.** Commercial or industrial walls shall be limited to a height of ten feet from average ground level, unless an increased height is permitted in accordance with the requirements below.
- j.** Fences and walls for residential neighborhoods and/or commercial project fences may include architectural features such as columns, cupolas, fountains, parapets, etc., at a height not exceeding twice the fence or wall height.
- k.** No increase in height for fences or walls may be approved unless the request received the prior approval of the Pelican Preserve Design Review Committee and is processed through the administrative deviation process.
- l.** Fences used to enclose a tennis court or other sport activity area may exceed the height limitations set forth above.
- m.** Fences involving agriculture purposes shall be exempt from these regulations.

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9. Off-Street parking and loading requirements.

- a.** The off-street parking and loading requirements shall be as set forth in chapter 134, article 3, pertaining to off-street parking and loading, as amended.
- b.** In order to permit flexibility in design, innovative development and improved traffic circulation within the village center district and golf course clubhouse, golf cart parking spaces may be provided on-site, in lieu of vehicular parking spaces, at a calculation not to exceed 25 percent of the minimum off-street vehicular parking space requirements for such land uses. Golf cart parking spaces are not required to be paved, but shall be compacted, stabilized, well drained and surfaced with a durable grass cover. Golf cart parking shall be located on the same parcel they serve and be arranged for safe and convenient access. Minimum aisle widths for golf cart circulation shall be 12 feet for two-way traffic and six feet for one-way traffic, and the minimum size requirements for parking spaces shall

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be six feet by ten feet. Golf cart parking lots shall be developed separate and apart from off-street vehicular parking lots wherein no vehicular ingress or egress shall occur.

G. Pelican Preserve Design Review Committee

- 1.** The Pelican Preserve Design Review Committee reviews all vertical and site development within Pelican Preserve Special Development Area pursuant to established design review guidelines. The Gateway Services Community Development District shall review all site development within Pelican Preserve Special Development Area pursuant to its criteria manual, if the proposed improvements will be conveyed to the Gateway Services Community Development District for ownership and maintenance. It is the responsibility of the Pelican Preserve Design Review Committee to provide evidence of when the Gateway Services Community Development District approval is required.
- 2.** The design review committee will review and provide written verification of review and approval of all plans prior to the submission of a preliminary plat and building plans to the city. Five sets of plans shall be submitted to the Pelican Preserve Design Review

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Committee. The Pelican Preserve Design Review Committee will, upon completion of its review, grant approval, conditional approval or denial based on the plans and related information. When plans are approved, the plans will be stamped with the approval of the Pelican Preserve Design Review Committee, and signed and dated. Four sets of plans will be returned to the applicant to be used for submission to the city. If the approval from the Pelican Preserve Design Review Committee was a conditional approval, the plans will note the conditions, which will also be submitted to the city.

- 3.** The Pelican Preserve Design Review Committee will review the plans and evaluate the following types of improvements:
 - a.** Building location.
 - b.** Street layout.
 - c.** Existing and proposed vegetation.
 - d.** Signage (permanent and temporary signage for builders/tradesmen).
 - e.** Grading and drainage.
 - f.** Paths and sidewalks.
 - g.** Exterior materials.
 - h.** Building height.
 - i.** Setbacks.
 - j.** Lighting.

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- k.** Type and location of accessory structures.
 - l.** Walls and fences.
 - m.** Such other items as are necessary to evaluate consistency with the design review guidelines of this division.
- 4.** The Pelican Preserve Design Review Committee shall create a checklist that includes all of the above items. The Pelican Preserve Design Review Committee shall complete the checklist for every submittal for plat approval and development, and shall note on the checklist its findings and evaluation. A copy of the completed checklist shall be signed by the Pelican Preserve Design Review Committee and provided to the applicant for submission to the city.
- 5.** The Pelican Preserve Special Development Area as set forth in this division provides for administrative deviation requests. All requests for administrative deviations shall be submitted to the Pelican Preserve Design Review Committee for their review and evaluation prior to submission to the city. The applicant must submit written documentation to the city that verifies the results of the Pelican Preserve Design Review Committee's review, and which explains that the request was considered by the Pelican

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Preserve Design Review Committee and their findings.

H. Zoning districts.

- 1. Purpose and intent.** The purpose of this section is to set forth the types of uses which may be permitted within each of the zoning districts designated on Map H of the Conceptual Master Plan. The proposed location and general development parameters shall be identified on Map H of the Conceptual Master Plan.

Conservation Area District (CO).

- a. Purpose and intent.** The Conservation Area District (CO) is intended to designate and protect from incompatible uses those areas determined to be environmentally sensitive or otherwise necessary for water management facilities. It is intended that these areas be utilized as water management areas and/or nature parks with limited recreational use. Water management areas and passive recreation areas can be located in any land use district and do not have to be designated as conservation areas.
- b. Permitted uses and structures.** Permitted uses and structures in the CO district are as follows:

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- 1) Aquatic and botanical research laboratories and facilities.
- 2) Boat docks.
- 3) Boating (limited to motors with 25 horsepower or less).
- 4) Community and cultural facilities which are compatible with this district.
- 5) Golf courses.
- 6) Nature trails, including boardwalks.
- 7) Paths and bridges to provide access for residents and minor maintenance equipment.
- 8) Roadway crossings and utility crossings where necessary.
- 9) Water management facilities.
- 10) Other similar uses when approved by the development services manager.

3. Recreation/Golf Course District (RO).

- a. **Purpose.** The purpose of this district is to set forth the regulations for uses in, and development of, golf courses and related facilities within the development.
- b. **Location.** Although the approximate boundary of golf courses are identified on the conceptual master plan, it does

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not preclude portions of the courses, recreational areas or other courses from being identified subsequent to the conceptual master plan and reflected on the preliminary and final plats.

c. Permitted uses and structures.

Permitted uses and structures in the RO district include the following:

- 1)** Clubhouses.
- 2)** Cocktail lounges.
- 3)** Equipment storage.
- 4)** Gift shops.
- 5)** Golf courses.
- 6)** Golf equipment sales.
- 7)** Golf learning centers.
- 8)** Hotels.
- 9)** Maintenance shops/buildings.
- 10)** Motels.
- 11)** Plant nurseries (noncommercial).
- 12)** Pro shops.
- 13)** Project information and real estate sales facilities.
- 14)** Recreational and commercial.
- 15)** Recreational facilities, including bike paths, driving ranges, handball courts, parks, putting greens, racquetball courts, swimming pools, tennis courts, and nature trails.

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- 16)** Recreational vehicle storage areas.
- 17)** Restaurants.
- 18)** Sales facilities.
- 19)** Sporting goods sales.
- 20)** Tennis equipment sales.
- 21)** Water management facilities.
- 22)** Other similar uses when approved by the planning manager.

4. Single-Family Residential Attached and Detached Districts (SF). Single-Family Residential use category is a permitted use in the areas depicted as Residential (R) on Map H, the Conceptual Master Plan.

- a. Purpose and intent.** It is the intent of the single-family attached and detached district to recognize and provide for a variety of dwelling types commonly referred to as "single-family attached dwelling units," whether referred to as a "townhouse," "row house," "duplex," "triplex," "villa," "garden apartment," or any other name for similar type structures, as well as the conventional single-family detached dwelling unit, to also include patio and zero lot line units.

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b. Permitted uses and structures.

Permitted uses and structures in the SF district include the following:

- 1)** Assisted living facilities.
- 2)** Community and cultural facilities.
- 3)** Conservation and water management facilities.
- 4)** Golf courses.
- 5)** Guesthouses.
- 6)** Home occupations (in accordance with the requirements set forth in the land development code).
- 7)** Noncommercial boat launching facilities and docking areas not accessory to an individual residential structure.
- 8)** Private facilities, such as utility stations and substations.
- 9)** Private recreational clubs and facilities intended to serve the neighborhood (with consumption of alcoholic beverages on the premises) in which located, but not to include fraternal organizations and/or recreational clubs.

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- 10)** Public and private parks, playgrounds, play fields, and commonly owned open space.
- 11)** Recreational vehicle areas restricted to a maximum number of 40 sites.
- 12)** Sales facilities.
- 13)** Single-family attached.
- 14)** Single-family detached.
- 15)** Any other principal use or accessory use which is compatible in nature with the foregoing uses and which the development services manager determines to be similar and/or compatible with the residential district, including but not limited to:
 - a)** Private garages, carports and parking areas;
 - b)** Private swimming pools and enclosures;
 - c)** Private tennis courts;
 - d)** Fences and walls;
 - e)** Private boat docks accessory to the residence served.

c. Residential District Regulations.

(See Table A below.)

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5. Multi-Family District (MF). Multi-Family District is a permitted use in the areas depicted as Residential (R) on Map H, the Conceptual Master Plan.

a. Purpose and intent. It is the intent and purpose of this subsection to set forth the regulations for development of tracts, parcels or lots as multiple-family uses.

b. Permitted uses and structures. Permitted uses and structures in the MF district include the following:

- 1)** Any use or structure permitted in the single-family residential attached and detached district (SF).
- 2)** Hotels.
- 3)** Motels.
- 4)** Multifamily.
- 5)** Any other principal use or accessory use which is compatible in nature with the foregoing uses and which the development services manager determines to be similar and/or compatible with the residential district, including, but not limited to:

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- a) Private garages, carports and parking areas;
- b) Private swimming pools and enclosures;
- c) Private tennis courts;
- d) Fences and walls;
- e) Private boat docks accessory to the residence served.

c. Residential district regulations. (See Table A below.)

Table A: Residential Districts Regulations (SF and MF)

District	Single-Family Detached		Single-Family Attached		Multi-family
Permitted Uses and Standards	Single-Family Detached	Patio and Zero Lot Line	Two-Family and Duplex	Single-Family Attached, Triplex and Townhouse	Multi-family Dwellings, ALFs
Category	1	2	3	4	5
Minimum lot area	6,500 SF	4,000 SF	2,500 SF *3	2,500 SF	20,000 AC
Minimum lot width *4	50	30	35	30	100
Front yard *1 *2	20	20	20	20	20
Front yard for angled and side entry garage	15	10	10	10	15
Side yard *1	5	*5	7.5	0.5 BH	0.5 BH
Rear yard principal	20	10	15	15	0.5 BH
Rear yard accessory	10	5	10	10	15
Rear yard special *1	10	5	10	10	0.5 BH
Maximum building height	35	35	35	35	100 *7
Floor area (min.) (SF)	1,400 SF	600 SF	600 SF	600 SF	500 SF
Building coverage (max.)	45%	45%	45%	45%	45%

NOTES:

BH: Building height. SBH: (Sum of building heights): Combined height of two adjacent buildings for the purpose of determining setback requirements. All distances are in feet unless otherwise noted.

*1. Reduced setbacks with approval from Pelican

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Preserve Design Review Committee for side and rear yards for principal structures on lots which abut lake, open space, or reserve areas. With approval from Pelican Preserve Design Review Committee, front yards shall be measured as follows:

- A. If the parcel is served by a public right-of-way, setback is measured from the adjacent right-of-way line.
- B. If the parcel is served by a private road, setback is measured from the access easement.

- *2. Dwellings which provide for two parking spaces within an enclosed garage and provide for guest parking other than in private driveways may reduce the front yard requirement to 12 feet for the garage and 15 feet for the remaining structures.
- *3. Each half of a duplex unit requires a lot area allocation of 2,500 square feet for a total minimum lot area of 5,000 square feet.
- *4. Minimum lot width may be reduced by 20 percent for cul-de-sac lots, provided the minimum lot area requirement is still maintained.
- *5. Zero feet or a minimum of five feet on either side, except that where the zero-foot yard option is utilized, the opposite side of the structure shall have a ten-foot yard. Zero-foot yards may be used on both sides of a structure, provided that the opposite ten-foot yard is provided.

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- *6. Setbacks measured to the nearest point of the building, and not including windows, shutters, overhangs and awnings.
- *7. Building height for assisted living facilities only may be ten stories over parking.

6. Village Center Commercial District (VC).

a. Purpose and intent. The purpose of the village center commercial district (VC) is to set forth regulations for hotels, offices, retail, multifamily residences and certain commercial facilities serving the traveling public, city residents and the greater county area.

b. Permitted uses and structures. Permitted uses and structures in the VC district include the following:

- 1)** Adult day care centers.
- 2)** Apparel shops, including, but not limited to, clothing, hats, jewelry, shoes and other customary clothing accessories.
- 3)** Assisted living facilities.
- 4)** Auto service stations, minor repairs.
- 5)** Banks and financial institutions, drive-in facilities and automated teller machines (ATM).
- 6)** Botanical and zoological gardens.

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- 7)** Child care centers.
- 8)** Churches.
- 9)** Clubs, private.
- 10)** Cocktail lounges or bars.
- 11)** Commercial centers.
- 12)** Commercial, recreational uses.
- 13)** Community facilities.
- 14)** Conference centers.
- 15)** Conservation and water management facilities.
- 16)** Cultural centers.
- 17)** Department stores.
- 18)** Drug stores.
- 19)** Food stores.
- 20)** Golf courses, and related uses.
- 21)** Health care clinics, including, but not limited to, medical, dental, optical, chiropractic, and osteopathic, plus related facilities, such as blood banks and organ donor facilities.
- 22)** Hotels and motels.
- 23)** Longterm care facilities.
- 24)** Medical offices.
- 25)** Multiple-family dwelling units.
- 26)** Nightclubs.
- 27)** Nursing homes.
- 28)** Offices, business and/or professional.

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- 29)** Package stores.
- 30)** Parking garages, public or private.
- 31)** Personal services including, but not limited to, barbershops, beauty salons, health spas, laundry and dry cleaning pickup establishments, self-service laundries and the like.
- 32)** Public and private parks and commonly owned open space.
- 33)** Recreation facilities, indoor and outdoor, commercial.
- 34)** Restaurants, including fast food and refreshment stands. Consumption of alcoholic beverages on the premises shall be permitted in accordance with the requirements of the land development code.
- 35)** Schools, private or commercial.
- 36)** Self-service fuel pump service stations.
- 37)** Signs.
- 38)** Specialty shops, including but not limited to, antique and curio shops, arts, craft and hobby shops, bait and tackle shops, bicycle rentals, bookstores,

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florists, gift and souvenir shops, newsstands, novelty shops, stationery shops and other similar retail sales or service shops.

39) Studios for artists, photography, interior decorating and similar uses.

40) Supermarkets.

41) Theaters (indoor as well as outdoor amphitheaters).

42) Other uses. The development services manager may approve any other commercial or professional service which is comparable and compatible with the stated purpose and intent of this district.

c. Prohibited uses. These uses are expressly prohibited in all commercial, business, office or similar districts:

1) Adult entertainment establishments.

2) Automobile wrecking or automobile wrecking yards.

3) Bottle clubs.

4) Drive-in theaters.

d. Development regulations. (See Table B below.)

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e. Exceptions. In order to permit maximum flexibility in designing and planning for an innovative development within the village center commercial district, the developer shall have broad powers to reduce, eliminate, or adjust parcel boundary line setbacks and minimum distances between buildings specified in Table B, provided that:

- 1)** All building and fire code requirements are met.
- 2)** The planning manager with the consent of the planning manager and public works department director, determines that the reduction, elimination or adjustment does not negatively impact the public health and safety.
- 3)** If the developer disputes the finding of the planning manager, the developer has the right to appeal the decision of the planning manager on all fire and life safety issues to the fire and building board of appeals, pursuant to the procedure set forth in the land development code.

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7. General Commercial District ~~(GC)~~ (C)

a. Purpose and intent. The purpose of the general commercial district (C) is to set forth regulations for hotels, offices, retail and certain commercial facilities serving the traveling public, city residents and the greater county area.

b. Permitted uses and structures. Permitted uses and structures in the (C) district include the following:

- 1)** Adult day care centers.
- 2)** Apparel shops, including, but not limited to, clothing, hats, jewelry, shoes, and other customary clothing accessories.
- 3)** Assisted living facilities.
- 4)** Auto service stations, minor repairs.
- 5)** Banks and financial institutions, drive-in and automated teller machine (ATM) facilities.
- 6)** Botanical and zoological gardens.
- 7)** Car washes.
- 8)** Child care centers.
- 9)** Churches.
- 10)** Clubs, private.
- 11)** Cocktail lounges or bars.
- 12)** Commercial centers.
- 13)** Commercial, recreational uses.

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- 14)** Community facilities.
- 15)** Conservation and water management facilities.
- 16)** Department stores.
- 17)** Drug stores.
- 18)** Food stores.
- 19)** Funeral homes and mortuaries.
- 20)** Garden or lawn supplies and equipment (outdoor display permitted).
- 21)** Geriatric outpatient clinics.
- 22)** Golf courses, and related uses.
- 23)** Golf cart sales and service.
- 24)** Hardware, paint, floor and wall coverings.
- 25)** Health clinics, including, but not limited to, medical, dental, optical, chiropractic, and osteopathic, plus related facilities, such as blood banks and organ donor facilities.
- 26)** Home appliance, furniture, furnishings and supplies.
- 27)** Hospitals.
- 28)** Hotels and motels.
- 29)** Institutional facilities.
- 30)** Kennels.
- 31)** Longterm care facilities.
- 32)** Medical offices.

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- 33)** Nursing homes.
- 34)** Offices, business and/or professional.
- 35)** Package stores, with no on-site consumption.
- 36)** Parking garages, public or private.
- 37)** Personal services, including, but not limited to, barbershops, beauty salons, health spas, laundry and dry cleaning pickup establishments, self-service laundries, and the like.
- 38)** Pet stores, including pet grooming, but not boarding, provided all activities are conducted totally within an enclosed building with no outside runs.
- 39)** Public and private parks and commonly owned open space.
- 40)** Recreation facilities, indoor only, including, but not limited to, arcades, bowling alleys, game rooms, and theaters.
- 41)** Repair services, including, but not limited to, small electrical appliances, radio, television and electronic equipment, bicycles

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and other household furnishings, but excluding the repair of gasoline or diesel engines.

- 42)** Restaurants, including fast food and refreshment stands. Consumption of alcoholic beverages on the premises shall be permitted in accordance with the requirements of the land development code.
- 43)** Sales facilities.
- 44)** Self-service fuel pump service stations.
- 45)** Schools, private or commercial.
- 46)** Signs.
- 47)** Specialty shops, including, but not limited to, antique and curio shops, arts, craft and hobby shops, auto and boat parts (new or used), bait and tackle shops, bicycle sales, rental and repair, bookstores, butchers, florists, gift and souvenir shops, music shops, newsstands, novelty shops, optical shops, stationery shops, sporting goods stores, tobacco shops, and other similar retail sales or service shops.

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- 48)** Studios for artists (no towers), dancing or music instruction in completely enclosed, soundproofed buildings, interior decorating, photography, and the like.
- 49)** Supermarkets.
- 50)** Theaters, indoor.
- 51)** Vehicle sales, and rentals.
- 52)** Veterinarians.
- 53)** Accessory uses and structures customarily associated with the uses permitted in this district.
- 54)** Any other principal use which is compatible in nature with the foregoing uses and which the development services manager determines to be similar and/or compatible with the general commercial district.

c. Prohibited uses. These uses are expressly prohibited in the general commercial district (C):

- 1)** Adult entertainment establishments.
- 2)** Automobile wrecking or automobile wrecking yards.
- 3)** Bottle clubs.
- 4)** Drive-in theaters.

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d. Commercial district regulations.

(See Table B below.)

Table B: Commercial District Regulations

	General Commercial	Village Center
Minimum area	20,000 square feet	10,000 square feet
Minimum width (feet)	100	50
Minimum depth (feet)	150	100
Collector/arterial setback (feet)	50, plus 1 foot for every 2 feet over 50 feet	50, plus 1 foot for every 2 feet over 50 feet
Local/private street setback (feet)	20	20
Parcel boundary setback (feet)	25, plus 1 foot for every 2 feet over 25	25, plus 1 foot for every 2 feet over 35
Minimum floor area (square feet)	1,000	1,000
Maximum height	10 stories	5 stories
Building coverage (max.)	50%	50%

8. Landscaping

a. In general. This section supersedes the requirements in chapter 138, pertaining to vegetation, except for section 138-72, pertaining to street tree requirements; section 138-76, pertaining to prohibited, nuisance trees; section 138-77, pertaining to standards for removal and replacement; section 138-79, pertaining to emergencies; section 138-81, pertaining to violations and penalties; section 138-101, pertaining to required

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permits; section 138-102, pertaining to exemptions; section 138-103, pertaining to application and submission requirements; section 138-104, pertaining to site plan; section 138-105, pertaining to criteria for issuance; section 138-106, pertaining to appeal and variance from denial; section 138-107, pertaining to duration; and section 138-82, pertaining to lethal yellowing disease.

- b. Minimum requirements.** The following are the minimum landscape requirements for the various land uses, including the minimum number of trees and shrubs:

Minimum Landscaping Requirements				
Land Use	Canopy Plants	Type	Sub-Canopy Type Plants	Shrubs
Single-family lots	0.7	per 4,000 square feet	0.4	per 4,000 square feet
Single-family corner lots	0.7	per 4,000 square feet, with 25% located within the required street side yard	0.4	per 4,000 square feet, with 25% located within the required street side yard
Multifamily lots	0.5	per 4,000 square feet	0.2	per 4,000 square feet
Multifamily corner lots	0.5	per 4,000 square feet, with 25% located within the required street side yard	0.2	per 4,000 square feet, with 25% located within the required street side yard
Commercial/hotel/ALF	0.4	per 4,000 square feet	0.1	per 4,000 square feet
Commercial/hotel/ALF corner lots	0.4	per 4,000 square feet, with 25% located within the required street side yard	0.1	per 4,000 square foot, with 25% located within the required street side yard

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*See Pelican Preserve Special Development Area landscape palette at the end of this section for plant specifications.

c. Lawns. Lawns shall be placed on all areas not covered by principal and accessory structures, walks and drives, and landscaped areas. Landscaped areas can include trees and shrubs. Lawns shall extend to any abutting street pavement edge and to the mean water line of any abutting canal, lake or waterway (not to exceed 30 feet from said water line to property line) where the slope does not exceed two to one. No lawn area shall be constructed with more than ten percent of the total area of gravel, stone, concrete, asphalt, or other similar material, except necessary walks and drives.

d. Minimum perimeter landscaping and buffer yards.

1) In general. A landscape buffer yard shall be required along the entire perimeter of the proposed development whenever the development use abuts a different existing or permitted use. (See Pelican Preserve Special Development Area

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landscape palette, Table C.)
These requirements are in addition to the minimum landscaping requirements identified above.

- 2) Land use abbreviations.** Land use abbreviations are as follows:
- SFD Single-family detached
- SFA Single-family attached
- MF Multifamily
- COM Commercial use
- RVP Recreation vehicle park
- ROW Any street right-of-way or easement

- 3) Types of landscape buffer yards.** The types of landscape buffer yards include the following:

	A	B	C	D	E	F
Minimum width	10'	20'	25'	30'	10'	10'
Trees required (*)(**)	3	5		5	3	3
Shrubs required (*)	12	24	28	30	15	15
Berm required	(Type E buffer: berm and wall = 3' or 3' wall) (Type F buffer: berm and wall 6' or 6' wall)					

(*) Required number of trees and shrubs per 100 linear feet.
(**) See canopy type plant or sub-canopy type plants for tree selection.

- 4) Required buffer yards at abutting uses.** The required buffer yards at abutting uses include the following:

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	SFD	SFA	MF	COM	RVP
SFD	*	*	A	B	C
SFA	*	*	A	B	C
MF	A	A	*	B	C
COM	B	B	B	*	B
RVP	C	C	C	B	*
Parking	F	F	F	E	E

* No buffer is required

5) Exceptions and modifications. In the event a proposed development abuts an existing development, which has provided more than the minimum required landscape buffer yard in accordance with the above, the proposed development shall only be required to provide additional sufficient width and landscaping to meet the minimum required buffer yard width for abutting uses. In some cases, no additional buffer may be required.

6) Landscape buffer yards adjacent to rights-of-way. All proposed developments or neighborhoods shall provide buffer yards as follows:

a) Adjacent arterial or collector streets.

Type Buffer		
1.	Residential	B
	Commercial (general or village)	A
3.	Recreational vehicle park	C
4.	Off-street parking areas adjacent to nonresidential	E
5.	Off-street parking area adjacent to residential	F

The requirements for residential may be changed to type A landscape yard, if a perimeter wall or fence is constructed.

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b) Adjacent local streets. Individual residential lots shall not be required to provide a landscape buffer yard.

7) Sight distance for landscaping adjacent to street right-of-way intersection.

a) When a street or driveway intersects a public right-of-way, or when the subject property abuts the intersection of two or more public rights-of-way, all landscaping within the triangular areas described below shall provide unobstructed cross-visibility at a level between two feet and nine feet so as not to create a traffic hazard, except limbs and foliage shall be trimmed in such a manner that no limbs or foliage extend into the cross-visibility area.

b) For the purposes of subsection (7) of this section, the term "triangular area" means that area formed by the intersection of two streets or streets and a commercial driveway with a 45 degree line

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extended from the pavement
radius point of each intersecting
street or commercial driveway.

**8) Required interior landscaping for
off-street parking.**

- a)** Interior landscaped areas shall
equal or exceed a minimum of
eight percent of the total paved
surface area.
- b)** Each separated landscaped area
shall contain a minimum of
200 square feet and no
dimension shall be less than
three feet and shall include at
least one tree, with the
remaining area landscaped with
shrubs, ground cover or other
authorized landscaping material
not to exceed three feet in height.
- c)** Each landscaped area shall
contain at least one tree. One
tree shall be located for every
30 lineal feet of landscaped area
or portion thereof, or with at
least one tree per 200 square feet
of landscaped area
- d)** Landscaped islands shall be
used to subdivide parking areas
into parking bays of not over

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40 spaces per bay. No more than 20 spaces shall occur in an uninterrupted right-of-way.

9) Street tree requirements.

- a)** Treeline Avenue and Pelican Preserve Boulevard shall be planted with live oaks at a spacing of 50 feet apart, with a minimum size at planting of eight feet high, with a two-inch caliper at six inches from the base of the trunk. All other planting specifications along Treeline Avenue and Pelican Preserve Boulevard shall comply with section 138-72.
- b)** Listed below and on the following pages is the recommended Pelican Preserve Special Development area landscape plant palette with minimum sizes. Plant species must be indicated on the landscape plan and submitted for review.

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Table C: Pelican Preserve Special Development Area Landscape
Palette Chart--Specifications

Canopy Type Plants*	
Botanical Name	Common Name
Acer rubrum	Red Maple
Pinus elliottii "densa"	Slash Pine
*Quercus virginiana	Live Oak
*Quercus laurifolia	Laurel Oak
*Magnolia grandiflora	Southern Magnolia
Peltophorum pterocarpum	Yellow Poinciana
Jacaranda mimosifolia	Jacaranda
Girdonia lasianthus	Loblolly Bay
Juniperus silicicola	Southern Red Cedar
Liquidambar styraciflua	Sweetgum
Magnolia virginiana	Sweet Bay
Platanus occidentalis	Sycamore
Ulmus American "floridana"	Florida Elm
Keolreuteria elegans	Golden Raintree
*Sabal palmetto	Cabbage Palm
*Syagrus romanzoffiana	Queen Palm
Washingtonia robusta	Washington Palm

* All plant material shall be Florida Fancy or Florida Grade No. 1 as defined in the Grades and Standards for Nursery Plants, State Plant Board of Florida.

* Minimum size at planting is 12 feet, with a two-inch caliper.

Sub-Canopy Type Plants*	
Botanical Name	Common Name
Podocarpus macrophyllus	Japanese Yew
Nerium oleander	Oleander
Myrica cerifera	Wax Myrtle
Callistemon spp.	Bottle Brush
Ligustrum spp.	Ligustrum
Psidium littorale	Cattley Guava
Lagerstroemia indica	Crape Myrtle
Myrsine guianensis	Myrsine
Ilex cornuta "burfordii"	Burford Holly
Ilex cassine	Dahoon Holly
Ilex opaca "East Palatka"	East Palatka Holly
Podocarpus gracilior	Weeping Podocarpus

* All plant material shall be Florida Fancy or Florida Grade No. 1 as defined in the Grades and Standards for Nursery Plants, State Plant Board of Florida.

* Minimum required height installation is eight feet.

Shrubs*	
Botanical Name	Common Name
Ligustrum spp.	Ligustrum
Pittosporum tobira	Pittosporum
Philodendron selloum	Green Split Leaf Philodendron
Schefflera arboricola	Dwarf Schefflera
Ixora coccinea "Nora Grant"	Nora Grant Ixora
Lagerstroemia indica	Crape Myrtle
Podocarpus macrophylla	Japanese Yew
Dracaena spp.	Dracaena
Syzygium paniculata "compacta"	Eugenia

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Myrica cerifera	Wax Myrtle
Pyranantha coccinea	Fire Thorn
Nerium oleander "Petite Pink"	Dwarf Oleander
Ilex glabra	Gallberry
Myrsine guianensis	Myrsine
Tripsacum dactylodies	Fakahatchee Grass
Viburnum odoratissimum	Sweet Viburnum
Viburnum suspensum	Sandankwa Viburnum
Eleagnus pungens	Silverthorn
Leucophyllum frutescens	Texas Sage
Murraya paniculata	Orange Jasmine
Ilex cornuta	Dwarf Burford Holly
Serenoa repens	Saw Palmetto

* All plant material shall be Florida Fancy or Florida Grade No. 1 as defined in the Grades and Standards for Nursery Plants, State Plant Board of Florida.

- Minimum height is 18-24 inches; minimum spacing is 24-36 inches on center; and minimum size is three gallons.

Buffering Materials*	
Recommended plant material for buffering undesirable views (i.e., air conditioning units, pool equipment, trash, storage, etc.), must be dense enough and in sufficient quantity at the time of planting to adequately screen the view of equipment, trash, storage, etc. The required minimum height of this plant material is four feet upon installation.	
Botanical Name	Common Name
Myrica cerifera	Wax Myrtle
Viburnum spp.	Viburnum
Podocarpus macrophylla	Podocarpus
Ligustrum spp.	Ligustrum
Syzygium paniculata	Brush Cherry

*Plant materials not included on the above list shall receive consideration on an individual basis. All plant material submitted for consideration must meet required minimums for sizing and spacing. All plant material shall be Florida Fancy or Florida Grade No. 1 as defined in the Grades and Standards for Nursery Plants, State Plant Board of Florida.

I. Administrative deviations.

1. The Pelican Preserve Special Development Area as set forth in this division provides for administrative deviation requests. All requests for administrative deviations shall be submitted to the Pelican Preserve Design Review Committee for their review and evaluation prior to submission to the city. The applicant must submit to the city a copy of the Pelican Preserve Design Review

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Committee's review, which shall explain what was considered by the Pelican Preserve Design Review Committee and their findings from this division.

- 2.** Deviations from the provisions of this division may be administratively approved by the planning manager, with the consent of the public works department director.
- 3.** Administrative deviations shall be granted only when the planning manager and public works department director find that the following criteria have been met:
 - a.** The alternative is no less consistent with the health, safety and welfare of the abutting landowners and the general public than the standard from which the deviation is being requested.
 - b.** Special conditions may be attached to the approval of the administrative deviation to address unique aspects of the parcel to protect a bona fide public interest. The objective of administrative deviation is to provide design flexibility in community development.
 - c.** An application for administrative deviation shall include documentation, which demonstrates how the administrative deviation will provide to the benefit of, or at least not to the

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detriment of, the public interest, and how the deviation provides for good planning and design flexibility.

d. The administrative deviation does not increase density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area), or decrease buffers or open space.

4. The planning manager, with the consent of the public works department director, must issue a written approval, denial, or approval with conditions. The approval, approval with conditions, or denial must clearly identify the action requested by the applicant and the basis of the final administrative action of the city. If the planning manager, with input from the public works department director, denies the administrative deviation, this does not preclude the applicant from submitting a variance application in accordance with the land development code or filing an appeal of administrative action. All deviations, or variance requests from other requirements of the land development code (other than this division) must follow the procedures identified in the land development code.

SECTION 2. The City Code of the City of Fort Myers, Florida, Sub-Part B, Land Development Code, Chapter 118 Land Use

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Regulations, Article 6. Special Development Areas, Section 118.6.3
Forum Special Development Area, C. Conceptual master plan, is hereby
amended to read as follows:

Sec. 118.6.3. Forum Special Development Area.

C. Conceptual master plan.

1. The conceptual master plan is for those lands
described as follows:

THE FORUM
IN SECTIONS 22, 26 AND 27,
TOWNSHIP 44 SOUTH, RANGE 25 EAST,
CITY OF FORT MYERS,
LEE COUNTY, FLORIDA
PARCEL A

All that part of Section 22, Township 44 South, Range 25 East, lying southwesterly of Immokalee Road (SR 82) and easterly and southerly of Interstate 75 (SR 93); and all that part of the west half of the northwest quarter of Section 26, Township 44 South, Range 25 East, lying northwesterly of Six Mile Cypress as described in the deed recorded in the Official Record Book 1608 at Page 24 and northwesterly of Audubon Tract as described in the Official Record Book 1119 at Page 1031, of the county records; and all that part of Section 27, Township 44 South, Range 25 East, lying easterly of Interstate 75 (SR 93), northerly of Colonial Boulevard (SR 884) and northerly and northwesterly of Six Mile Cypress as described in the deed recorded in the Official Record Book 1608 at Page 24, of the county records, and containing 706.3 acres, more or less.

2. The development plan for those lands submitted as the Forum Special Development Area will generally follow the pattern of land uses as depicted on the conceptual master plan for the Forum Special Development Area as shown on Map H on file in the city clerk's office. The specific location of uses may be amended, switched, shifted or changed with

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administrative approval by the planning manager and public works director, as long as the total number of dwelling units and/or retail, office or industrial square footage designated on Map H, on file in the city clerk's office, the approved master concept plan attached, is not increased and is consistent with Resolution No. 2006-37, the development order for the Forum Development of Regional Impact (DRI). Parcel lines and land use parameter acreage are shown for the general purpose of depicting development areas and use intensities; however, they can be changed by the developer during the platting process.

SECTION 3. Severability. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than that part declared to be invalid.

SECTION 4. Effective Date. This ordinance shall become effective immediately upon adoption.

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PASSED IN PUBLIC SESSION of the City Council of the City of Fort Myers, Florida, this 5th day of March, A.D., 2012.

<u>Aye</u>	<u>/s/ Teresa Watkins Brown</u>
<u>Aye</u>	<u>/s/ Johnny W. Streets, Jr.</u>
<u>Aye</u>	<u>/s/ Levon Simms</u>
<u>Aye</u>	<u>/s/ Michael Flanders</u>
<u>Aye</u>	<u>/s/ Forrest Banks</u>
<u>Aye</u>	<u>/s/ Thomas C. Leonardo</u>

Council Members

APPROVED this 5th day of March, A.D., 2012, at 6:07 o'clock p.m.

<u>Aye</u>	<u>/s/ Randall P. Henderson, Jr.</u>
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Mayor

FILED in the Office of the City Clerk this 5th day of March, A.D., 2012.

/s/ Marie Adams, MMC
City Clerk