

Land Development Code Amendment Request

ORIGIN: Board of County Commissioners

AUTHOR: Growth Management Department Staff

AMENDMENT CYCLE: 2016 LDC Amendment Cycle (Carry-Over)

LDC SECTION(S): 3.05.07 Preservation Standards

CHANGE: This amendment modifies the requirements for off-site native vegetation retention. The amendment updates and revises the applicability section, provides for off-site preservation through deviations or variances, modifies the calculation for monetary payments, and removes the land donation alternative for off-site native vegetation retention.

REASON:

Amendment History

Currently LDC section 3.05.07 H.1.f establishes the following options for compliance with the County’s native vegetation retention requirements:

- 1) On-site preservation; or
- 2) Off-site preservation through one of the following methods:
 - a. Monetary payment with an exotics maintenance endowment, or
 - b. Land donation with an exotics maintenance endowment.

On July 7, 2015, Conservation Collier staff made several preliminary recommendations to the Board of County Commissioners (Board) for guidance prior to establishing more detailed changes to the program. The Board directed a review of these recommendations with the Conservation Collier Land Acquisition Advisory Committee (CCLAAC) and Development Services Advisory Committee (DSAC) to provide recommendations to:

- Increase the monetary payment so that land management endowments last beyond seven years; and
- Consider removing the land donation alternative.

The following narrative describes some of the history of the County’s preserve requirements, the changes included in this amendment, and the recommendations suggested by the advisory boards and the Collier County Planning Commission (CCPC).

Background regarding on-site preserves

The purpose of the on-site preserve requirement is to retain, maintain, and protect existing native vegetation on site as provided for in the CCME. Accordingly, the purpose of LDC section 3.05.00 Vegetation Removal, Protection, and Preservation states:

“The purpose of this section is the protection of vegetation within the County by regulating its removal; to assist in the control of flooding, soil erosion, dust, heat, air pollution, and noise; and to maintain property, aesthetic, and health values within the County; to limit the use of irrigation water

in open space areas by promoting the preservation of existing plant communities; to limit the removal of existing viable vegetation in advance of the approval of land development plans; and to limit the removal of existing viable vegetation when no landscape plan has been prepared for the site.”

It is important to note that while this section allows for off-site preservation, preserves in the urban area still provide benefits to the community. Beyond native habitat, preserves also provide green space consisting of naturally existing vegetation in urban areas. The Nature Conservancy’s “Planting Healthy Air” (2016) confirms that trees and other vegetation provide many benefits to people including: “aesthetic beauty, enhancement of property values, erosion prevention, stormwater management, and noise reduction.”¹ The study also reiterates that trees sequester carbon which helps to alleviate the effects of climate change. Trees help to make the air healthier as “Dozens of studies now show that tree leaves filter out particulate matter from the atmosphere, along with many other air pollutants.”²

Preserves retained on site are an amenity for residents. The LDC allows for boardwalks, pathways, benches, educational signs, and viewing platforms; staff encourages these uses so that residents can enjoy preserve areas. In addition, the Nature Conservancy’s Tree Study indicates that urban trees have been shown to have economic value, stating, “in general, the total economic value of a tree is frequently more than 20 times the value specifically for air quality, with stormwater mitigation and aesthetic value for property owners being especially important.”³

Background regarding off-site preserves

Off-site native vegetation retention was added to the LDC in 2010 to allow for the purchase or donation of land off site in lieu of preserving native vegetation on site. The criteria for determining when this alternative is allowed is based on the provisions identified in Conservation and Coastal Management Element (CCME), of the Growth Management Plan (GMP), Policy 6.1.1 (10), which states:

“The County shall adopt land development regulations that allow for a process whereby a property owner may submit a petition requesting that all or a portion of the native vegetation preservation retention requirement to be satisfied by a monetary payment, land donation that contains native vegetative communities equal to or of a higher priority as described in Policy 6.1.1 (4) than the land being impacted, or other appropriate method of compensation to an acceptable land acquisition program, as required by the land development regulations. The monetary payment shall be used to purchase and manage native vegetative communities off-site. The land development regulations shall provide criteria to determine when this alternative will be considered. The criteria will be based upon the following provisions:

- a. The amount, type, rarity and quality of the native vegetation on site;*
- b. The presence of conservation lands adjoining the site;*
- c. The presence of listed species and consideration of Federal and State agency technical assistance;*
- d. The type of land use proposed, such as, but not limited to, affordable housing;*

¹ McDonald, R., Kroeger, K., Boucher, T., Wang, L., Salem, R. (2016). Planting Healthy Air. Retrieved from <https://global.nature.org/content/healthyair?src=r.global.healthyair>. Pg. 2

² Ibid, Pg. 2.

³ Ibid, Pg. 22.

- e. *The size of the preserve required to remain on site is too small to ensure that the preserve can remain functional; and*
- f. *Right-of-Way acquisitions for all purposes necessary for roadway construction, including ancillary drainage facilities, and including utilities within the right of way acquisition area. The land development regulations shall include a methodology to establish the monetary value, land donation, or other appropriate method of compensation to ensure that native vegetative communities not preserved on-site will be preserved and appropriately managed off-site.”*

Generally speaking, preserves which are smaller in size, or those located adjacent to more intense land uses, have a greater potential to become less viable over time due to habitat fragmentation and sensitivity of native vegetation to changes in the environment. Depending on the type of development and uses on adjoining properties, plants, such as slash pine, often die after a few years. It is in these instances where the off-site preservation is recommended in lieu of preservation of native vegetation on site.

Changes to LDC sections 3.05.07 H.1.f.i-ii

Purpose section

This amendment adds a purpose section to clarify the original intent and guide the administration of the off-site preserve program. This section identifies it is intended to apply to projects with a preserve requirement of 21,780 square feet (one-half acre) or less. Additionally, this section is not applicable to the Rural Lands Stewardship Area (RLSA) and Rural Fringe Mixed Use (RFMU) districts, since there are separate off-site preservation provisions specific to each district.

Applicability

This amendment removes the existing applicability in its entirety and replaces it with a provision limiting the applicability of off-site preservation to projects where the preserve requirement is 21,780 square feet (one-half acre) or less, and where the preserves have not been identified on an approved development order by the County.

This section also limits the applicability of off-site preservation with several prohibitions that modify or add to the provisions previously identified as “restrictions.” Identifying these standards as prohibitions makes it clear that no deviations can be requested or allowed when any of the prohibitions are found on site. Additionally, the following clarifications and additions have been made to the list of prohibitions:

- The prohibition on removing native vegetation *adjacent* to flowways is clarified to indicate that it also applies to native vegetation *within* flowways.
- Currently, remaining portions of on-site preserves must be a minimum of one acre, unless high quality habitat is present. This provision is removed as applicants will not be able to leave any required preserves on site when off-site preservation is requested.
- A standard is added prohibiting off-site preserves if the on-site native vegetation requirement is greater than 21,780 square feet (one-half acre).

Preserves in Industrial Districts:

LDC section 3.05.07 B.2.h establishes that industrial zoned parcels which have a native vegetation retention requirement of two acres or less are exempt from the preserve requirement. For this reason, industrial zoned parcels are not incorporated in the applicability section.

- A standard is added prohibiting deviations or variances from the off-site preservation standards.

Approval methods

CCME Policy 6.1.1 (13) requires two potential methods for obtaining approval when developments meet the applicability to provide on-site preserves off site. The policy states:

“The County may grant a deviation to the native vegetation retention requirements of subsections 2, 4, 5, 10, and 12 of this Policy, and shall adopt land development regulations to set forth the process for obtaining a deviation. The regulations shall allow for the granting of a deviation by the appropriate review board after a public hearing, and for the granting of a deviation administratively...”

Therefore, the following approval processes have been established:

1) Administrative approval:

The County manager or designee may approve deviations for off-site preserves in only the following four situations:

- a. Essential service facilities;
- b. Affordable housing projects that have been approved by the Collier County Community and Human Services Division;
- c. Projects where on-site native vegetation is fragmented; or
- d. Projects where on-site native vegetation is not contiguous to off-site preserve areas.

2) Approval through a public hearing:

For other projects that satisfy the applicability criteria, off-site preservation may be approved through a PUD deviation or variance, as applicable.

Finally, a provision is added which states that for the purposes of this section, the required preserves shall be based on the total acreage for the PUD or development order, and not based on an individual phase or phases of a development. Additionally, if the on-site native vegetation retention requirement is satisfied off site, then all of the required preserve will be satisfied off site.

Changes to Off-Site Alternatives in LDC section 3.05.07 H.1.f.iii.

This section currently identifies that the native vegetation retention requirements may be satisfied by one of two off-site alternatives, either monetary payments or land donations. This amendment removes the land donation alternative and modifies the calculation of the monetary payment.

Currently, the monetary payment amount is based on the location of the land to be impacted and must be equal to 125 percent of the average cost of land purchased by Conservation Collier in the urban designated area or of the average cost of all other designations, as applicable.

This amendment states that the monetary payment amount shall be established in the Growth Management Department Development Services Fee Schedule. The proposed per acre fee for the monetary payment alternative is based on the Annual Update and Inventory Report (AUIR) Community and Regional Park Land Summary unit cost per acre, as updated annually. Using the AUIR to establish the cost to purchase land will ensure that this fee is consistent with the County’s other land purchasing estimates and that the fee is updated regularly.

CCPC RECOMMENDATION: Following the Board’s direction, the Collier County Planning Commission (CCPC) has reviewed recommendations from CCLAAC and DSAC over the course of several meetings. During their review of this amendment, the CCPC noted the following:

- The retention of native vegetation, even small areas, is valued by Collier County residents.
- The native vegetation retention requirements should be designed to promote on-site retention.
- The program should place more emphasis on encouraging incorporation of the natural environment within urban developments.

Furthermore, the CCPC expressed concern over the ability for developers to satisfy native vegetation retention requirements off site, the methodologies used by the CCLAAC and DSAC to revise the fees associated with the off-site preservation alternatives, and the County’s ability to manage exotics in the rural areas of the County. As a result, this amendment reflects the following CCPC recommendations made during the August 17, 2017, meeting:

1. Off-site preservation should only be allowed through a deviation where the preserve requirement is one-half acre or less.
 - a. The CCPC explained that the limitation to one-half acre is significant when compared to minimum lot sizes for single-family homes. For instance, 21,780 square feet compares to more than 3 minimum sized lots within RMF-6 zonign districts.
2. An administrative deviation should be available to projects that meet identified criteria.
3. The only method for providing off-site preserves should be through a monetary payment and the amount should be based on the AUIR Community and Regional Park Land Summary per acre unit cost.

CCLAAC & DSAC RECOMMENDATIONS: Off-site preservation was used infrequently after its addition to the LDC in 2010 and several provisions have proved problematic when staff has applied this section to projects in recent years. Therefore, in addition to addressing the Board’s direction staff recommended clarifying certain portions of this provision to CCLAAC and DSAC. Both the CCLAAC and DSAC provided similar recommendations regarding changes to the purpose and intent, applicability, PUD deviations, and prohibitions sections. While the CCPC recommendation includes the CCLAAC and DSAC recommended language in the purpose and intent section, several other sections were modified during the CCPC hearings described generally as follows:

- Both CCLAAC and DSAC recommended to allow for off-site preservation to apply to preserve requirements of up to one acre and to allow for up to two acres through a PUD deviation. However, the CCPC modified these provisions to apply only to preserve requirements of one-half acre or less.
- Both CCLAAC and DSAC recommended clarifications to the restrictions section, including renaming the section to “prohibitions.” While some of these clarifications are included in the CCPC recommendation, the CCPC has made additional modifications and additions as described above.

- Both CCLAAC and DSAC recommended changes to the off-site preservation alternatives as directed by the Board. While, these recommendations differed between committees, each committee included endowments for estimated land management costs, and proposed fees for the monetary payment and land donation alternatives. Each Committee’s proposal for changes to the off-site preservation alternatives are summarized in the next section.

CCLAAC recommendations for off-site preservation alternatives:

- 1) *Land Management Costs:* CCLAAC recommended using an annual estimated cost of \$558 per acre to manage lands donated to Conservation Collier. This yearly management estimate was used to establish an endowment amount that ensures sufficient management funds for at least 20 years while accounting for inflation and interest. The resulting land management endowment amount of \$32,500 was incorporated in CCLAAC’s recommended fees for the monetary payment and land donation alternatives.
- 2) *Monetary Payment Alternative:* CCLAAC recommended that the monetary payment should be equivalent to 125% of the “post development appraised value” of the on-site preserve acreage. The following example was given: If a development with a one acre preserve requirement received a post development appraisal value of \$300,000, the total fee associated with the monetary payment alternative would equate to \$375,000.
- 3) *Land Donation Alternative:* CCLAAC recommended that the land donation fee incorporate the land management endowment and an initial exotic vegetation removal cost. Additionally, CCLAAC recommended a 4:1 ratio for land donations to offset the land being developed. The following table illustrates the land donation fee for a project with a native vegetation requirement of one acre. Since a 4:1 ratio would apply to the donation, four acres would need to be donated, therefore, the fees are multiplied by four in the following table:

Elements of Land Donation Fee	Cost Per Donation
Land management endowment (\$32,500 x 4)	\$130,000
Initial exotic vegetation removal costs (\$4,000 x 4)	\$16,000
Total	\$146,000

DSAC recommendations for off-site preservation alternatives:

- 1) *Land Management Costs:* DSAC recommended using the following estimates to manage lands donated to Conservation Collier:
 - Years 1-5 = \$558 per acre
 - Year 6 and ongoing = \$141 per acreThese yearly management estimates were used to establish an endowment amount that ensures sufficient management funds for at least 20 years while also accounting for inflation and interest. The resulting land management endowment amount of \$13,200 was incorporated in DSAC’s recommended fees for the monetary payment and land donation alternatives.
- 2) *Monetary Payment Alternative:* DSAC recommended that the monetary payment incorporate the cost for Conservation Collier to purchase land, the land management endowment, and an initial exotic vegetation removal cost as shown in the following table:

Elements of Monetary Payment Alternative	Per Acre Cost
Average cost to purchase land for Conservation Collier	\$32,800
Land management endowment	\$13,200
Initial exotic vegetation removal costs	\$4,000
Total	\$50,000

3) *Land Donation Alternative*: DSAC recommended that the land donation fee incorporate the land management endowment and an initial exotic vegetation removal cost as shown in the following table:

Elements of Land Donation Fee	Per Acre Cost
Land management endowment	\$13,200
Initial exotic vegetation removal costs	\$4,000
Total	\$17,200

FISCAL & OPERATIONAL IMPACTS: There are no anticipated fiscal or operational impacts associated with this amendment.

GROWTH MANAGEMENT PLAN IMPACT: There are no anticipated Growth Management Plan impacts associated with this amendment.

Amend the LDC as follows:

- 1 **3.05.07 Preservation Standards**
- 2 * * * * *
- 3 H. Preserve standards.
- 4 1. Design standards.
- 5 * * * * *
- 6 f. Off-site vegetation retention.
- 7 i. Purpose and Intent. The purpose of this subsection f is to identify
- 8 the criteria to satisfy on-site preserve requirements off site. The
- 9 intent of the on-site preserve requirement is to retain, maintain,
- 10 and preserve existing **native vegetation** on site as provided for in
- 11 the Conservation and Coastal Management Element of the GMP.
- 12 However, in limited situations on-site preserve may be considered
- 13 less viable as a functional preserve if it is 21,780 square feet (one-
- 14 half acre) or less and isolated. Therefore, in limited situations,
- 15 providing for a preserve off site can achieve the goals and
- 16 objectives of the GMP. This section shall not apply to lands
- 17 located within the RLSA or **RFMU districts**.
- 18 i. ~~Applicability. A property owner may request that all or a portion of~~
- 19 ~~the Collier County on-site native vegetation preservation retention~~
- 20 ~~requirement be satisfied for only the following situations and~~
- 21 ~~subject to the restrictions listed below.~~
- 22 a) ~~Properties zoned commercial where the on-site preserve~~
- 23 ~~requirement is less than 2 acres in size.~~
- 24 b) ~~Park sites where the on-site preserve requirement is less~~
- 25 ~~than one acre in size.~~

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- e) ~~Essential service~~ facilities other than parks, for any size preserves.
- d) ~~Preserves less than one acre in size~~
- e) **Affordable housing** projects. The maximum percent of **native vegetation** retention allowed offsite shall be equal to the percent of **affordable housing** units, without limitation as to size of the preserve.
- f) Existing or proposed preserves with 75 percent or more coverage with exotic vegetation. Existing preserves not previously overrun with this type vegetation and which arrive at this state due to lack of management of the preserve shall mitigate off site at a ratio of 2 to 1.
- g) Created preserves which do not meet the success criteria in 3.05.07 H.1.e.viii or where preserves have not been planted in a manner which mimics a natural plant community.
- h) Preserves which do not meet the minimum dimensional requirements of this section.
- f) Portions of preserves located within platted single-family lots.
- j) Right of Way acquisitions to be conveyed or in the process of being conveyed to the County by non-governmental entities for all purposes necessary for roadway construction, including ancillary drainage facilities, and including utilities within the right of way acquisition area.
- k) All criteria listed for created preserves.
- ii. Restrictions, when one or more of the following situations occur. Applicability and prohibitions. Except where it is prohibited, applicants may request that the on-site **native vegetation** retention requirement be satisfied in full off-site where the **native vegetation** requirement is 21,780 square feet (one-half acre) or less, and the preserves have not been identified on an approved **development order** by the County. Off-site preserves are prohibited if one or more of the following is found on-site:
 - a) Xeric scrub, and hardwood hammocks ~~which are one acre or more in size~~, mangrove (excluding mangrove fringes less than 40 feet in width on artificially created **shorelines**), coastal **dune** and strand environments, and listed species habitat or corridors per the requirements or recommendations of the FFWCC or USFWS are found on site; shall not be allowed to have the on-site **native vegetation** preservation retention requirement provided offsite.
 - b) Preserves shall remain on site if are located within or contiguous to natural **flowways** required to be retained per the requirements of the SFWMD, natural water bodies, estuaries, government required preserves (not meeting the off-site preservation criteria herein), NRPAs, or contiguous to property designated for purchase by Conservation Collier or purchased by Conservation Collier, or contiguous to properties containing listed species nests, **buffers**,

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- corridors and foraging habitat per the requirements or recommendations of the FFWCC or USFWS. For the purpose of this section, natural **flowways** shall also include those identified during **wetland** permitting with applicable State and Federal agencies, regional drainage studies, or surface water management permits;
- c) ~~Remaining portions of on-site preserves must be a minimum of one acre in size and shall not meet the offsite criteria of sub-section 3.05.07 H.1.f.i.(f) and (g) above, unless preserved with higher quality habitat not qualifying for the off-site **native vegetation** retention alternative.~~
 - c) If the on-site **native vegetation** retention requirement is greater than 21,780 square feet (one-half acre), then no required preserves are allowed to go off site; or
 - d) Deviations or variances from this section are prohibited.
- iii. Off-site preserves approved administratively. Except as limited in LDC section 3.05.07 H.1.f.ii, the County Manager or designee may approve deviations to meet the on-site preserve requirements off site in only the following four situations:
- a) **Essential services** facilities;
 - b) Affordable housing approved by the Collier County Community and Human Services Division;
 - c) Projects where on-site **native vegetation** is fragmented; or
 - d) Projects where on-site **native vegetation** is not contiguous to off-site preserve areas.
- iv. Off-site preserves approved through a public hearing. Except as limited in LDC section 3.05.07 H.1.f.ii., **applicants** may request a PUD deviation or variance, as applicable, to meet the on-site preserve requirement off site.
- a) PUD deviations shall be processed in accordance with the procedures in LDC section 10.02.13.
 - b) Variances shall be processed in accordance with the procedures in LDC section 10.09.00.
- v. For the purposes this section, the preserve requirement shall be based on the total acreage for the PUD or **development order**, as applicable, and not based on an individual phase or phases of a **development**, consistent with LDC section 3.05.07 H.1.a. If the on-site **native vegetation** retention requirement is satisfied off site, then all of the required preserve will be satisfied off site.
- iii-vi. Off-site Alternatives. Off-site **native vegetation** retention requirements may be met by monetary payment or by land donation. If a **development** qualifies for off-site preservation, only a monetary payment will satisfy the off-site retention requirement.
- a) **Applicants** shall make the monetary payment to Collier County. Such funds ~~will~~ shall be used by the County for the purchase and management of off-site conservation lands within the county. The monetary payment amount shall be established by resolution in the Collier County Growth Management Department Development Services Fee Schedule. The monetary payment amount shall be calculated based on the on-site preserve requirement for

1 the land that is proposed to be developed and shall be the
2 current AUIR Community and Regional Park Land
3 Summary per acre unit cost, as amended annually, based
4 on the location of the land to be impacted and be equal to
5 125 percent of the average cost of land in the Urban
6 Designation or 125 percent of the average cost for all other
7 Designations, as applicable, as defined by the FLUE,
8 purchased by Collier County, through the Conservation
9 Collier program. This monetary payment shall be made
10 prior to the preconstruction meeting for the SDP or final
11 plat construction plans.

12 b) ~~In lieu of monetary payment, applicants may choose to~~
13 ~~donate land for conservation purposes to Collier County or~~
14 ~~to another government agency. In the event of donation to~~
15 ~~Collier County, the applicant may acquire and~~
16 ~~subsequently donate land within the project boundaries of~~
17 ~~Winchester Head, North Golden Gate Estates Unit 53,~~
18 ~~another multi-**parcel** project or any other land designated~~
19 ~~by Conservation Collier donation acceptance procedures.~~
20 ~~**Applicants** who choose to donate land shall be required to~~
21 ~~demonstrate that the land to be donated contains **native**~~
22 ~~**vegetation** communities equal to or of higher priority (as~~
23 ~~described in subsection 3.05.07 A.) than the land required~~
24 ~~to be preserved onsite. In no case shall the acreage of~~
25 ~~land donated be less than the acreage of land required to~~
26 ~~be preserved onsite. Land donated to satisfy the off-site~~
27 ~~vegetation retention requirement must be located entirely~~
28 ~~within Collier County. Donations of land for preservation~~
29 ~~shall be made to a federal, state or local government~~
30 ~~agency established or authorized to accept lands for the~~
31 ~~conservation and management of land in perpetuity,~~
32 ~~subject to the policies and procedures of the receiving~~
33 ~~entity. Lands donated to Collier County must include a~~
34 ~~cash payment for management of the land. The amount of~~
35 ~~this payment shall be equal to 25 percent of the average~~
36 ~~cost of land in the Urban Designation or 25 percent of the~~
37 ~~average cost in all other Designations, as applicable, as~~
38 ~~defined by the FLUE, purchased by Collier County, through~~
39 ~~the Conservation Collier program.~~
40 ~~**Applicants** shall provide evidence that donations of land~~
41 ~~for preservation and endowments for management have~~
42 ~~been accepted by and donated to the entity stated above,~~
43 ~~at the time of the preconstruction meeting for the SDP or~~
44 ~~final plat construction plans. Exotics shall be removed in~~
45 ~~accordance with the time frames provided in 3.05.07 H.2.~~
46 ~~State and Federal agency requirements for mitigation,~~
47 ~~remediation and monitoring for the donated land shall be~~
48 ~~the responsibility of the **applicant**.~~

49 iv-vii. PUD zoning. Where the off-site **native vegetation** retention
50 alternative is used for portions of preserves not identified on a
51 PUD master plan, a PUD amendment is not required.

Text underlined is new text to be added
~~Text strikethrough is current text to be deleted~~
Bold text indicates a defined term

1 Preserves or portions of preserves identified on a PUD master
2 plan shall require an amendment to the PUD master plan to
3 use the **native vegetation** retention alternative, subject to
4 LDC section 10.02.13 E, unless the option to use the off-site
5 **native vegetation** retention alternative is included in the PUD.
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