EXECUTIVE SUMMARY
Meeting Date: October 8, 2012
Agenda Item: Round 2 of 2012 Land Development Code Amendments
Presenter: Marcie Stenmark, Ext. 364
Action Necessary: Yes

SUMMARY:
The second round of 2012 Land Development Code (LDC) amendments are currently under review. The Planning Commission is required to make a recommendation on all changes to the Land Development Code. The Board of County Commissioners held their first public hearing on September 27, 2012.

This round includes eight proposed LDC text amendments. Seven of the amendments were initiated by the Development Services Department and one amendment (Item A below) was privately initiated. The proposed text of each amendment is included in the packet and each amendment is summarized briefly below:

A. Revises proximity requirements for package sale alcoholic beverage permits.
B. Revises the definition for “child care center.”
C. Allows interim passive agriculture on certain parcels.
D. Deletes bee keeping code regulations in response to state legislation.
E. Corrects two items in the Table of Allowable Uses.
F. Revises development standards for wireless communications facilities.
G. Allows for administrative review of certain types of variances.
H. Revises temporary outdoor special events requirements.

RECOMMENDATION:
Staff has reviewed these amendments and recommends the Planning Commission find the text amendments to the Land Development Code CONSISTENT with the Future of Hillsborough Comprehensive Plan.

ATTACHMENTS: Resolution, Planning Commission Staff Report, Development Services Staff Report, LDC Amendment Text
RESOLUTION

Hillsborough County: 2nd Round of 2012 Text Amendments to the Land Development Code

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Frank M. Chillura, Chair

Derek L. Doughty, Vice-Chair

Jill Buford, Member-at-Large

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Bruce P. Cury

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Gary Pike

Mitch Thrower

Jacqueline S. Wilds

Ray Young

Ramond A. Chiaramonte, AICP, Executive Director

On motion of ___________________ Seconded by ____________________

The following resolution was adopted:

WHEREAS, the Hillsborough County City-County Planning Commission, has developed a long-range comprehensive plan for unincorporated Hillsborough County entitled the *Future of Hillsborough*, pursuant to the provisions of Chapter 97-351, Laws of Florida; and

WHEREAS, the Board of County Commissioners of Hillsborough County has adopted the *Future of Hillsborough* as the comprehensive plan for unincorporated Hillsborough County by Ordinance 89-28, as amended; and

WHEREAS, the Hillsborough County City-County Planning Commission has received eight (8) requests to amend the Hillsborough County Land Development Code as part of the 2nd Round of 2012 Text Amendments and has reviewed the proposed amendments for consistency with the Comprehensive Plan; and
WHEREAS, the Hillsborough County City-County Planning Commission finds that the following text amendments to the Land Development Code are CONSISTENT with the Future of Hillsborough Comprehensive Plan for unincorporated Hillsborough County:

**LDC 12-0666:** To revise proximity requirements for package sale alcoholic beverage development permits for beer and wine (1-APS and 2-APS).
**LDC 12-0680:** To revise the definition of “child care center.”
**LDC 12-0681:** To allow interim passive agriculture on certain parcels.
**LDC 12-0682:** To delete bee keeping code regulations in response to state legislation.
**LDC 12-0683:** To correct the Table of Allowable Uses pertaining to outdoor paintball fields and recyclable material recovery facilities.
**LDC 12-0684:** To revise development standards for wireless communications facilities.
**LDC 12-0685:** To allow for administrative review of certain types of variances.
**LDC 12-0701:** To revise temporary outdoor special events requirements.

NOW, THEREFORE, BE IT RESOLVED, that the Hillsborough County City-County Planning Commission finds the Land Development regulations, referenced above, CONSISTENT with the Future of Hillsborough Comprehensive Plan and recommends to the Board of County Commissioners that the Land Development Code text amendments, referenced above, be APPROVED.
Staff Report on the
Proposed Land Development Code (LDC) Text Amendments
Round Two - 2012

*Item A - LDC 12-0666*: To revise proximity requirements for package sale alcoholic beverage development permits for beer and wine (1-APS and 2-APS).

**Staff Findings & Analysis**: The text amendment, initiated by a private applicant, removes distance requirements for 1-APS (package sales of beer sold in sealed containers only for consumption off the permitted premises) and 2-APS (package sales of beer and wine sold in sealed containers only for consumption off the permitted premises) alcoholic beverage development permits. Land Development Code Section 6.11.11 establishes distance requirements to community uses such as churches, schools, and parks (500 ft.) and residentially zoned property (20 to 50 ft.) for uses with 1-APS and 2-APS permits. The applicant’s written statement indicated that since 2008, all requests for 1-APS and 2-APS proximity waivers have been approved by the Land Use Hearing Officer, and that many jurisdictions in Florida do not have proximity requirements for beer/wine package sales.

Planning Commission staff does not review alcoholic beverage development permits for consistency with the Comprehensive Plan. No specific Comprehensive Plan policies address the proximity of wine/beer package sales uses to community or residential uses.

**Planning Commission staff recommendation**: This text amendment is CONSISTENT with the Goals, Objectives and Policies of the *Future of Hillsborough* Comprehensive Plan.
Staff Report on the
Proposed Land Development Code (LDC) Text Amendments
Round Two - 2012

**Item B - LDC 12-0680:** To revise the definition of “child care center.”

**Staff Findings & Analysis:** The text amendment, initiated by the Hillsborough County Development Services Department, would amend the definition of child care center. The adopted definition includes an establishment which receives payment, fee or grant for children receiving child care. The proposed language adds a bartering arrangement as a potential alternative. This procedural change clarifies that child care centers that have bartering arrangements are subject to Land Development Code requirements. This definition change is consistent with the state definition.

**Planning Commission staff recommendation:** This text amendment is CONSISTENT with the following Goals, Objectives and Policies of the *Future of Hillsborough* Comprehensive Plan.

**Future Land Use Element**

**Policy 9.1:**
*Each land use plan category shall have a set of zoning districts that may be permitted within that land use plan category, and development shall not be approved for zoning that is inconsistent with the plan.*

**Policy 9.2:**
*Developments must meet or exceed the requirements of all land development regulations as established and adopted by Hillsborough County, the state of Florida and the federal government unless such requirements have been previously waived by those governmental bodies.*
Staff Report on the
Proposed Land Development Code (LDC) Text Amendments
Round Two - 2012

Item C - LDC 12-0681: To allow interim passive agriculture on certain parcels.

Staff Findings & Analysis: The text amendment, initiated by the Hillsborough County Development Services Department, would allow interim passive agriculture uses on certain parcels. For properties within the Planned Development (PD) zoning district, interim passive agricultural uses would be allowed prior to site development, site construction plan approval, and/or final subdivision plat approval for portions of the property that were agriculturally zoned prior to the time of rezoning to PD. For properties within standard zoning districts, interim passive agricultural uses will be allowed for portions of the property that were agriculturally zoned prior to being rezoned to the standard district. A definition for “passive agriculture” is proposed to include uses such as pasture lands, row crops, orchards, wood lots, bee hives, fish ponds, and similar agricultural activities.

The proposed amendment is consistent with several Comprehensive Plan policies related to agriculture. The proposed amendment would allow certain properties to avoid a rezoning process in order to use the site for interim passive agriculture, resulting in time and cost savings for the property owner. The proposed amendment furthers several Comprehensive Plan policies that recognize agriculture as a valuable economic resource in Hillsborough County including Future Land Use Element Policy 29.3 which calls for a shortened, simpler review process for the development of land for agricultural purposes. Limiting the interim agricultural use to passive uses will ensure compatibility with surrounding uses.

Planning Commission staff recommendation: This text amendment is CONSISTENT with the following Goals, Objectives and Policies of the Future of Hillsborough Comprehensive Plan:

Future Land Use Element
Agriculture-General Considerations

Objective 29: In recognition of the importance of agriculture as an industry and valuable economic resource, Hillsborough County shall protect the economic viability of agricultural activities by recognizing and providing for its unique characteristics in land use planning and land development regulations.
Policy 29.1:
Promote the development and maintenance of agriculture market centers to strengthen the agricultural economy, encouraging agricultural uses within and around such centers.

Policy 29.3:
Land development regulations shall provide for a shortened, simpler review process for the division or development of land for bona fide agricultural purposes.

Policy 29.6:
Agricultural and agricultural related uses shall be permitted in non-rural land use categories.

Agriculture - Retention

Objective 30: Recognizing that the continued existence of agricultural activities is beneficial, the county will develop, in coordination with appropriate entities, economic incentives to encourage and expand agricultural activities.

Policy 30.2:
Permit the continuation, on-site intensification, and changing of commodities for agricultural uses in non-rural land use categories even as non-agricultural development is introduced around it, provided that the agricultural uses, or zoning for agricultural uses existed at the time of the adoption of the Plan. Additionally, permit the establishment of new agricultural uses in non-rural categories, in a manner conforming with development regulations.
Staff Report on the
Proposed Land Development Code (LDC) Text Amendments
Round Two - 2012

**Item D - LDC 12-0682:** To delete bee keeping code regulations in response to state legislation.

**Staff Findings & Analysis:** The text amendment, initiated by the Hillsborough County Development Services Department, deletes Land Development Code regulations pertaining to beekeeping in response to recent state legislation. In 2011, Hillsborough County adopted beekeeping regulations. In 2012, the state legislature adopted legislation that became effective July 1, 2012 preempting local authority of beekeeping regulations to the Florida Department of Agriculture and Consumer Services. If adopted, hive structures would still be subject to Land Development Code setback requirements.

**Planning Commission staff recommendation:** This text amendment is CONSISTENT with the following Goal, Objective and Policy of the *Future of Hillsborough* Comprehensive Plan:

**Future Land Use Element**

**Policy 9.2:**
Developments must meet or exceed the requirements of all land development regulations as established and adopted by Hillsborough County, the state of Florida and the federal government unless such requirements have been previously waived by those governmental bodies.
Staff Report on the
Proposed Land Development Code (LDC) Text Amendments
Round Two - 2012

**Item E - LDC 12-0683:** To correct the Table of Allowable Uses pertaining to outdoor paintball fields and recyclable material recovery facilities.

**Staff Findings & Analysis:** The text amendment, initiated by the Hillsborough County Development Services Department, would correct the Land Development Code Table of Allowable Uses in two instances. Outdoor paintball fields would be indicated as a conditional use in commercial districts, rather than a use by right. In the use table, the use recyclable metal recovery facilities is being changed to recyclable material recovery facilities, which is defined by the code as sites where recovered materials (generally newspapers, plastics, metals, glass and paper) are delivered for further processing for shipment to recovered material markets. This use is being added as a permitted use in Commercial General (CG), and changed from a conditional use to a permitted use in the Commercial Intensive (CI), and Manufacturing (M) zoning districts.

**Planning Commission staff recommendation:** This text amendment is CONSISTENT with the Goals, Objectives and Policies of the Future of Hillsborough Comprehensive Plan.

LDC 12-0683 – Table of Allowable Uses
Staff Report on the
Proposed Land Development Code (LDC) Text Amendments
Round Two - 2012

Item F- LDC 12-0684: To revise development standards for wireless communications facilities.

Staff Findings & Analysis: The text amendment, initiated by the Hillsborough County Development Services Department, would revise review and development standards for wireless communications facilities. In 2011, the Board of County Commissioners formed the Cellular Communications Advisory Committee (CCAC) to review wireless communications facilities regulations. On May 24, 2012, the CCAC presented their recommendations to the Board of County Commissioners. The Board directed staff to draft an LDC amendment to implement the report recommendations.

Proposed changes include:
• increasing the residential setback from one foot to every three feet of tower height to 100 percent of the tower height;
• applying setbacks to residentially developed parcels;
• requiring approval by the Land Use Hearing Officer for wireless facilities proposed on publicly owned properties;
• eliminating unique permitting provisions for school sites;
• requiring applicants to document there are no existing structures in the area that can accommodate a new facility; and,
• requiring verification of submitted technical reports by an independent expert chosen by the County.

The proposed amendment provides greater separation of the wireless communications facilities to residential neighborhoods, consistent with the compatibility and neighborhood protection policies of the Comprehensive Plan.

Planning Commission staff recommendation: This text amendment is CONSISTENT with the following Goals, Objectives and Policies of the Future of Hillsborough Comprehensive Plan.

Future Land Use Element

Policy 1.4:
Compatibility is defined as the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include
the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean “the same as.” Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development.

**Policy 16.1:**
Established and planned neighborhoods and communities shall be protected by restricting incompatible land uses through mechanisms such as:

a) locational criteria for the placement of non-residential uses as identified in this Plan,
b) limiting commercial development in residential land use categories to neighborhood scale;
c) requiring buffer areas and screening devices between unlike land uses;

**Telecommunications Facilities**

**Objective 46:** To ensure that telecommunications facilities are located in a manner that is compatible (as defined in Policy 1.4) with surrounding land uses and compliant with State and Federal law.

**Policy 46.1:**
Telecommunications facilities and towers should comply with applicable Land Development Code regulations including but not limited to setbacks, buffering, screening and camouflaging.

**Policy 46.2:**
Hillsborough County shall comply with State and Federal laws relating to the location of telecommunications facilities.
Staff Report on the
Proposed Land Development Code (LDC) Text Amendments
Round Two - 2012

**Item G - LDC 12-0685:** To allow for administrative review of certain types of variances.

**Staff Findings & Analysis:** The text amendment, initiated by the Hillsborough County Development Services Department, would allow administrative approval of variances for Parts 6.01.00 (District Performance and Dimensional Standards), 6.07.00 (Fences and Walls), and 6.10.00 (Exterior Lighting) of the Land Development Code. Examples of district performance and dimensional standards include setbacks, height, lot width, and lot size. Requests for administrative variances would exclude consideration of land use, floor area ratio, density and the required review process. Under the adopted code, variances to the Land Development Code are currently reviewed by the Land Use Hearing Officer. The required findings would be the same as those utilized by the Land Use Hearing Officer for other types of variances. A notice letter would be mailed to immediately adjacent neighbors and if an objection was received the application would be denied. Administrative variances would be reviewed by the Zoning Administrator, resulting in a time saving for applicants. Although the review fee for administrative variances has not been established, Development Services staff indicated that the review fee would likely be lower than the current variance fee.

In many instances, variances requested by applicants are minimal and an administrative or staff level review in lieu of a hearing would be appropriate. Specific finding criteria would be used by staff in reviewing the variance in the same way they would be used by the Land Use Hearing Officer. Allowing administrative variances streamlines the process for many common variances, which is beneficial for the applicant. Several jurisdictions in Florida, including the City of Tampa, allow for administrative reviews of certain, defined regulations.

Planning Commission staff has two concerns regarding the proposed text amendment, including the lack of a maximum variance and limited neighborhood review.

1. **Maximum Variance** - The first draft of this text amendment included a twenty percent maximum variance that could be applied for through an administrative variance. The subsequent draft removed the maximum variance. Several jurisdictions in Florida that allow administrative variances have adopted maximum variance thresholds including the cities of North Miami (20%), Lady Lake (20%), and Orange City (10%). Having a variance threshold would require more significant requests go through a public hearing process, allowing for increased public notice and participation.

*LDC 12-0685 – Administrative Variances*
2. **Homeowner Association Review** – Regular variances include a mailout to affected homeowner associations. The proposed administrative variance requires a letter to immediately adjacent properties. Variances that are reviewed administratively could have implications for the larger neighborhood beyond immediately adjacent neighbors. As a result, Planning Commission staff recommends that affected Homeowner Associations receive a notice.

Planning Commission staff recommends these issues be considered during the hearing process. Although Planning Commission staff has concerns regarding some of the proposed parameters of the administrative variance, the concept of an administrative variance is positive for applicants and is common in other jurisdictions. Comprehensive Plan policies do not specifically address preferred application procedures and public notification.

**Planning Commission staff recommendation:** This text amendment is CONSISTENT with the following Goals, Objectives and Policies of the *Future of Hillsborough* Comprehensive Plan.

### Future Land Use Element

**Policy 1.4:**
Compatibility is defined as the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean “the same as.” Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development.

### Relationship to Land Development Regulations

**Objective 9:** All existing and future land development regulations shall be made consistent with the Comprehensive Plan, and all development approvals shall be consistent with those development regulations as per the timeframe provided for within Chapter 163, Florida Statutes. Whenever feasible and consistent with Comprehensive Plan policies, land development regulations shall be designed to provide flexible, alternative solutions to problems.

**Policy 9.1:**
Each land use plan category shall have a set of zoning districts that may be permitted within that land use plan category, and development shall not be approved for zoning that is inconsistent with the plan.

**Policy 9.2:**
Developments must meet or exceed the requirements of all land development regulations as established and adopted by Hillsborough County, the state of Florida and the federal government unless such requirements have been previously waived by those governmental bodies.

LDC 12-0685 – Administrative Variances
Objective 16: Neighborhood Protection  The neighborhood is the functional unit of community development. There is a need to protect existing, neighborhoods and communities and those that will emerge in the future. To preserve and protect neighborhoods and communities, all new development must conform to the following policies.

Policy 16.1:
Established and planned neighborhoods and communities shall be protected by restricting incompatible land uses through mechanisms such as:
   a) locational criteria for the placement of non-residential uses as identified in this Plan,
   b) limiting commercial development in residential land use categories to neighborhood scale;
   c) requiring buffer areas and screening devices between unlike land uses;

Future Land Use - Community Design Component
Policy 12-1.6:
In order to facilitate community understanding of issues, encourage early neighborhood-based input regarding rezonings which require public hearing.

Policy 12-1.7:
Include design related issues as part of the neighborhood planning process.
Staff Report on the
Proposed Land Development Code (LDC) Text Amendments
Round Two – 2012

Item H- LDC 12-0701: To revise temporary outdoor special events requirements.

Staff Findings & Analysis: The text amendment, initiated by the Hillsborough County Development Services Department, would align the code requirements for temporary special outdoor events with the Hillsborough County Special Events Ordinance, adopted by the Board of County Commissioners on June 27, 2012. Amendments are proposed within several Land Development Code sections. A simpler classification process is proposed that defines events as small (less than 200 persons) and large (200 or more persons). Small special events are limited to two events within a 365 day period and are not required to obtain a Conditional Use Permit. No more than two small special events would be allowed per year. Parameters for large events are addressed in the Special Events Ordinance. References to event types such as neighborhood fairs, carnivals, and circuses were removed.

Limiting the number of small special events per year to two days per year will limit the impact of gatherings on surrounding neighborhoods, consistent with Comprehensive Plan policies.

Planning Commission staff recommendation: This text amendment is CONSISTENT with the following Goals, Objectives and Policies of the Future of Hillsborough Comprehensive Plan.

Objective 16: Neighborhood Protection  The neighborhood is the functional unit of community development. There is a need to protect existing, neighborhoods and communities and those that will emerge in the future. To preserve and protect neighborhoods and communities, all new development must conform to the following policies.

Policy 16.1:
Established and planned neighborhoods and communities shall be protected by restricting incompatible land uses through mechanisms such as:

a) locational criteria for the placement of non-residential uses as identified in this Plan,
b) limiting commercial development in residential land use categories to neighborhood scale;
c) requiring buffer areas and screening devices between unlike land uses;
I. Call to Order ................................................................. Ken Hagan, Chairman

II. Introduction ............................................................. Joe Moreda, AICP, Manager
Community Development

III. Presentation of Amendments........................................ Tom Hiznay, Senior Planner

Proposed Amendments

A. LDC 12-0666 This is a privately initiated amendment. The purpose of the amendment is to
revise Sections 6.11.11.D.2.a. and 6.11.11.D.2.b. of the Land Development Code
relating to proximity requirements for 1-APS Alcoholic Beverage Development
Permits (package sales of beer sold in sealed containers only for consumption off
the permitted premises) and 2-APS Alcoholic Beverage Development Permits
(package sales of beer and wine sold in sealed containers only for consumption
off the permitted premises).

B. LDC 12-0680 The purpose of this amendment is to revise the definition of “child care center”
in the Land Development Code to include payment by bartering arrangements.

C. LDC 12-0681 The purpose of this amendment is to allow interim passive agricultural uses
on certain parcels that have been rezoned from agricultural districts to other
zoning districts that prohibit agricultural activities.

D. LDC 12-0682 The purpose of this amendment is to strike Land Development Code regulations
pertaining to beekeeping in response to recent state legislation that preempts
authority in this field to the Florida Department of Agriculture and Consumer
Services.
E. LDC 12-0683  The purpose of this amendment is to correct errors in the Table of Allowable Uses in Zoning Districts regarding outdoor paintball fields in commercial Districts and recyclable material recovery facilities.

F. LDC 12-0684  The purpose of this amendment is to revise the Land Development Code’s review and development standards for wireless communications facilities to implement the recommendations of the Cellular Communications Advisory Committee (CCAC) as directed by the Board of County Commissioners.

G. LDC 12-0685  The purpose of this amendment is to provide for the administrative review and approval of limited variances to certain Land Development Code requirements.

H. LDC 12-0701  The purpose of this amendment is to revise the Land Development Code’s regulation of temporary outdoor special events to conform with the recently adopted Hillsborough County Special Events Ordinance.

VII. Adjourn…………………………………………………………………………………Ken Hagan, Chairman
LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICATION: LDC 12-0666
APPLICANT: Shumaker, Loop & Kendrick LLP

BOCC PUBLIC HEARING DATES: September 27 and October 25, 2012

- Intended Purpose of Proposed Amendment

The purpose of this amendment is to eliminate proximity requirements for 1-APS and 2-APS Alcoholic Beverage Permits. This amendment is proposed by a private party.

- Summary of Proposed Changes to Current Regulations

The sale and public consumption of alcoholic beverages is governed by Land Development Code Section 6.11.11 and approval of an Alcoholic Beverage Permit, commonly known as a wet zoning, is required for establishments where these activities occur. All proposed wet zonings are subject to certain proximity requirements which vary according to the classification of the proposed alcoholic beverage use. Wet zonings which meet these requirements may be administratively approved by staff, while those which do not meet the requirements must be approved by the Land Use Hearing Officer after a noticed public hearing.

The subject amendment seeks to eliminate the proximity requirements for 1-APS and 2-APS Alcoholic Beverage Permits. These wet zonings are limited to the package sale of beer and wine only. They do not allow on-premises consumption nor do they allow the sale of liquor. These wet zonings are typically sought by convenience stores and grocery stores but are also requested by beer and wine specialty shops. The proximity requirements for 1-APS and 2-APS wet zonings, as well as for all other classifications of wet zonings, include a 500-foot separation from certain community uses such as churches, parks and schools. Additionally, 1-APS and 2-APS permits must be separated from residentially zoned property by a minimum distance of 20 feet as measured at the rear yard and 50 feet as measured at the side yard.

The applicant offers three principal justifications for the amendment:

1) The package sale of beer and wines poses the same land-use impacts as the sale of other convenience/shopper’s goods and therefore the impacts are adequately mitigated by locational criteria and site development requirements, including buffering and screening measures, routinely applied to commercial projects.

2) From January, 2008 through June 1, 2012, there were 24 requests for proximity waivers for 2-APS permits, all of which were approved by the LUHO. (There were no 1-APS waiver requests in this time period.)

3) Several comparable jurisdictions in Florida, including the City of Tampa, do not have proximity requirements for the package sale of beer and wine.

Staff has reviewed the LUHO records for the period addressed by the applicant and confirmed there were 24 requests for 2-APS waivers, all of which were approved. The waivers were sought by the following types of businesses: convenience stores and gas stations (7); discount stores (2); drug stores (10); and groceries/markets (5).
School District staff objects to the proposed amendment but did not elaborate on its position.

County Parks staff does not object to the proposed amendment since it will not change or control where the consumption of alcoholic beverages may occur. No objections were submitted by other reviewing entities.

DSD staff concurs with the applicant’s position that land-use impacts posed by the package sales of beer and wine are equivalent to those associated with the sale of other convenience/shopper’s goods and therefore should be adequately mitigated by locational criteria and site development requirements that are routinely applied to commercial projects without the need for additional proximity requirements.

Staff also finds the proposed amendment is consistent with the pattern of universal waiver approvals by the LUHO since 2008 and will streamline development permitting by removing a costly and time-consuming process.

- **Anticipated Cost to Development**

  The proposed amendment will reduce costs to development in cases where a proximity waiver would otherwise be required. The current application fee for an AB Permit proximity waiver is $1,826.50.

- **Anticipated Staff Resource Cost**

  The amendment poses no additional costs for staff resources.

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**ATTACHMENTS:**

Draft Text Amendment
ITEM-A
LDC 12-0666
Alcoholic Beverage
Development Permit
Draft Text
PART 6.11.00

SPECIAL AND CONDITIONAL USES*

Sec. 6.11.11. Alcoholic Beverage Use

D. Standard Distance Requirements for the Alcoholic Beverage Development Permit

No Alcoholic Beverage Development Permit shall be approved for the sale or consumption of alcoholic beverages unless the minimum distance separation requirements set forth below for the requested permit classification are exceeded or met. However, Alcoholic Beverage Development Permit requests for lots, plots, or tracts of land that are zoned residential or defined as a community use do not require waivers from themselves.

1. Definitions.

   a. "Proposed structure" shall be defined as the specific structure(s) and/or areas (e.g., a pool) identified in an Alcoholic Beverage Development Permit.

   b. "Certain community uses" shall include churches/synagogues, schools, child care centers, public libraries, community recreational facilities and parks.

   c. For purposes of this regulation, "residentially zoned" shall include districts expressly defined as residential in Part 12.01.00 of this Code and all mixed-use districts permitting residential uses. However, any portion of a mixed-use district developed with non-residential uses only or with mixed-use buildings containing residential and non-residential uses, or if undeveloped, which requires residential uses to be located in mixed-use buildings with non-residential uses, shall not be deemed residentially zoned.

2. 1. APS and 2. APS

   a. The distance from the proposed structure to certain community uses shall be 500 feet.
b. The distance from the proposed structure to residentially zoned property shall be 50 feet from the side yard(s) and 20 feet from the functional rear yard.

2-COP-R, 2-COP-RX, 4-COP-RX, 4-COP-SGX and 11C (Golf Clubs, Tennis and Racquetball Clubs, Wedding and Special Occasion Reception Halls).

a. The distance from the proposed structure to certain community uses shall be 500 feet.

b. The distance from the proposed structure to residentially zoned property shall be 150 feet.

3-PS, 2-COP, 2-COP-X, 4-COP, 4-COP-X, 4-COP-SX, 4-COP-SBX, 11-C (Social Clubs) and Bottle Clubs.

a. The distance from the proposed structure to certain community uses shall be 500 feet.

b. The distance from the proposed structure to residentially zoned property shall be 250 feet.

c. There shall be no more than three approved 3-PS, 2-COP, 2-COP-X, 4-COP, 4-COP-X, 4-COP-SX, 4-COP-SBX, 11-C (Social Club) or bottle club alcoholic beverage uses within 1,000 feet of the proposed alcoholic beverage use as measured from the proposed structure to the existing alcoholic beverage use. An Alcoholic Beverage Development Permit application shall reference all alcoholic beverage conditional uses or wet zonings that were approved under previous zoning regulations as well as nonconforming wet zoned establishments.
ITEM-B
LDC 12- 0680
“Child Care Center”
LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICATION: LDC 12-0680

APPLICANT: Development Services

BOCC PUBLIC HEARING DATES: September 27 and October 25, 2012

- **Intended Purpose of Proposed Amendment**

  The purpose of this amendment is to revise the definition of “child care center” in the Land Development Code to include payment by bartering arrangements.

- **Summary of Proposed Changes to Current Regulations**

  The LDC defines child care center in pertinent part as “Any establishment other than a Family Child Care Home … that provides, on regular basis, supervision and care for children unrelated to the operator for a period of less than 24 hours a day and which receives a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit …”

  The Hillsborough County child care licensing ordinances defines child care facilities in like manner. However, it also includes “bartering arrangements” as a form of payment.

  To promote regulatory consistency, staff recommends the LDC definition of child care center be amended to include bartering arrangements as a form of payment.

- **Anticipated Cost to Development**

  The amendment poses no additional development costs.

- **Anticipated Staff Resource Cost**

  The amendment poses no additional costs for staff resources.

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**ATTACHMENTS:**
Draft Text Amendment
Child Care Center: Any establishment other than a Family Child Care Home as defined herein that provides, on a regular basis, supervision and care for children unrelated to the operator for a period of less than 24 hours a day and which receives a payment, fee, or grant or bartering arrangement for any of the children receiving care, wherever operated, and whether or not operated for profit, except that the following are not included: public schools and non-public schools which are in compliance with the compulsory school attendance law, Chapter 232, Florida Statutes; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods. The term includes kindergartens, nurseries, nursery schools, day care centers and day nurseries.
ITEM-C
LDC 12-0681
Interim Agricultural Uses
LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICATION: LDC 12-0681  APPLICANT: Development Services

BOCC PUBLIC HEARING DATES: September 27 and October 25, 2012

- Intended Purpose of Proposed Amendment

The purpose of this amendment is to allow interim passive agricultural uses on certain parcels that have been rezoned from agricultural districts to other zoning districts that prohibit agricultural activities.

- Summary of Proposed Changes to Current Regulations

At the May 14, 2012, Land Use Meeting, Commissioner Higginbotham raised the issue of lands that have been rezoned from agricultural districts to other districts, such as commercial or residential, that do not allow agricultural activities and he expressed concern that such lands cannot be farmed prior to the time they are developed under their new zoning districts. In response, the Board directed staff to draft an amendment to the Land Development Code to allow interim agricultural uses in such cases for consideration in the 2012, Round 2, cycle of amendments.

The proposed amendment, which was prepared through a collaborative effort among the Development Services Department, Agriculture Industry Development Program and the County Attorney’s Office, provides for interim passive agricultural uses in both Planned Development (PD) districts and standard zoning districts that were previously zoned agricultural. As proposed, interim agricultural uses would be allowed through an administrative minor change review in PD districts and as a legal nonconforming use in standard districts, regardless of whether agricultural activities were present prior to rezoning or ceased afterwards.

The amendment defines “passive agricultural” as the “Use of property for pasture lands, row crops, orchards, wood lots, bee hives, fish ponds and similar agricultural activities. Passive agricultural uses do not include animal production units, packing houses, agricultural stands, plant farms and greenhouses, poultry and egg farms, dairies, public and private stables, farm worker housing and labor camps, agricultural manufacturing, and any agricultural activity with significant structural coverage or off-site impacts as determined by the Administrator.”

Staff recommends the allowance for interim agricultural uses on the affected parcels be restricted to passive agriculture as defined to limit potentially adverse impacts on neighboring properties, particularly those with residential development, which have no expectation of agricultural activities in view of the current zonings of those parcels.

Additionally, in all cases the interim agricultural uses will be allowed on the affected parcel only if such use will not impede development of other portions of the Planned Development, unified site development plan or plat.

- Anticipated Cost to Development

The review fee for a PD Minor Change is presently $385. The review fee for a Nonconformity Determination is presently $569.

- Anticipated Staff Resource Cost

The amendment poses no additional costs for staff resources.
**APPLICATION:** LDC 12-0681  
**APPLICANT:** Development Services

**BOCC PUBLIC HEARING DATES:** September 27 and October 25, 2012

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**ATTACHMENTS:**
- Draft Text Amendment
ITEM-C
LDC 12- 0681
Interim Agricultural Uses
Draft Text
< THIS PAGE WAS INTENTIONALLY LEFT BLANK >
Sec. 5.03.07. Changes to approved PD districts

A. Changes to Critical Design Features
   1. Changes to any condition on the site plan or to the list of conditions that have received a "critical design feature" designation shall be considered a Major Modification and shall be reviewed in accordance with procedures in Sec. 10.03.00.

B. Changes to Approved PD Site Plans

The Administrator is authorized to approve the administrative modifications specifically listed in this section of the PD Ordinance, as long as they are in harmony with the originally approved PD district. The Administrator shall not have the power to approve changes that constitute a minor or a major modification of the approval. A minor modification shall require approval by resolution of the Board and shall be heard in the form of a personal appearance. A major modification shall require approval of the Board and shall be handled in the same manner as the original approval.

1. Administrative Modification: The Administrator is authorized to approve the following modifications to approved Planned Development Districts:
   a. Reduce the number of parking spaces by an amount not to exceed 10 percent of the approved spaces, provided the reduction meets the minimum off-street parking requirement for the uses.
   b. Any relocation of approved density or intensity farther than 500 feet from the zoning lot boundaries or farther than 200 feet from any part of the planned district which has been constructed or sold to an owner or owners different from the applicant requesting the change.
   c. A change from multi-family to single family, if it does not increase external impacts such as, but not limited to, transportation, schools, parks, or utilities and is consistent in lot size, coverage, and yards with other single-family portions of the development. If no single-family units are included in the project, the requirements of the RSC-9 district shall be the minimum permitted.
   d. Allow interim passive agricultural uses, as defined by this Code, prior to development, site construction plan approval and/or final subdivision plat approval of the planned district or portion(s) thereof, provided the agricultural activity will not impede development in any part of the district under separate ownership. Additionally, the allowance shall be restricted to planned districts or portions thereof that were agriculturally zoned at the time of rezoning to PD.
PART 11.03.00

NONCONFORMITIES

Sec. 11.03.01. Generally

A. Intent

1. Within the zoning districts established by the Land Development Code, or amendments that may be later adopted, there may exist lots, structures, uses of land, water and structures, and characteristics of land which were lawful before this Code was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendments. It is the intent of these provisions to permit these nonconformities to continue until they are voluntarily removed or otherwise brought into compliance with this Code, but not to encourage their survival unless specifically authorized by these regulations. It is also the intent of these regulations to set forth a certification process for lots and detached single family residences created prior to July 26, 1989. It is further the intent of the Land Development Code that the nonconformities shall not be enlarged upon, expanded, intensified or extended, nor be used as grounds for adding other structures or uses otherwise prohibited by the Code, except as provided herein.

2. Nonconforming uses are declared to be incompatible with permitted uses in the districts involved. Such nonconforming uses shall not be intensified, enlarged or expanded unless specifically authorized herein.

B. Rights to Run With Land

All rights and obligations associated with nonconformities as defined herein shall run with the land and are not personal to the present ownership or tenant of the land, and are not affected by a change in ownership or tenancy.

C. Vested and Previously Approved Projects

The provisions of this Code and any future amendments thereto shall not be deemed to require a change in the plans, construction or designated use of structures and/or land for valid, effective and lawful permits issued prior to the effective date of this Code provided:

1. The development authorized by the permit has commenced prior to the effective date of this Code, or any future amendment thereto, as applicable or will commence after the effective date of this Code but prior to the permit's expiration or termination; and,

2. The development continues without interruption in good faith until development is complete. In the event a lawfully issued permit expires, any further development shall conform to this Code, or any future amendments thereto, as applicable.
D. Certain Lots and Uses Not To Be Considered Nonconforming

Any development that was authorized and permitted as a By Right Use, Conditional Use, Limited Use, Specified Use or Special Use under previous Hillsborough County Land Development Regulations, and is not presently a prohibited use of the zoning district in which it is located under Section 2.02.02 of this Code as amended, shall be deemed a conforming use. This determination shall be made through a nonconforming use review requested by the property owner. Any enlargement, replacement or modification of such use shall be in accordance with the requirements of this Code as if the use were new.

1. For zoning purposes, a lot which meets zoning dimensional area requirements but is made nonconforming by the November 18, 1999 LDC adoption of the Minimum Lot Sizes by Available Utilities regulation (Section 6.01.06) shall be considered a conforming lot.

E. Basis for Decision

The determination of the Administrator shall be based on clear, substantial and convincing evidence regarding the nature, extent and date of establishment of the nonconformity. Such evidence may include but is not limited to deeds, property assessor records, permits, plan approvals, utility bills, aerial photographs, tax bills, vested rights determinations and other similar evidence. In the absence of such evidence, the Administrator may at his discretion rely upon affidavits from a property owner, adjoining property owners and other competent parties as the basis of determination.

F. Interim Agricultural Uses

Notwithstanding the provisions of this Part, interim passive agricultural uses, as defined by this Code, shall be allowed prior to the development, site construction plan approval and/or final subdivision plat approval of parcels, or portions thereof, in standard zoning districts that prohibit agricultural uses, provided:

1. The parcel was agriculturally zoned at the time of rezoning to its present district; and,
2. The agricultural activity will not impede development of other properties in a preliminary unified development plan or preliminary plat to which the parcel is part.

The absence of agricultural activities on the parcel when it was agriculturally zoned or, if such activities were present on the parcel at that time, subsequent cessation of the agricultural use after rezoning to another district, shall have no bearing on the applicability of this provision.

PART 12.01.00
DEFINITIONS

Agriculture, Passive: Use of the property for pasture lands, row crops, orchards, wood lots, bee hives, fish ponds and similar agricultural activities. Passive agricultural uses do not include animal production units, packing houses, agricultural stands, plant farms and greenhouses, poultry and egg farms, dairies, public and private stables, farm worker housing and labor camps, agricultural manufacturing, and any agricultural activity with significant structural coverage or off-site impacts as determined by the Administrator.
| LDC 12-0681 | Division Director  
Sign-off |  
\[Signature\]  
IntegriSign |  
Tue Sep 18 16:21:31 2012 |
Item – D
LDC 12-0682
Strike Beekeeping Regulations
LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICATION: LDC 12-0682  APPLICANT: Development Services

BOCC PUBLIC HEARING DATES: September 27 and October 25, 2012

- **Intended Purpose of Proposed Amendment**
  
  The purpose of this amendment is to strike Land Development Code regulations pertaining to beekeeping in response to recent state legislation that preempts authority in this field to the Florida Department of Agriculture and Consumer Services.

- **Summary of Proposed Changes to Current Regulations**
  
  The LDC presently addresses beekeeping in Sections 6.11.13.A.3.e and 6.11.124. The former section, adopted in November 2010, deals with agricultural beekeeping while the latter section, adopted in November 2011, provides for beekeeping in residential zoning districts.

  During the 2012 legislative session, the Florida Legislature enacted House Bill 1197 which preempts the regulation of beekeeping to FDACS. The legislation went into effect on July 1.

  The proposed amendment reflects the new state law with the result that beekeeping may occur in all zoning districts subject to state permitting requirements.

- **Anticipated Cost to Development**
  
  The amendment poses no additional development costs.

- **Anticipated Staff Resource Cost**
  
  The amendment poses no additional costs for staff resources.

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Tue Sep 18 16:10:49 2012

ATTACHMENTS:
Draft Text Amendment
Item – D
LDC 12-0682
Strike Beekeeping Regulations
Draft Text
**PART 2.02.02**
**USES ALLOWED WITHIN ZONING DISTRICTS**

**Sec. 2.02.02. Allowable Uses in Zoning Districts**

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<td>Key: <strong>P</strong> = Permitted. <strong>C</strong> = Conditional Use, permitted pursuant to standards of Article VI (no public hearing required unless specified in applicable section) and the procedures of Section 10.01.00. <strong>S</strong> = Special Use, noticed public hearing required and subject to standards of Article VI. Reviewed pursuant to Section 10.02.00. <strong>A</strong> = Accessory use, permitted pursuant to Article VI. <strong>N</strong> = Potentially permitted pursuant to Section 6.11.65. <strong>CNR</strong> = Conditional Use/No Review, permitted without prior zoning review subject to requirements of Part 6.11.00. <strong>Blank</strong> = Prohibited.</td>
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<td><strong>Family Farm</strong></td>
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**AS  RSC RDC RMC       SPI**

**A** = Accessory use, permitted pursuant to Article VI.

**Blank** = Prohibited.

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Key: **P** = Permitted. **C** = Conditional Use, permitted pursuant to standards of Article VI (no public hearing required unless specified in applicable section) and the procedures of Section 10.01.00. **S** = Special Use, noticed public hearing required and subject to standards of Article VI. Reviewed pursuant to Section 10.02.00. **A** = Accessory use, permitted pursuant to Article VI. **N** = Potentially permitted pursuant to Section 6.11.65. **CNR** = Conditional Use/No Review, permitted without prior zoning review subject to requirements of Part 6.11.00. **Blank** = Prohibited.

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**Agricultural Uses**

| Landscaping Contractor’s Nursery | C   | C   | C   | C   | P   | P   | P   |

| Beekeeping in Residential Districts | €   | €   | €   | €   | €   |     |     |

| Plant Farm | C   | C   | C   | C   | C   | P   | P   | P   | C   |
ARTICLE VI

DESIGN STANDARDS AND IMPROVEMENT REQUIREMENTS

Part 6.11.00
Special and Conditional Uses

Sec. 6.11.17. Bed and Breakfast Establishments
Sec. 6.11.18. Boarding House

Sec. 6.11.123. Open Storage in Agricultural Districts
Sec. 6.11.124. Beekeeping in Residential Districts

PART 6.11.00
SPECIAL AND CONDITIONAL USES*

Sec. 6.11.13. Animals

A. In Agricultural Districts

1. Animal sales in the Agricultural zoning districts shall be limited to the sale of the animals themselves and a container to hold them.

2. No sales of cages, feed in bags or animal accessories shall be transacted in any Agricultural zoning district except as provided elsewhere in this Code.

3. Farm animals shall be limited to a maximum of three Animal Units, as defined in this Code, per acre of land to which they are confined, except that grazing in environmentally sensitive areas shall be limited to a maximum of one Animal Unit per 10 acres of land to which they are confined. For purposes of this regulation, confined shall mean any limitation on the movements of the animals to a specific area of land. Except for pigs, offspring borne by animals on the farm shall be excluded from Animal Unit calculations until they reach six months of age. On farms with more than one animal species, the number of animals that are permitted shall be calculated in aggregate Animal Units. For example, seven lambs and two calves equal one Animal Unit. The keeping of Farm Animals in greater numbers than permitted above, or as further limited below, shall constitute an Animal Production Unit as regulated by this Code.

a. Domestic Fowl: In addition to the requirements above, domestic fowl shall be further limited as follows:

(1) Not more than 50 adult birds per acre if uncaged, up to a maximum total of 200 adult birds; or
(2) Not more than 100 adult birds per acre if confined at all times in a coop, pen or cage, up to a maximum total of 200 adult birds.

(3) The keeping of domestic adult fowl in numbers greater than the limits above shall be considered an Animal Production Unit.

b. Pigs: In addition to the requirements above, pigs shall be further limited as follows:

(1) Pigs shall be limited to a maximum of four animals regardless of whether the size of the confined area is sufficient, per Animal Unit calculations, to hold additional pigs. A single litter produced by these animals may also be kept until reaching ten weeks of age.

(2) The keeping of more than four pigs shall be considered an Animal Production Unit.

c. Rabbits: In addition to the requirements above, rabbits shall be further limited as follows:

(1) A maximum of 80 adult female rabbits shall be allowed per acre, if caged, up to a maximum of 160 rabbits on two acres or more.

(2) A maximum of 20 adult male rabbits shall be allowed per acre, if caged, up to a maximum of 40 on two acres or more.

(3) For purposes of this regulation, an adult rabbit is one that has attained eight months of age.

(4) Uncaged rabbits shall not be permitted.

(5) The keeping of rabbits in numbers greater than the limits above shall be considered an Animal Production Unit.

d. Aquaculture:

(1) Notwithstanding these regulations, the number of fish and other aquatic animals permitted in aquaculture farms shall be regulated in accordance with the rules of the Florida Department of Agriculture and Consumer Services, Division of Aquaculture, and shall not be subject to Animal Unit calculations as defined by this Code.

e. Beekeeping:

(1) Notwithstanding these regulations, the number of bees and hives permitted in apiaries shall be regulated in accordance
with the rules of Apiaries are governed by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Plant and Apiary Inspection and shall not be subject to these regulations, and shall not be subject to Animal Unit calculations as defined by this Code.

(2) Notwithstanding the setback requirements of this Code for principal or accessory structures, the minimum required setback for beehives shall be 25 feet from all lot lines. However, where a flyway barrier is in place between a beehive and the property line, a minimum setback of three feet shall be permitted for the beehive. In such cases, the flyway barrier shall be a minimum of six feet in height and comprised of a solid fence or wall, evergreen vegetation with a minimum opacity of 75 percent, or a combination thereof. The barrier shall be parallel to the property line and shall extend at least 10 feet from the beehive in each direction so the bees are forced to fly at least six feet above ground level over the property line in the vicinity of the beehive. If a fence or wall is utilized for the flyway barrier, placement and maximum height shall be regulated by Part 6.07.00 of this Code.

(3) A convenient source of water for the bees shall be available on the apiary parcel at all times.

4. Waste disposal methods and permitting shall comply with the requirements of the Hillsborough County Health Department.

5. The operator shall be responsible for utilizing generally accepted agricultural practices or, when applicable, rules of the Florida Department of Agricultural and Consumer Services, to discourage undesirable odors, insects and excessive noise.

B. In Residential Districts

1. No animal, other than household animals as defined in this Code, shall be kept in any residential zoning district, except that:
   a. Honey bees may be kept in accordance with the provisions of Section 6.11.124 of this Code requirements of the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Plant and Apiary Inspection. Unless otherwise regulated by FDACS, hive structures shall comply with the setback requirements of this Code for principal or accessory structures, as applicable; and,
   b. Exotic animals may be kept for personal enjoyment with appropriate license/permit from the State of Florida.

2. No animals shall be raised or kept in any residential zoning district for the purpose of sale to another party.
3. No sales of cages, feed in bags, or animal accessories shall be transacted in any residential zoning.

Sec. 6.11.124. Beekeeping in Residential Districts

A. Subject to approval of a Conditional Use permit pursuant to the requirements of this Section, beekeeping shall be allowed in all single-family zoning districts, including Planned Development (PD) and community planning districts.

1. The beekeeping activity shall be accessory to the principal residential use of the parcel. The permit shall be issued to a resident of the parcel and shall not be transferred to other parties or locations.

2. The activity shall be restricted to the keeping of common domestic honey bees (Apis Mellifera). The maximum number of bee colonies that may be kept shall be governed by the size of the parcel as follows: 10,890 square feet or less, two colonies; 10,891 to 21,780 square feet, four colonies; 21,781 to 43,560 square feet, six colonies; 43,561 square or larger, 10 colonies. These limits shall not be varied. For purposes of this regulation, a colony shall be defined as an aggregate of bees consisting principally of workers but having, when perfect, one queen and at times many drones, and including brood, combs, honey and the receptacle inhabited by the bees. The number of permitted colonies shall not include wild colonies on the parcel.

3. All bee colonies shall be kept in Langstroth-type hives with removable frames and in sound condition. The hives shall have a maximum stacked height of six feet and shall be placed in the functional rear yard of the lot. The hives shall be placed a minimum of 25 feet from all lot lines; however, where a flyway barrier is in place between the hives and a lot line to increase the flight altitude of the bees, the hives may be placed a minimum of 10 feet from the lot line. The flyway barrier shall be a minimum of six feet in height and comprised of a solid fence or wall, evergreen vegetation with a minimum opacity of 75 percent, buildings, or a combination thereof. The barrier shall extend at least 10 feet from the beehives in each direction parallel to the lot line. If a fence, wall or building is utilized for the flyway barrier, placement and maximum height shall be regulated by Part 6.07.00 of this Code.

a) Notwithstanding the above, in all cases where the parcel abuts a school site, the hives shall be placed a minimum of 50 feet from the school site, except that where a flyway barrier meeting the requirements above is in place between the hives and the school site a minimum setback of 25 feet shall be allowed.

4. The hives, or yard in which the hives are located, shall be enclosed by buildings, fence or wall, or some combination thereof, with a minimum height of four feet to discourage unauthorized access by young children and pets. This requirement may be met by flyway barriers which provide equivalent security.
A source of water with convenient access for the bees shall be available on the parcel at all times. The water source shall comply with the setback and flyway barrier requirements for hives.

B. Permit applications shall be reviewed for compliance with the requirements of this Section in accordance with the procedures found in Part 10.01.00 of this Code, except that notice shall be provided by the applicant to the owners of all adjacent parcels as defined herein for which the permit is sought. The notice shall be comprised of a form letter provided by the Administrator and shall be mailed within ten calendar days from the date of application. The applicant shall provide proof of timely mailing to the Administrator within ten calendar days from the date of mailing. The Administrator shall provide 21 calendar days from the date of mailing for notice recipients to provide documentation in the form of a signed letter from a physician stating that a resident of a noticed parcel has a diagnosed allergy to insect venom which presents heightened medical risk from bee stings compared to the general population. If such documentation is received by the Zoning Administrator in a timely manner, the application shall be denied.

C. The beekeeper shall register with the Florida Department of Agriculture and Consumer Services (FDACS). Additionally, the beekeeper shall enter into a Beekeeper Compliance Agreement with FDACS to follow the Best Management Practices for Maintaining European Honey Bee Colonies promulgated by that agency.

D. The beekeeper shall prominently display the Conditional Use permit number on the upper level of each hive stack in letters of contrasting color at least one-half inch in height. The number shall be applied with paint, permanent ink marker or other durable method that is clearly legible.

E. Beekeeping in a residential zoning district that is not in strict compliance with the above requirements is hereby found to constitute a menace to the public safety and welfare and is hereby declared to be a public nuisance and is prohibited. As a condition of the granting of a permit for beekeeping in a residential district, the property owner consents and grants authority to Hillsborough County to cause the inspection of the hives after reasonable notice and the removal or destruction of bee colonies that are kept in a manner that is not in strict compliance with the requirements of this Section. Any removal or destruction of bee colonies shall not occur less than ten days after notice is provided by Hillsborough County to the property owner identifying the elements of noncompliance with this Section and directing they be corrected.

F. The sale of honey shall require approval of a home-based business permit in accordance with Section 6.11.48 of this Code. Sales activities shall conform with the requirements of the permit.

G. To promote proper hive management, it is strongly recommended the permitted beekeeper acquire certification at the Apprentice Beekeeper of higher level in the Florida Master Beekeeping Program administered by the University of Florida Institute of Food and Agricultural Services, complete the Newbee Beekeeping Program administered by
the Tampa Bay Beekeepers Association, or participate in similar educational opportunities.

H. Processing and review fees for all beekeeping permit applications filed before August 1, 2012, and for any associated applications filed before that date seeking variances to the requirements of this Section or a home-based business permit for the sale of honey, shall be waived.

LDC 12-0682

Division Director
Sign-off

Wed Sep 19 18:07:25 2012
ITEM-E
LDC 12- 0683
Table of Allowable Uses Corrections
LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICATION: LDC 12-0683  APPLICANT: Development Services

BOCC PUBLIC HEARING DATES: September 27 and October 25, 2012

- **Intended Purpose of Proposed Amendment**

  The purpose of this amendment is to correct errors in the Table of Allowable Uses in Zoning Districts regarding outdoor paintball fields in commercial districts and recyclable material recovery facilities.

- **Summary of Proposed Changes to Current Regulations**

  1) In 2008, new Conditional Use standards were adopted into the Land Development Code for outdoor paintball fields in commercial zoning districts, which were previously permitted by right. The standards were adopted primarily to promote public safety by prescribing minimum standards to prevent paintballs, which have a maximum range of approximately 300 feet, from exiting game fields onto roadways and adjacent properties.

  In 2009 as part of a general revision of recreational use regulations in the LDC, the Table of Allowable Uses was revised to show outdoor paintball fields as permitted by right in the commercial districts, rather than a Conditional Use. However, the Conditional Use standards were retained in the LDC and staff research cannot find any express intent to eliminate them. In view of these factors, staff finds the change was an unintentional error and recommends the Table of Allowable Uses be revised to correctly show outdoor paintball fields are regulated as a Conditional Use in the commercial zoning districts.

  2) “Recyclable material recovery facility” is an expressly defined use in the LDC. However, the use does not appear in the Table of Allowable Uses in Zoning Districts and staff research of past editions of the LDC has determined there is a redundant listing for “recyclable metal recovery facility” in the location where the listing for “recyclable material recovery facility” previously appeared. Staff recommends this scrivener’s error be corrected by striking the redundant listing in the Table and, in its place, listing “recyclable material recovery facility” as permitted by right in the C-G, C-I and M districts to reflect past editions of the LDC. This will provide clear guidance for staff and customers and eliminate the need for interpretation.

- **Anticipated Cost to Development**

  The amendment poses no additional development costs.

- **Anticipated Staff Resource Cost**

  The amendment poses no additional costs for staff resources.

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ATTACHMENTS:
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ITEM – E
LDC 12-0683
Table of Allowable Uses
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Sec. 2.02.02. Allowable Uses in Zoning Districts

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Key: P = Permitted. C = Conditional Use, permitted pursuant to standards of Article VI (no public hearing required unless specified in applicable section) and the procedures of Section 10.01.00. S = Special Use, noticed public hearing required and subject to standards of Article VI. Reviewed pursuant to Section 10.02.00. A = Accessory use, permitted pursuant to Article VI. N = Potentially permitted pursuant to Section 6.11.65. CNR = Conditional Use/No Review, permitted without prior zoning review subject to requirements of Part 6.11.00. Blank = Prohibited.
Table of Allowable Uses in Zoning Districts

Key: **P** = Permitted. **C** = Conditional Use, permitted pursuant to standards of Article VI (no public hearing required unless specified in applicable section) and the procedures of Section 10.01.00. **S** = Special Use, noticed public hearing required and subject to standards of Article VI. Reviewed pursuant to Section 10.02.00. **A** = Accessory use, permitted pursuant to Article VI. **N** = Potentially permitted pursuant to Section 6.11.65. **CNR** = Conditional Use/No Review, permitted without prior zoning review subject to requirements of Part 6.11.00. **Blank** = Prohibited.

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**Solid Waste Facilities**

| Recyclable Material Drop Off Center | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A |
| Recyclable Metal Material Recovery Facilities | P | C | P | C | P |
| Recyclable Metal Recovery Facilities, Open | C |
| Recyclable Metal Recovery Facilities, Enclosed | C | C |
ITEM – F
LDC 12-0684
Wireless Communication Facilities
Development Standards
LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICATION: LDC 12-0684  APPLICANT: Development Services

BOCC PUBLIC HEARING DATES: September 27 and October 25, 2012

• **Intended Purpose of Proposed Amendment**

The purpose of this amendment is to revise the Land Development Code’s review and development standards for wireless communications facilities to implement the recommendations of the Cellular Communications Advisory Committee (CCAC) as directed by the Board of County Commissioners.

• **Summary of Proposed Changes to Current Regulations**

The CCAC was formed last year to conduct “informed and responsible review of such issues and procedures, and where appropriate, advancing specific recommendations for changes to code and procedures that govern and decide the location, construction, and regulation of wireless communication structures” in the unincorporated areas of the County. Comprised of members appointed by the BOCC including industry representatives, concerned citizens and third-party community members familiar with local land use issues, the CCAC met in seven facilitated meetings and adopted a number of recommendations for LDC changes. The group’s final report was presented to the BOCC at a workshop on May 24, 2012. The draft amendment was presented to the BOCC at its August 7, 2012, LDC workshop.

Board discussion at the workshop focused on the CCAC’s recommendation to increase the minimum setback required for wireless communication antenna towers from adjacent residentially zoned properties. The setback is presently one foot of setback for every three feet of tower height. The CCAC recommended increasing the setback to 150 percent of tower height, however, several Board members expressed concerns about the proposed setback increase. The Board then directed staff to amend the regulations to require a setback of 100 percent of tower height from adjacent residential properties while allowing reduced setbacks where circumstances may warrant, provided the principal building setbacks of the host parcel’s zoning district are met in all cases.

The subject amendment was presented to the BOCC at its August 7, 2012, LDC workshop. The amendment implements the residential setback increase as directed by the Board. Staff further recommends this setback be required from all residentially developed properties, regardless of zoning, to provide equitable regulatory protection for all dwellings. Additionally, staff recommends the existing setback requirement from non-residential properties of 20 percent of tower height be eliminated to encourage and accommodate the development of new facilities in non-residential areas.

The proposed amendment implements other major recommendations of the CCAC as follows:

a) Requires Special Use approval by the Land Use Hearing Officer for all new facilities proposed on publicly owned properties.

b) Eliminates the unique provisions for facilities proposed on school sites found in Section 6.11.29.D.3.b.3.

c) Requires applicants for new facilities to document there are no existing structures of sufficient height in the area which can accommodate the proposed antennas.

d) Requires verification of technical documentation submitted by applicants by independent experts chosen by the County. The cost of such verification will be borne by the applicants. Effective implementation of this
requirement will require the contracting of the outside expert on all future applications for new facilities. Staff has contracted with Wade Trim, one of the consultants that assisted the CCAC, to develop recommendations on the qualifications that will be necessary for the independent experts and provide estimates on the expected cost of the reviews. Staff will present the consultant’s findings at the public hearing on the subject amendment.

In addition to the changes described above, staff recommends the provisions found in Sections 6.11.29.H and 6.11.29.I regarding administrative authority to approve height increases for existing or replacement towers to accommodate collocation of antennas be clarified. As proposed, such increases may be approved for all existing towers, including those that were approved by the Land Use Hearing Officer, provided the increase does not exceed 25 feet and the height of the tower will not exceed 200 feet.

- **Anticipated Cost to Development**

  The amendment will require applicants to bear the cost of the independent verification of technical documentation by experts selected by County staff.

- **Anticipated Staff Resource Cost**

  The amendment poses no additional costs for staff resources.

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**Staff Recommendation:**

Approval

**Division Director**

Sign-off:  

Thu Sep 20 15:09:38 2012

**ATTACHMENTS:**

Draft Text Amendment
ITEM – F
LDC 12-0684
Wireless Communication Facilities
Development Standards
Draft Text
PART 6.11.00
SPECIAL AND CONDITIONAL USES

Sec. 6.11.29. Communications Facilities, Wireless

D. Wireless Communication Support Structures (WCSS) General Criteria.

1. The WCSS may be located on a zoning lot containing other principal uses. The facility may be located within an area smaller than the minimum lot size of the applicable zoning district provided the zoning lot on which it is located complies with the applicable minimum lot size or, in non-residential and non-agricultural districts, is a legal nonconforming lot. Required yards and setbacks shall be measured from the boundary of the zoning lot. The area within which the WCSS is located (WCSS Area) shall be the area subject to all other the requirements of this section, unless otherwise provided herein.

2. WCSS facilities shall at a minimum, meet the same required yards as those for principal structures in the various districts as set forth in 6.01.01. However, if a greater separation is achieved through a setback, where the zoning lot on which the WCSS is:

a. Adjacent to the rear or side yard of residentially developed property or residentially zoned property which is developed or that is developable for residential use, the minimum setback from the property line abutting said residential property shall be one foot for every three feet 100 percent of structure height;

b. Zoned industrially and is adjacent to industrially zoned property, there shall be no additional setback; or

c. Adjacent to other types of property, the minimum setback from that property line shall be 20 percent of the structure height.

Notwithstanding these requirements, unless the applicant can demonstrate, to the satisfaction of the reviewing entity, that one or more of the following mitigating factors justifies a reduction in the setback, a lesser setback may be approved but in no case shall the setback be less than the required yards for principal structures in the applicable zoning district.
a. The locating of the WCSS area in compliance with the setbacks would result in the removal of significant trees which could be saved by reducing the setback;

b. The line of sight of the base of the WCSS is substantially obscured from view on affected the primary vehicular and pedestrian movements on the adjacent properties by intervening buildings, trees, landscaping, or other such screen;

c. An intervening use or activity, such as a wetland, retention area, etc., exists on the adjacent property;

d. Compliance with the additional setback would prevent the collocation of additional WCA on the WCSS; or

e. The owner of the tower commits, in writing, to the reduction of the height of the tower within three years of its construction to a height which complies with the additional setback; or

f. Other such mitigating factor.

3. WCSS Design Requirements and Permitting Procedures

The following design criteria and permitting procedures shall apply to all WCSS as defined by this Code.

a. Design Criteria

All new WCSS, with the exception of those proposed to be located in the AM, AI, CI and M zoning districts, and PD and IPD districts which generally permit the AM, AI, CI or M use categories, shall be camouflaged as defined by this Code. WCSS located in the AM, AI, CI and M zoning districts, or PD and IPD districts which generally permit the AM, AI, CI or M use categories, may be of a monopole, lattice or camouflage design.

Examples of camouflaged towers are contained in the Wireless Communication Support Structure Technical Manual. Except as provided in 3.b.2 below, the applicant shall select the proposed structure type and shall demonstrate how the selection is of a nature or structure type that
would be expected or anticipated to occur or be constructed in the general area of the proposed tower location.

b. Review Process

1. Completeness Review

All applications for WCSS are deemed submitted or resubmitted on the date the application is received by the Administrator. If the application is not completed in compliance with the submittal requirements of this Code, the Administrator shall so notify the applicant in writing, indicating, with specificity, any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, would make the application properly completed. If the Administrator fails to notify the applicant in writing that the application is not completed in compliance with the submittal requirements of this Code within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed complete, properly submitted and review shall continue: move forward.

- Once an application is corrected either by submission of the additional information, or it is considered complete by the lack of comments from local government agencies that it is incomplete within the 20 business day time frame, then the review moves forward and a decision must be rendered within the normal timeframes of review, as outlined in Sec. 10.02.02.C of this Code.

- Failure to grant or deny a properly completed application within the timeframes designated for review renders the application automatically approved and the applicant may proceed with placement of the new tower without interference or penalty.

2. New WCSS shall be reviewed as a Special Use pursuant to Section 10.02.00, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply in the following circumstances:
Any WCSS proposed to be located on property owned by any municipality, county, school or state entity;

All WCSS proposed to be located in RSC, RDC, RMC and residential PD and IPD zoning districts; and,

All WCSS proposed to be located in CPV, BMS, UAC and TND districts permitting residential uses, excluding parcels developed with office or commercial uses; and,

WCSS 100 to 200 feet in height proposed to be located in the ASC-1 and AS-1 districts; and,

WCSS 100 to 200 feet in height proposed to be located within 250 feet of the ASC-1, AS-1, RSC, RMC, RDC and residential PD and IPD zoning districts; and,

WCSS 100 to 200 feet in height proposed to be located within 250 feet of CPV, BMS, UAC and TND districts permitting residential uses, excluding parcels developed with office or commercial uses.

3. **WCSS and Schools**

   New WCSS to be located on the campus of a school shall be reviewed as a Special Use pursuant to Section 10.02.00 and Section 6.11.29.3.b.1 above regarding completeness review shall apply.

   i. The WCSS must be designed and built as a camouflaged WCSS unless the following additional criteria are met:

   a. The WCSS is smaller than 36 inches in diameter at the narrowest point on the WCSS; and

   b. The WCSS is designed to house at least three wireless carriers; and
e. The setback from residentially zoned property is at least one (1) foot for every four (4) feet of structure height.

d. All cables are placed internal to the WCSS but the antennae may be external.

43. All other proposed WCSS shall be reviewed pursuant to Section 10.01.00, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply. The table below identifies the zoning districts in which specific camouflage structure types are presumed compatible. If an alternative design to those identified below is desired, the request shall be reviewed pursuant to Section 10.02.00 as a Special Use, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply.

4. The table below identifies the zoning districts in which specific camouflage structure types are presumed compatible. If an alternative design to those identified below is desired, the request shall be reviewed pursuant to Section 10.02.00 as a Special Use.

<table>
<thead>
<tr>
<th>Camouflage Structure Type</th>
<th>Location</th>
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<tbody>
<tr>
<td>Flagpoles</td>
<td>BPO, OR, R-BPO, CN &amp; CG districts. PD and IPD districts which generally permit the BPO, OR, CN or CG use categories*. CPV, BMS, UAC and TND districts developed with, or restricted to, non-residential uses. Also A, AR, AS-0.4, AS-1 and ASC-1 zoned properties developed with sports/recreation facilities.</td>
</tr>
<tr>
<td>Bell towers, clock towers</td>
<td>A, AR, AS-0.4, AS-1, ASC-1, BPO, OR, R-BPO, CN &amp; CG districts. PD and IPD districts which generally permit the A, AR, AS-0.4, AS-1, ASC-1, BPO, OR, CN and CG use categories*. CPV, BMS, UAC and TND districts developed with, or restricted to, non-residential uses.</td>
</tr>
<tr>
<td>Parking lot lights with internal antennas and close mounts, provided the WCSS does not exceed the height of existing light structures by more than 20 feet</td>
<td>BPO, OR, CN &amp; CG districts. PD and IPD districts which generally permit the BPO, OR, CN and CG use categories*. CPV, BMS, UAC and TND districts developed with non-residential uses.</td>
</tr>
<tr>
<td>Tree-type camouflaged</td>
<td>A, AR AS-0.4, AS-1, ASC-1, BPO, OR, CN &amp; CG districts. PD and IPD districts which generally permit the A, AR, AS-0.4, AS-1, ASC-1, BPO, OR, CN and CG use categories*. CPV, BMS, UAC and TND districts developed with, or restricted to, non-residential uses.</td>
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*Only those PD and IPD districts approved before October 1, 2005
5. The Administrator shall grant or deny each properly completed application for collocation reviewed pursuant to Section 10.01.00, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply, but in no case later than 45 business days after the application is determined to be properly completed. Failure to grant or deny a properly completed application for a WCSS within 90 business days renders an application automatically approved and the applicant may proceed with the next level of review without interference or penalty.

E. A new WCSS shall not be approved unless it can be documented by the applicant, to the satisfaction of the Administrator, that there is a need for the new WCSS which cannot be met by the proposed WCA cannot be placed on an existing or approved WCSS, on a public structure, or on some other appropriate structure. Factors that must be considered in this determination will include, but not be limited to one or more of the following:

1. New WCA(s) would exceed the structural capacity of existing and approved WCSS/other appropriate structures, considering existing and planned use of those WCSS/structures, and existing and approved towers/structures cannot be reinforced to accommodate new WCA(s) at a reasonable cost.

2. New WCA(s) would cause Radio Frequency (RF) interference which cannot be prevented at a reasonable cost.

3. Existing or approved WCSS's do not have sufficient space on which new WCA's can be placed or are not located so as to allow new WCA's to function effectively and reasonably in parity with other similar equipment in place or approved.

4. There are no existing structures of sufficient height in the area on which to locate a WCA.

45. Other reasons that make it impracticable to place the equipment planned by the applicant on existing and approved towers or other appropriate structures or the leased property.

Documentation shall be submitted to the Administrator at the time of the permit application and shall contain, at a minimum, if applicable, a signed statement from appropriate accredited experts, including but not limited to a radio frequency engineer and/or a structural engineer, outlining the reasons as to why the proposed WCSS is needed. Appropriate support material, for verification by staff, shall be included.

Reasonable cost shall be defined as the point up to which the cost, including any leasing agreement, of collocation exceeds what would be the cost for the applicant to construct a new WCSS. Construction costs shall not only include costs associated with the actual construction of a new WCSS (including building permits), but also those costs that would be incurred by the applicant in order to secure either a permit, if required for the construction of a new WCSS.
Documentation shall be submitted to the Administrator at the time of the permit application and shall contain, at a minimum, a signed statement from appropriate accredited engineer, which may include, but is not limited to a radio frequency engineer and/or a structural engineer, outlining the reasons as to why the proposed WCA cannot be located on an existing or approved structure. Appropriate support material for verification shall be included. Hillsborough County shall obtain the services of an outside expert to review the submitted support material for compliance with paragraphs 1-5 above and other reviews as necessary to verify compliance with this Code. The costs for this review shall be borne by the application.

F. The applicant for a new WCSS shall submit a letter of intent committing the WCSS owner and its successors to allow shared use of the WCSS as per the criteria established above or to allow a replacement tower to be erected within the WCSS Area provided that the replacement is physically and contractually feasible and that the cost of modifying or replacing the WCSS to accommodate the collocated WCA is borne by the collocating company. Said letter of intent shall be filed in the Office of the County Clerk and the Administrator prior to any building permit being issued. Reasonable charges (costs) shall be as outlined in E. above.

G. In order to provide the opportunity for other telecommunication users to collocate on the WCSS, the applicant shall notice other potential users of the new WCSS offering an opportunity for collocation. If during the permit review period, another potential user requests collocation in writing to the Administrator, the request shall be accommodated, unless it can be documented as outlined in E. above, that collocation is not possible.

H. The Administrator shall approve requests for collocation of a WCA on an existing and/or permitted facility; a permit will not be required without additional zoning action if the height of the WCSS will not increase. If the height of the facility WCSS will increases as a result of collocation, the Administrator may increase the currently permitted height of the facility as necessary, up to a maximum of 25 feet, and waive any additional setback that would be required per subsection D.2. above. This authority shall apply to all facilities, including those approved by the Land Use Hearing Officer. If deemed appropriate and compatible by the Administrator, the Administrator may permit the height of the facility to exceed the maximum structure height, as outlined in D.3. above, by 25 feet in order to allow collocation. In no case, however, shall the Administrator approve a height of more than 200 feet.

I. An existing WCSS may be replaced for purposes of accommodating collocation of other WCAs or otherwise, without additional zoning action, provided that:

1. The replacement WCSS does not exceed 200 feet or as provided in H. above.

2. The replacement WCSS is located within the same or adjacent zoning lot as the existing WCSS and is located so as to maximize compliance with meets or exceeds the existing setbacks. Additionally, if the height of the replacement WCSS exceeds the height of the existing WCSS by more than 25 feet, the new facility shall comply with the setback requirements from residentially developed property and residentially zoned property that is developable for residential use, per subsection D.2 above, to the greatest extent possible.
3. The existing WCSS is removed within 90 days of the completion of the replacement WCSS and the relocation of the WCA(s).

4. If the location of the replacement WCSS is such that the existing WCSS must be removed before the replacement WCSS is constructed, a temporary portable antennae support facilities may be used, but must be removed within 30 days of the completion of the replacement WCSS and the relocation of the WCA(s).

J. Any WCSS which is abandoned shall be removed or demolished either by the owner of the tower, or by the property owner, but not at Hillsborough County's expense. For the purposes of this section, abandoned shall mean that no commercial operation of any WCA or other commercial antenna on the WCSS has occurred for a one-year period.

Sec. 6.11.79. Radio and Television Transmitting and Receiving Facility

The following specific standards shall be used in deciding applications for approval of such uses (see also 6.11.29):

A. Radio and Television Transmitting facilities that are concealed within a legally permitted structure and are not visible or discernable as a Radio and Television Transmitting facility shall be exempt from the requirements of this Section.

B. With the exception of Radio and Television Transmitting structures proposed to be located in the AM, AI, CI and M zoning districts, all Radio and Television Transmitting structures shall be camouflaged as defined by this Code. Examples of camouflaged towers are contained in the Wireless Communication Support Structure Technical Manual. The applicant shall select the proposed structure type and shall demonstrate how the selection is of a nature or structure type that would be expected or anticipated to occur or be constructed in the general area of the proposed tower location. The Land Use Hearing Officer, in accordance with subsection 11.04.02.D, shall have the option waive or modify the camouflage requirements if the applicant demonstrates that all the approved camouflage designs would be more visually obtrusive (present a wider profile, attract attention more through color, pattern, movement or other characteristics, or would be more out of character with the area in which the WCSS is to be located) than the proposed design.

C. That the proposed structure is not located on property zoned SPI-AP, nor would it result in restriction or interference with air traffic or air travel to or form any existing or proposed airport;

D. That the proposed structure is consistent with the existing surrounding uses, and is compatible with the existing neighborhood development;

E. That the proposed structure is consistent with any adopted or projected development plan for the area;
F. That the proposed structure is not detrimental to the existing or proposed use of any neighboring property and does not unreasonably restrict the free flow of light, sunlight and air to those properties.

G. That the proposed tower shall be setback from the zoning lot line one foot for every three feet of height of the tower, except that where adjacent to residentially developed property or residentially zoned property that is developable for residential use, the minimum setback from the property line abutting said residential property shall be 100 percent of structure height.

H. With the exception of facilities for the broadcast transmission of radio or television signals, proposed facilities shall not be approved unless it can be documented by the applicant, to the satisfaction of the Administrator, the WCA cannot be placed on an existing or approved WCSS, on a public structure, or on some other appropriate structure. Documentation submittal and review shall be in accordance with Section 6.11.29.E of this Code.

H1. Locational Requirements for Radio and Television Receiving Dishes.

1. A radio or television receiving dish shall be located within the rear of the zoning lot (the portion of the zoning lot which is more distant from the street than the portion of the principal use most distant from the street) except for corner lots. On corner lots, the dish may be located in the portion of the lot which functions as a rear yard, but shall not be located closer to the street than front edge of the principal use (the portion of the principal use closest to the street). Any dish located within a required side yard shall be located behind (further from the street than) the principal structure on any lot abutting the side yard.

2. On zoning lots of a minimum size of five acres, radio and television receiving dishes shall not be located within required front and side yards.

3. All dishes shall be screened from view from any street by a fence, wall, or hedge a minimum of six feet in height and 75 percent opaque.
ITEM – G
LDC 12-0685
Administrative Variances
LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICANT: LDC 12-0685  APPLICANT: Development Services

BOCC PUBLIC HEARING DATES: September 27 and October 25, 2012

- **Intended Purpose of Proposed Amendment**

  The primary purpose of this amendment is to provide for the administrative review and approval of variances to certain Land Development Code requirements. The amendment will also revise the review criteria for all variances.

- **Summary of Proposed Changes to Current Regulations**

  Presently, variances to most LDC requirements are reviewed through the Land Use Hearing Officer process. This process involves a noticed public hearing, takes approximately 10 weeks to navigate and is required regardless of how slight the requested variance may be.

  Under the proposed amendment, Zoning Administrator review of certain variances will be allowed. As proposed, such variances will be limited to the standard development requirements found in Part 6.01.00 of the LDC, the fence regulations found in Part 6.07.00 and the exterior lighting regulations found in Part 6.10.00. No public hearing will occur, but applicants will be required to mail notice to adjacent property owners and if any of the noticed parties object the variance will be denied. The Zoning Administrator will review the variance requests against the same criteria utilized by the LUHO. If the variance is denied for any reason, the decision will not be subject to appeal. Rather, the applicant will be required to apply for a variance through the existing LUHO process.

  The proposed amendment will also revise the review criteria for all variances, including those considered by the LUHO. Presently, variances are required to meet six criteria in order to be approved. The criteria include a finding that the variance does not result from a “self-imposed hardship” of the applicant. Staff believes this finding is unreasonably restrictive as well as unnecessary in view of the other five review criteria which serve to balance the practical difficulties of the applicant with the interests of neighboring property owners and the public at large.

- **Anticipated Cost to Development**

  The proposed administrative procedure will greatly expedite the review of eligible variances since the processing period is only 30 business days. Additionally, it’s expected the application fee will be substantially less than the current LUHO variance fee of $984.50, although the new fee has not been determined yet.

- **Anticipated Staff Resource Cost**

  The amendment poses no additional costs for staff resources.
<table>
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<th>Approval</th>
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<td>Division Director</td>
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Thu Sep 20 14:50:20 2012

**ATTACHMENTS:**
- Draft Text Amendment
ITEM – G
LDC 12-0685
Administrative Variances
Draft Text
PART 11.04.00
VARIANCES

Sec. 11.04.01. Generally

Variance from strict compliance with the requirements of this Code is provided for in this Part. If the standards in this Part are met, a Variance to the requirements of this Code, other than land use, prospective floor area ratio (FAR), or density, or required review process, and except as otherwise prescribed by the provisions of this Code, shall be granted to the applicant pursuant to the procedures prescribed below.

Sec. 11.04.02. Standards

A. Findings Required; Conditions

1. Except as provided by Section 11.04.05 herein, a variance may only be allowed by the Land Use Hearing Officer in cases involving practical difficulties or unnecessary hardship, when substantial evidence in the official record of the hearing supports specific findings.

2. All findings of fact shall be made in the indicated order by the Land Use Hearing Officer, who is not empowered to grant a variance without an affirmative finding of fact on determination for all six categories in Section 11.04.02 B below. Each finding of fact shall be supported by substantial evidence in the record.

3. The Land Use Hearing Officer may impose reasonable conditions upon the granting of any variance to insure that the public health, safety, and general welfare shall be protected and substantial justice done. Violation of such conditions shall be a violation of this Code.

B. Specific Required Findings

The following specific findings must be made by the Land Use Hearing Officer prior to approving an application for a Variance:

1. That the alleged hardships or practical difficulties are unique and singular as regards the property of the person requesting the variance and are not those suffered in common with other property similarly located.
2. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district and area under the terms of this Code.

3. That the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

4. That the variance is in harmony with and serves the general intent and purpose of this Code and the Comprehensive Plan.

5. That the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

6. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this Code and the individual hardships that will be suffered by a failure to grant a variance.

C. Provisions for Variations from Regulations Applying Generally in SPI Districts

In connection with special plan review requirements, regulations for a particular SPI district or for specified classes of SPI districts may also authorize or deviate from regulations applying generally within such districts.

D. Provisions for Variations from Regulations Applying to Special Uses

Regulations for a particular Special Use may be varied where the Land Use Hearing Officer makes a finding in the particular case, that public purposes are satisfied to an equivalent or greater degree. Any related variances to Special Use standards must be heard by the Land Use Hearing Officer and cannot be acted on administratively prior to the Special Use being approved.

E. Provisions for Variations from Regulations Applying to the Preservation Requirements for Upland Significant Wildlife habitat.

1. A variance from the onsite preservation requirements of Section 4.01.08 may be granted if the Land Use Hearing Officer finds that the strict enforcement of the regulation would diminish the value of the property to the extent that all economically viable use is precluded. Any variance granted pursuant to this section shall be conditioned upon the preservation of suitable land offsite in
accordance with the requirements of Section 4.01.13, unless a variance from the offsite preservation requirements is applied for and received pursuant to Section 11.04.02.E.2 below. In reviewing each request for a variance, the Land Use Hearing Officer shall consider:

a. The fair market value of the property in the absence of the regulation, based on those uses which are reasonably probable, legal, physically possible, appropriately supported, and financially feasible. For purposes of this section, the use of land is "reasonably probable" if there is a demand for such use in the reasonably near future.

b. The fair market value of the property when the regulation is applied based on those remaining uses of the property which are reasonably probable, legal, physically possible, appropriately supported, and financially feasible.

c. The extent to which additional value can be realized from the preserved area by utilizing available site planning techniques (e.g., clustering), transfer or purchase of development rights, park impact fee or open space credits, tax incentives, and other such methods and programs.

d. The extent to which a variance will adversely impact any upland habitat areas lying adjacent to those lands for which a variance is being sought, whether located on the same parcel or on an adjacent parcel, in terms of habitat viability manageability, or ability to function as a wildlife corridor.

2. A variance from the offsite preservation requirements of Section 4.01.13 may be granted if the Land Use Hearing Officer finds that strict enforcement of the regulation renders all reasonable development of the parcel, for which offsite preservation is required, economically unfeasible, where the use proposed for that parcel is reasonably probable, legal, physically possible, appropriately supported, and financially feasible.

a. In order to be eligible for a variance from the offsite preservation requirements, the applicant must first have used best efforts in cooperation with the County to identify a suitable, economically feasible offsite parcel or other option which would satisfy the offsite preservation requirements.

b. In deciding whether to grant a variance from the offsite preservation requirements, the Land Use Hearing Officer shall further consider
whether there are suitable alternative sites or options which could be utilized by the applicant to reduce the costs of complying with the offsite preservation requirements. If such a parcel or option is available, and the cost-reducing benefit of utilizing that parcel or option would offset the costs of offsite preservation to the extent that development of the onsite parcel is rendered economically feasible, then the variance shall be denied.

F. Provisions for Variations from Regulations Applying to the Removal of Grand Oaks with a condition rating of good or better in accordance with the Tree Condition Evaluation Form.

1. A variance from the requirement of preservation of grand oaks with a condition rating of good or better in accordance with the Tree Condition Evaluation Form may be granted if the Land Use Hearing Officer finds that strict enforcement of the regulation would preclude reasonable use of a parcel of property. For purposes of this section, reasonable use shall mean an actual, present use activity on a parcel of real property (including periods of inactivity which are normally associated with, or are incidental to, the nature of type of use or activity), or such reasonably, nonspeculative land uses which are suitable for the subject parcel of property, which are compatible with adjacent land uses, and which have created an existing fair market value in the parcel of property greater than the fair market value of the actual, present use or activity on the parcel of property. In determining whether the strict enforcement would preclude the reasonable use of a parcel of property, the following factors shall be considered by the Land Use Hearing Officer:

a. The land use classification of the parcel of property on which the tree is located;

b. Any prior or existing development on or use of the property (including the applicable zoning, permitting and subdivision history of that parcel);

c. The impact of the grand oak on the buildable area of a parcel as shown by a survey or scaled drawing of the parcel of property accurately depicting the location of the grand oak and its impact on the buildable area of that parcel of property;

d. Any special circumstances affecting the development of that parcel of property, including without limitation, any unusual topography and fill requirements;
e. Existing uses of development patterns on similarly situated property located adjacent to or near the parcel of property in question;

f. Any effort by the permit applicant to redesign the proposed development, structure or use in a manner to retain or preserve the grand oak.

g. Any other information that would be pertinent in determining whether the removal of a grand oak is required to allow reasonable use of a parcel including without limitation, bona fide, valid appraisals of the fair market value of the parcel of property in question and a bona fide valuation of the grand oak to be removed based on generally accepted standards (such as those published by the International Society of Arboriculture).

Sec. 11.04.03. Reserved

Editor’s note—Ord. No. 97-18, § 2, adopted Dec. 18, 1997, repealed § 11.04.03, which pertained to alternate variance criteria/special factors: carports. See the Table of Amendments.

Sec. 11.04.04. Procedures

Except as provided in Section 11.04.05 herein, an application for a Variance shall be reviewed pursuant to the Procedure for Issuance of a Development Order at 10.02.00 of this Code and Section 5.2.2 of the Development Review Procedures Manual.

Sec. 11.04.05. Administrative Variances

A. In lieu of the procedures above, a request for an Administrative Variance may be submitted to the Zoning Administrator. The request shall be filed and reviewed in accordance with the procedures found in Part 10.01.00 of this Code, except that notice shall be provided by the applicant to the owners of all adjacent parcels as defined in this Code for which the variance is sought. The notice shall be comprised of a form letter provided by the Administrator and shall be mailed within ten calendar days from the date of application. The applicant shall provide proof of timely mailing to the Administrator within ten calendar days from the date of mailing. The Administrator shall provide 21 calendar days from the date of mailing for notice recipients to provide written objection to the requested variance. If any such objections are received by the Zoning Administrator in a timely manner, the variance shall be denied.

B. Requests for Administrative Variances shall be limited to the requirements of Part 6.01.00, Part 6.07.00 and Part 6.10.00 of this Code, excluding land use, prospective floor area ratio (FAR), density and required review process, and except as otherwise prescribed by the provisions of this Code.
C. The Zoning Administrator’s review shall be guided by the criteria found in Section 11.04.02.B herein and approval of the requested variance shall require an affirmative finding for each criteria.

D. Notwithstanding the general provisions of this Code, requests for Administrative Variances that are denied for any reason shall not be subject to appeal. The applicant may seek variance approval by the Land Use Hearing Officer as provided by this Part.
ITEM – H
LDC 12-0701
Special Events
LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICATION: LDC 12-0701
APPLICANT: Development Services

BOCC PUBLIC HEARING DATES: September 27 and October 25, 2012

- **Intended Purpose of Proposed Amendment**

  The purpose of this amendment is to revise the Land Development Code’s regulation of temporary outdoor special events to conform to the recently adopted Hillsborough County Special Events Ordinance.

- **Summary of Proposed Changes to Current Regulations**

  Presently, the LDC defines and regulates temporary outdoor special events as “neighborhood fairs” if sponsored by non-profit organizations and “carnivals/circuses” if sponsored by for-profit organizations. Neighborhood fairs are a permissible Conditional Use in all zoning districts subject to the requirements found in LDC Section 6.11.64 addressing the duration of the event, setbacks, parking areas and outdoor lighting. Carnivals/circuses are a permissible Special Use in the C-G (Commercial, General) district, a permissible Conditional Use in the C-I (Commercial, Intensive) and M (Manufacturing) districts, and prohibited in all other districts. The events are subject to the requirements found in LDC Section 6.11.26 which limit the event to a maximum of 10 days and require a 300-foot separation from residential districts. In all cases, approval of zoning permit is required.

  On June 27, the Board of County Commissioners adopted the Hillsborough County Special Events Ordinance. The ordinance regulates the permitting of temporary outdoor special events such as bazaars, carnivals, fairs, music festivals, craft shows and similar activities which have an expected attendance of 200 or more persons. The ordinance applies to all such events regardless of whether they are sponsored by non-profit or for-profit organizations and, beginning January 1, 2013, will require approval of an event permit.

  The proposed amendment will strike the definitions and regulations for neighborhood fairs and carnivals/circuses in the LDC and, instead, regulate temporary outdoor events as “large” or “small” special events depending on the expected attendance level. Large special events with an expected attendance of 200 persons or more will be allowed in all zoning districts subject to the permitting requirements of the Special Events Ordinance. Small special events with an expected attendance of less than 200 persons will be a permissible Conditional Use in all zoning districts subject to the following criteria: the event must occur on a parcel with a lawfully developed principal use; the event cannot exceed two days in length; and no more than two events may occur on a parcel within any 365 day period. Approval of a Conditional Use zoning permit will not be required but all other applicable permits, licenses, etc., must be obtained. Small special events that are proposed on undeveloped parcels will be allowed provided a permit is voluntarily obtained in accordance with the Special Events ordinance.

- **Anticipated Cost to Development**

  The amendment will reduce LDC-related costs on development by eliminating the need to secure Conditional Use or Special Use permits.

- **Anticipated Staff Resource Cost**

  The amendment poses no additional costs for staff resources.
**APPLICATION:** LDC 12-0701  
**APPLICANT:** Development Services

**BOCC PUBLIC HEARING DATES:** September 27 and October 25, 2012

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**ATTACHMENTS:**  
Draft Text Amendment
### Table of Allowable Uses in Zoning Districts

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#### Key:
- **P** = Permitted
- **C** = Conditional Use, permitted pursuant to standards of Article VI (no public hearing required unless specified in applicable section) and the procedures of Section 10.01.00.
- **S** = Special Use, noticed public hearing required and subject to standards of Article VI. Reviewed pursuant to Section 10.02.00.
- **A** = Accessory use, permitted pursuant to Article VI.
- **N** = Potentially permitted pursuant to Section 6.11.65.
- **CNR** = Conditional Use/No Review, permitted without prior zoning review subject to requirements of Part 6.11.00.
- **Blank** = Prohibited.

#### Outdoor, Passive and Recreational Uses

- **Camps**
  - **C**

- **Carnivals/Circuses**
  - **C**

- **Drive-In Theaters**
  - **C**

- **Golf Club/Country Club**
  - **P**

- **Golf Driving Range**
  - **S**

- **Neighborhood Fair**
  - **C**

- **Outdoor Paintball**
  - **P**
### Table of Allowable Uses in Zoning Districts

Key: **P** = Permitted. **C** = Conditional Use, permitted pursuant to standards of Article VI (no public hearing required unless specified in applicable section) and the procedures of Section 10.01.00. **S** = Special Use, noticed public hearing required and subject to standards of Article VI. Reviewed pursuant to Section 10.02.00. **A** = Accessory use, permitted pursuant to Article VI. **N** = Potentially permitted pursuant to Section 6.11.65. **CNR** = Conditional Use/No Review, permitted without prior zoning review subject to requirements of Part 6.11.00. **Blank** = Prohibited.

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Sec. 2.02.05. Temporary Uses

A. Allowable Temporary Uses: Non-Residential Zoning Districts

The following temporary uses may be allowable in non-residential zoning districts:

1. Neighborhood fairs and circuses. Special events.
2. Contractor's temporary office and/or equipment sheds incidental to construction project.
4. Temporary vendors.
5. Agricultural offices.

B. Allowable Temporary Uses: Residential Zoning Districts

1. Temporary manufactured homes due to medical hardship.
2. Temporary manufactured homes while constructing.
3. Neighborhood fairs. Special events.
4. Model dwelling units and pre-construction sales offices.
5. Garage, yard sales.
6. Temporary vendors (non-profit).

C. Standards

No more than two permits for temporary uses shall be issued for the same site within a one-year period unless otherwise specified in Section 6.11.00 of this Code, except that Large Special Events shall be regulated in accordance with the requirements of the Hillsborough County Special Events Ordinance.
D. Procedures

Temporary uses shall be issued permitted in accordance with the procedures contained at in Section 10.01.00 for the issuance of development permits of this Code, except that Large Special Events shall be permitted in accordance with the requirements of the Hillsborough County Special Events Ordinance.

ARTICLE VI

DESIGN STANDARDS AND IMPROVEMENT REQUIREMENTS

Part 6.11.00 Special and Conditional Use

Sec. 6.11.25. Churches/Synagogues
Sec. 6.11.26. Carnivals/Circuses Reserved
Sec. 6.11.27. Colleges/Community Colleges/Universities

Sec. 6.11.63. Municipal Solid Waste Facilities
Sec. 6.11.64. Neighborhood Fair Reserved
Sec. 6.11.65. Non-Industrial Uses in Industrially Designated Areas

Sec. 6.11.91. Slaughterhouse
Sec. 6.11.92 Special Events, Small (See Section 6.11.126)
Sec. 6.11.125. Solar Energy Production Facility
Sec. 6.11.126. Special Events, Small

PART 6.11.00

SPECIAL AND CONDITIONAL USES*

Sec. 6.11.26. Carnivals/Circuses Reserved

A. The duration of the use shall not exceed ten calendar days.

B. Where said carnival/circus use is adjoining a residential district, there shall be a minimum setback of 100 feet from parking areas and 300 feet from the carnival/circus itself.
Sec. 6.11.64. Neighborhood Fair Reserved

A. All necessary state and local permits shall be met.

B. The duration of the use shall not exceed five calendar days, except as specified in paragraph e below.

C. There shall be a minimum of 30 feet from the parking area to the lot line and a minimum of 30 feet from the fair itself to the lot line, except as specified in paragraph e below.

D. Parking areas shall be designed to prohibit vehicles from backing onto collector or arterial roadways.

E. If the applicant wishes to extend the duration of the Neighborhood Fair to a total of ten calendar days, or to reduce the setbacks specified in paragraph e above, the noticed appearance before the Land Use Hearing Office option associated with the Special Use procedure shall be mandatory and the procedures of Sec. 10.02.00 shall be followed. The Hearing Officer’s decision to extend the duration of the fair or to reduce the setbacks shall be based on a finding of no significant adverse effect on adjoining properties.

F. Outdoor lighting shall not shine directly onto adjacent properties.

G. Permits for neighborhood fairs shall be valid for five separate fairs, provided no changes to site conditions are proposed. No less than seven days prior to each fair, notification shall be provided to the County with certification that there are no changes to site conditions.

Sec. 6.11.126 Special Events, Small

A. No more than two small special events (as defined herein) shall occur on a parcel within any 365 day period. The events shall occur on a parcel with a lawfully developed principal use.

B. Each event shall be limited to a maximum of two calendar days.

C. Approval of a Conditional Use zoning permit is not required. However, this shall not obviate the need to comply with all other applicable laws, rules and regulations, nor shall it obviate the need to obtain any other applicable local, state or federal permits or licenses, such as but not limited to tent and electrical permits.

D. Notwithstanding the above, small special events that proposed for undeveloped parcels may be allowed provided a permit is obtained in accordance with Section 3(d) of the Hillsborough County Special Events Ordinance.
PART 12.01.00

DEFINITIONS

**Car Wash:** An establishment engaged in the business of washing domestic vehicles with self serve, automated or staffed facilities. Car washes also include hand washing and/or detailing operations, whether such operations are the primary use of a parcel or incidental to a primary use.

**Carnival/Circus:** The temporary use of land offering entertainment such as thrill rides, games of chance and skill, accessory musical entertainment, educational exhibits, display of oddities and the like.

**Carrying Capacity:** The maximum number of individuals that a given area can satisfactorily support based on the availability of food, shelter, breeding sites, and other factors related to the life history requirements of a species.

**Neighborhood or Neighborhood Organization:** A group of citizens representing not less than 50 percent of the residents within a defined geographic area, a duly incorporated citizen or homeowner’s group, or an unincorporated association approved by the Board of County Commissioners, which is organized for the purpose of considering and acting upon any of a broad range of issues affecting the livability and quality of their neighborhood.

**Neighborhood Fair:** The temporary use of land by nonprofit organizations offering entertainment in the form of games of chance and skill, educational exhibits, rides, accessory musical entertainment, and the like. Outdoor refers to the use outside of existing permanent structures. Activities listed for neighborhood fair, but located entirely inside an existing building, such as in a school or church, are permitted uses and require no additional zoning approval.

**Neighborhood Pump/Lift Station:** See Pump/Lift Station.

**Special District Sign:** Special District Sign shall mean a non-commercial monument sign, which is displayed at the entrance to a Community’s Downtown Activity Center, Town Center, Main Street or a Central Business District as identified in a community plan.

**Special Event, Small:** The temporary outdoor assembly of less than 200 persons on a daily basis upon private property for any purpose including but not limited to a bazaar, carnival, fair, festival, exhibition, display, presentation, competition, trade, vending, entertainment, performance or similar events. Notwithstanding, small special events shall not include outdoor assemblies of persons that have been permitted and authorized under other provisions of this Code, including, but not limited to, assemblies determined by the Administrator to be an allowable accessory use.
**Special Event, Large:** The temporary outdoor assembly of 200 or more persons on a daily basis upon private property for any purpose including but not limited to a bazaar, carnival, fair, festival, exhibition, display, presentation, competition, trade, vending, entertainment, performance or similar events. Notwithstanding, large special events shall not include outdoor assemblies of persons that have been permitted and authorized under other provisions of this Code, including, but not limited to, assemblies determined by the Administrator to be an allowable accessory use.

**Special Public Interest Historic and Cultural Conservation District (SPI-HC):** An area having structures of substantial historic, architectural, cultural, or archaeological significance, or having individual structures and premises designated as having such significance.