

Siesta Key Community Inc
President: Lourdes Ramirez
August 19, 2021

Siesta Key Community Inc, a ten-year-old organization on Siesta Key, is opposed to UDC Amendment #32 which eliminates density limits for hotels throughout Sarasota County including the barrier islands. The proposed UDC amendment would allow hotels on the barrier islands to increase density from the current maximum of 26 units per acre (without kitchens) to up to 170 units per acre. This would violate the Comprehensive Plan.

This white paper will provide details on how the elimination of 'density' limits and subsequent addition of hundreds of hotel units are in clear violation of state statutes that require all developments to be consistent with the entire comprehensive plan. This draft is to introduce arguments against the proposed UDC Amendment #32 to the County and the public. The final version will be submitted to County Commissioners and the public before the public hearings on these proposed amendments in October.

Summary

The proposed UDC amendment #32 that will eliminate density limits for hotels on the barrier islands is inconsistent with the Comprehensive Plan. Zoning changes that are inconsistent with the Comprehensive Plan are illegal under state statutes (FL S 163.3194). Specifically, the proposed change to increase density for hotels will violate the Comprehensive Plan policy 2.9.1 that requires the density of development to follow zoning regulations as of 1989. The 1989 zoning regulations have clear maximum limits for transient accommodations.

Comprehensive Plan Policy 2.9.1 is unambiguous and clear. The policy reads as follows.

*Barrier Islands are designated on the Future Land Use Map to recognize existing land use patterns and to provide a basis for hurricane evacuation planning and disaster mitigation efforts. **The intensity and density of future development on the Barrier Islands of Sarasota shall not exceed that allowed by zoning ordinances and regulations existing as of March 13, 1989.** (Emphasis added)*

Following the strict scrutiny of the comp plan language, the county must look at the density and intensity of use of transient accommodations in the 1989 zoning ordinances and regulations. This is a required step in ensuring any approval of development is consistent with the Comprehensive Plan.

The 1989 Zoning ordinances provide clear maximum density limits for transient accommodations. The County can't legally redefine density for hotels to circumvent Policy 2.9.1.

1989 Zoning Ordinances

The following are the key points in the regulations on transient accommodations in the 1989 zoning ordinances:

- In Section 28.163, Transient accommodations... (see Attachment A)
 - Are defined as 'dwelling unit, or other accommodation used as a dwelling unit'.
 - Hotels are listed as an example a transient accommodation.
 - States 'A transient accommodation shall be considered a residential use'
- In Section 88.F, Maximum Residential Density, transient accommodations are listed along with multifamily dwellings with a maximum density. For transient accommodations, the maximum density limits are (see Attachment B):
 - Twenty-six (26) units per acre without cooking facilities
 - Thirteen (13) units per acre with cooking facilities

County's clear intention to limit density

For the purpose of potential legal proceedings, it's important to show the intent of maximizing density by the Sarasota County government. The intent of the County to limit density for transient accommodations for decades is apparent. The various ordinances and comprehensive plan policies show past county commissioners' unambiguous intent to limit density on the barrier islands including for transient accommodations.

- Ordinance 83-08 was adopted in 1983 to provide for 'establishment and clarification of transient accommodations use' and to amend the CG district to include 'maximum residential density'. This ordinance was a basis for changes to the 1975 Zoning Code and was in effect in the 1989 Zoning ordinances. In ordinance 83-08, Section II, B (see Attachment C1 – C3)
 - Section II.B.1.A. The Intent clause include the section 'Whenever transient accommodations are involved, maximum density shall be guided by...within the "Future Land Use" plan chapter's guiding principles of Apoxsee' (Comprehensive Plan).
 - Section II.B.3.F lists the maximum density of the various portions of our county. At that time, there were several Intensity Level 'Band' Copy of this section of the ordinance is attached.
- The Comprehensive Plan has policies to support maximum densities on the barrier island
 - Comprehensive Plan Policy 1.2.2 requires that any proposed land use amendments in Evacuation A (Siesta Key) and B hurricane vulnerability zone to be consistent with **Future Land Use policy 2.9.1.**

- Comprehensive Plan Policy 1.2.3 encourages hotel/motel development in the storm evacuation zones category C, D and E **rather than evacuation zones A and B**. (emphasis added to the reference of Siesta Key evacuation zone)
- Comprehensive Plan Policy 1.2.6 discourage the intensification of land uses within Hurricane Evacuation Zones A and B, **consistent with Future Land Use Policy 2.9.1**, and Coastal Objective 1.2 and policies 1.21 – 1.25

State law requires strict adherence to the Comprehensive Plan

The County can NOT pick and choose which comprehensive plan policy to follow. It must follow the entire Plan and further all of the goals/policies when approving development orders.

Florida Statutes 163.3194

*(1)(a) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, **all development undertaken by, and all actions taken** in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted. (emphasis added)*

*(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, **densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities** in the comprehensive plan and if it meets all other criteria enumerated by the local government. (emphasis added)*

State law defines density, intensity and transient accommodations

While the hotel developers use the definition of density and hotels based on NAIC (industry standards), state law has clear definitions of density, intensity, hotels, and transient public lodgings.

- State law defines density and intensity as objective measurements. Since transient accommodations were listed in our 1989 ordinances and current zoning codes as having density or dwelling units, then we can state there is an objective measurement for hotels.
- Approving up to 170 dwelling units per acre on the barrier islands will clearly exceed the maximum density requirements of our Comprehensive Plan. Redefining the word density today will not change that fact.
 - Fl Statutes 163.3164 (Community Planning Act definitions)
 - (12) “Density” means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre
 - (22) “Intensity” means an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on

natural resources, and the measurement of the use of or demand on facilities and services.

- FI Statutes 509.242 Public lodging establishments; classifications.—
 - (a) Hotel.—A hotel is any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally provided by a hotel and recognized as a hotel in the community in which it is situated or by the industry.
- FI Statutes 509.013 (Lodging and Food Service Establishments) Definitions.—
 - 1. “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Grammar

- In their proposals, hotel developers ignore grammar rules in an attempt to justify their request for increasing density and intensity of use
 - The hotel developers try to interpret the statute differently than the actual intent of the state’s statutes.
 - Definition of Density per state statute: (12) “Density” means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre
 - In their hotel proposals, the developers limit the objective measurement of density to only ‘residents or employees’. The comma in that sentence before ‘such as’ make the following statement non-restrictive clause. That makes ‘such as residents or employees per acre’ an example of the objective measurement but not the only possible measurement. Another objective measurement can be dwelling units for hotels.
 - Definition of Intensity per state statute: (22) “Intensity” means an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources, and the measurement of the use of or demand on facilities and services.
 - In the hotel proposals, the developers focused on ‘consumption of the space’ ignoring the first part of that definition where it lists the ‘objective measurement of the extent to which the land may be developed or used. Again, the comma after ...developed or used, makes it a non-restrictive clause so consumption of use is just one example of

how the land may be developed or used. Adding restaurant and bar uses to a transient accommodations use is an increase in how the land is developed therefore an increase in intensity.

- In their proposal, the hotel developers chose to ignore the word 'and' in the first sentence of Policy 2.9.1 but instead focuses their arguments only on hurricane mitigation. *Barrier Islands are designated on the Future Land Use Map to recognize existing land use patterns **and** to provide a basis for hurricane evacuation planning and disaster mitigation efforts.* These are two distinct statements. The County must 1) recognize existing land use patterns **AND** 2) plan for hurricane evacuations. The County must follow through each statement and can't ignore the first portion to emphasize the second portion of this sentence.
- Comprehensive Plan Policy 2.9.1, includes the word **SHALL**. This leaves the County no room to interpret the policy different than what is clearly stated. *The intensity and density of future development on the Barrier Islands of Sarasota **shall** not exceed that allowed by zoning ordinances and regulations existing as of March 13, 1989.*

County acknowledges density limits exist

- Staff's reports contain written admissions that density limits currently exist for transient accommodations and is proposing to change the definition in UDC amendment #32. This elimination of the definition of density for hotels on the barrier islands in order to add hundreds of more units will be a violation of our Comprehensive Plan 2.9.1 which requires the county to follow the density and intensity as listed in the 1989 Zoning ordinances.
- In the hotel application there were two definitions of density. Hotel Density is being proposed to be eliminated in unincorporated Sarasota County except for Nokomis Center Revitalization Plan and BRR/PD (UDC 124-305 Terms). Two conflicting density definitions in the zoning code will not stand up in court.
- Public workshops on the hotel proposals illustrate the developers' knowledge the density and intensity of use violates the Policy 2.9.1 and originally proposed 'exempting hotels' from those requirements. This demonstrates an understanding that their proposal will violate the Comp Plan. The current proposal is now to ignore the comp plan and change the definition of density. Document proof of hotel developers change in handling Comp Plan policy 2.9.1 will show the courts that the developers' intent is to increase density and intensity and are trying to find a way around it.

Increases in Intensity NOT allowed in Comprehensive Plan

- The hotel proposals are asking for three (3) different uses for each parcel: Hotel, Restaurant, and Bar. This is a clear increase in the intensity of use. The developers are relying on the zoning provision which allows hotels with more than 100 units to have a bar and restaurant. This currently can only happen if the parcel contains four (4) acres but the proposals are requesting to allow three (3) uses on one acre. This brings up conflicting statements. If the county is only considering the hotels' building footprint (floor area ratio) in determining legal hotel use and

does not consider units as 'measurable' then how can they suddenly count units in order to determine if the hotel is eligible for a restaurant or bar? Three distinct commercial uses on one acre are an increase in intensity on the Barrier Islands.

Florida court cases on comp plans

Over the past few decades, Court decisions upheld the requirement that governments must follow the clear language of ordinances and Comprehensive Plans. The following are a few examples of case law. Additional cases will be provided in the final document provided to the County Commission.

- Florida South Properties v Sarasota County Board of Zoning Appeals, 2007
 - Summary: The County must follow the clear language of zoning ordinance. In the current proposal, the county must follow the 1989 Zoning Ordinances which clearly limits density for transient accommodations
 - *'When ordinance language is clear, courts must read the ordinance as written, for to do otherwise constitute an abrogation of legislative power. Koile, 934 So. 2nd at 1231.'*
- Machado v Musgrove, 1988
 - Summary: Finding that a local land use plan is like a constitution for all future development within the governmental boundary (Casetext.com.) The courts find land use plans such as the Comprehensive Plan must be strictly applied.
 - In one portion of the decision, the court states *'Zoning, on the other hand, is the means by which the comprehensive plan is implemented, City of Jacksonville Beach v Grubbs, 461 So. 2d 160 (Fla. 1st DCA 1984), and involves the exercise of discretionary powers within the limits imposed by the plan. Baker v Milwaukee, 533 p.2nd at 775. It is said that a zoning action not in accordance with a comprehensive plan is ultra vires. (for the non-legal reader, ultra vires means 'beyond one's legal power or authority')*
 - Further the court states: *A Comprehensive Land Use Plan is not a 'vest-pocket tool', Baker v City of Milwaukee, for making individual zoning changes based on political vagary, see Harr Kaden, ... It is a broad statement of legislative objective 'to protect human, environmental, social and economic resources, and to maintain, through orderly growth and development, the character and stability of present and future land use and development in this state'*
 - This court decision makes clear that any zoning decision must comply with the Comprehensive plan and all decisions must follow strict scrutiny review
- Pinecrest Lakes Inc v Shidel (2001)
 - Summary: Courts found an approved development was not consistent with the comprehensive plan and ordered the developer to tear down the buildings.
 - The court concluded: *'The statute says that an affected or aggrieved party may bring an action to enjoin an inconsistent development allowed by the County under its Comprehensive Plan. The statutory rule is that if you build it, and in court it later proves*

inconsistent, it will have to come down. The court's injunction enforces the statutory scheme as written. The County has been ordered to comply with its own Comprehensive Plan and restrained from allowing inconsistent development; and the developer has been found to have built an inconsistent land use and has been ordered to remove it. The rule of law has prevailed.'

- City of Jacksonville v Dixon, 2002 Appeals court
 - The appeal court reversed a lower court decision because the development order approved by the City of Jacksonville is not consistent with the comprehensive plan.
 - The court concluded development plans must meet the clear and plain language of the Comprehensive Plan “*Indeed, were we to adopt the deferential standard applied to the plan by the lower court, the ultimate determination of a planned development would be placed within the discretion of whoever composes the membership of the governmental body's planning department at any given time, and the goal of certainty and order in future land-use decision-making would be circumvented.*”

Conclusion

Comprehensive Plan Policy 2.9.1 states ***The intensity and density of future development on the Barrier Islands of Sarasota shall not exceed that allowed by zoning ordinances and regulations existing as of March 13, 1989.*** (Emphasis added). The 1989 zoning ordinances and regulations include maximum density limits for transient accommodations. Clear zoning and planning language exists that prohibits an increase in density and intensity on our barrier islands. If the County starts to arbitrarily change the meaning of a comprehensive plan policy through zoning action, when will it stop? Would density be eliminated for condos on the barrier islands in the future?

Florida Court determinations have clearly stated that local governments can't approve zoning changes that conflict with the Comprehensive Plan. Transient Accommodations have a maximum limit of 13 units per acre with kitchens and 26 units per acre without kitchens since 1983. Changing the definition of hotel density will not alter the fact that the Comp plan requires the County to follow the 1989 density and intensity requirements for barrier islands.

The County must follow state law and reject the UDC Amendment #32 as it applies to Barrier Islands.

1989 Zoning Regulations

Section 28.163

Section 28.163a

163. TRANSIENT ACCOMMODATION. A transient accommodation means a dwelling unit or other accommodation used as a dwelling unit or other place of human habitation with sleeping accommodations (hereinafter collectively referred to as "an accommodation") which is rented, leased or sub-leased for less than monthly periods or which is subject to time sharing pursuant to general law for less than monthly time share periods. "Monthly" shall mean either a calendar month or thirty (30) days. Transient accommodations shall include hotels, motels, bed and breakfasts, boatels or other similar uses. A transient accommodation shall be considered a residential use. Each transient unit not having a kitchen shall be equal to 1/2 dwelling unit. Each transient unit having a kitchen shall be equal to one (1) dwelling unit. (ORD. 83-08, 2/15/83, ORD. 91-79; 1/21/92, ORD. 96-022, 9/3/96; ORD. 2001-037, 8/3/01)

a. An accommodation is not a transient accommodation if it is rented, leased, or sub-leased for monthly periods or longer, but with a beginning or ending period of less than a month.

b. An accommodation is not a transient accommodation if it is being rented or leased for less than monthly periods by the seller of the accommodation prior to his vacating the premises after sale to a purchaser or the buyer of an accommodation prior to the sale. (ORD. 20001-037, 8/3/01)

c. An accommodation is not considered a transient accommodation if it is a dwelling unit, zoned RMF or RMF/SKOD, located on the Barrier Islands, and rented for periods of less than 30 days or a calendar month, whichever is less. New dwelling units or expansions of the habitable space to existing dwelling units that are zoned RMF-1/SKOD and rented for periods of less than thirty (30) days or a calendar month, whichever is less, shall comply with the development standards found in Sections L and M of the Siesta Key Overlay District for the entire parcel. Notwithstanding Section 5 of the Zoning Regulations, all such dwelling units shall comply with Florida Statutes Chapter 509 "Public Lodging and Food Service Establishments" and Florida Administrative Rule 4A-43 prior to occupancy, except that existing accommodations shall comply prior to January 1, 2002. New dwelling units zoned RMF-1/SKOD rented for a period of less than thirty (30) days or a calendar month, whichever is less, and expansions of the habitable space to existing dwelling units zoned RMF-1/SKOD rented for a period of less than thirty (30) days or a calendar month, whichever is less, shall require site and development plan approval and shall be required to conform to the current Land Development Regulations except as herein amended. (ORD. 96-022, 9/3/96; ORD. 2001-037, 8/3/01)

d. Transient Accommodations are allowed only in those zoning districts which list such uses as a permitted use or a special exception use. (ORD. 96-022, 9/3/96)

163a. TRANSMISSION TOWER. See Ordinance No. 98-001, as may be amended. (ORD. 98-003, 4/7/98)

Siesta Key Community Inc
Attachment A

1989 Zoning Regulation

CG

- 1 F. MAXIMUM RESIDENTIAL DENSITY:
- 2 (Dwelling units per acre, see Sec. 28.45, "Density,
- 3 Residential" definition.)
- 4
- 5 1. Multiple Family Dwellings: Nine (9) units per acre.
- 6 2. Transient accommodations where not more than
- 7 twenty-five percent (25%) of the units have cooking
- 8 facilities: Twenty-six (26) units per acre
- 9 3. Transient accommodations where more than twenty-five
- 10 percent (25%) of the units have cooking facilities:
- 11 Thirteen (13) units per acre
- 12 (ORD. 83-08, 2/15/83)
- 13
- 14 G. MINIMUM LOT REQUIREMENTS:
- 15 (Area and width, see Sec. 28.90, "Lot Measurement, Width"
- 16 definition.)
- 17
- 18 1. Multiple family dwellings:
- 19 a. Width: 100 feet
- 20 b. Area: 2,420 sq. ft. per dwelling unit.
- 21 2. Other permitted or permissible uses and structures:
- 22 None except as needed to meet other requirements herein
- 23 set out.
- 24
- 25 H. MAXIMUM LOT COVERAGE BY ALL BUILDINGS:
- 26 (Includes accessory buildings, see Section 28.42, "Coverage
- 27 of a Lot by Buildings" definition.)
- 28
- 29 1. Multiple family dwellings and their accessory
- 30 buildings: Thirty percent (30%)
- 31 2. Other permitted or permissible buildings:
- 32 Unrestricted, except as needed to meet other
- 33 requirements herein set out.

S-88a

Siesta Key Community Inc

Attachment B

ORDINANCE NO. 83-08

AN ORDINANCE OF THE COUNTY OF SARASOTA, FLORIDA, (AMENDMENT NO. 100) AMENDING SARASOTA COUNTY ORDINANCE NO. 75-38, RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF SARASOTA COUNTY; PROVIDING FINDINGS; PROVIDING FOR THE ESTABLISHMENT OF AND CLARIFICATION TO THE TRANSIENT ACCOMMODATION USE; AMENDING THE RTR DISTRICT, INTENT, PERMITTED PRINCIPAL USES AND STRUCTURES, LIST OF SPECIAL EXCEPTIONS, MAXIMUM RESIDENTIAL DENSITY, AND MINIMUM OFFSTREET PARKING REQUIREMENTS; AMENDING THE CG DISTRICT, INTENT, LIST OF SPECIAL EXCEPTIONS, MAXIMUM RESIDENTIAL DENSITY, MINIMUM OFFSTREET PARKING REQUIREMENTS; AMENDING THE CHI DISTRICT, INTENT, PERMITTED PRINCIPAL USES AND STRUCTURES, MAXIMUM RESIDENTIAL DENSITY, AND MINIMUM OFFSTREET PARKING REQUIREMENTS; AMENDING SECTION 12, CHI DISTRICTS BY REPLACING MOTELS WITH TRANSIENT ACCOMMODATIONS; AMENDING, ADDING, OR DELETING DEFINITIONS OF BOARDING HOUSE, DWELLING UNIT, HOTEL, MOTEL, BOATEL, MOTOR HOTEL, MOTOR LODGE, TOURIST COURT, INTERVAL OCCUPANCY ACCOMMODATION, TIME SHARE ESTATE, TRANSIENT ACCOMMODATION; PROVIDING AN EFFECTIVE DATE.



BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section I. Findings. The Board of County Commissioners, hereinafter referred to as the "Board", hereby makes the following findings:

- A. The Board has received and considered the report of the Sarasota County Planning Commission concerning Amendment Petition No. 100 to the Sarasota County Zoning Regulations, Ordinance No. 75-38.
- B. The Board has held a public hearing on the proposed amendment described herein in accordance with the requirements of Sarasota County Ordinance No. 75-38 and has considered the information received at said public hearing.
- C. The proposed amendment described herein is consistent with the Sarasota County Comprehensive Plan and said amendment, as granted herein, meets the requirements of Sarasota County Ordinance No. 75-38 and any amendments thereto.

Section II. Amendment of the Schedule of District Regulations, a part of Ordinance No. 75-38. The Schedule of District Regulations of Ordinance No. 75-38 is hereby amended as follows:

- A. Amend the Schedule of District Regulations, RTR, Residential, Tourist Resort District, as follows:
 - 1. Amend Item A. INTENT to read:
 - A. INTENT: This district is intended to provide for tourist and other transient accommodations and facilities. Permitted uses include transient accommodations. (See Section 28.135c) In addition, tourist oriented support facilities such as restaurants and marinas are permissible either as accessory uses or by special exception under appropriate conditions. Due to the characteristics and impacts of transient activities, these districts require a location on a major thoroughfare having sufficient capacity to absorb the additional

Siesta Key Community attachment

attachment C-1

2. Transient accommodations where more than twenty-five percent (25%) of the units have cooking facilities:

Intensity Level Band (see Future Land Use Plan Map in Apoxsee)	Maximum Density (Subject to Provisions of Apoxsee)
Band B	18
Band C	13
Band D	9
Band E	6

5. Amend Item M, MINIMUM OFFSTREET PARKING REQUIREMENTS to read:

M. MINIMUM OFFSTREET PARKING REQUIREMENTS:
(See also, generally, Section 7.15, "Off-street Vehicular Facilities - Parking and Loading".)

1. Transient accommodations: 1 space for each sleeping room, plus 1 additional space for each 10 sleeping rooms. Offstreet parking spaces shall not be used for storage of boats or boat trailers.
2. Restaurants, night clubs, bars: 1 space for each 3 seats in public rooms plus 1 space for each 2 employees.
3. Marinas: 2 spaces for each 3 boat slips or moorings.
4. Commercial or service establishments (unless otherwise listed): 1 space for each 200 sq. ft. of non-storage floor area.
5. For other special exceptions as specified herein and for accessory uses: To be determined by general rule or by findings in the particular case.

- B. Amend the Schedule of District Regulations, CG, as follows:

1. Amend Item A, INTENT to read:

A. INTENT:

This district is intended for general commercial activity. Businesses in this category require larger land area and location convenient to automotive traffic. Pedestrian traffic will be found in this district. The district is not suitable for heavily automotive-oriented uses. It is not the intent of this district that it shall be used to encourage extension of strip commercial areas. Multi-family dwellings and transient accommodations are permitted by special exception. It is generally intended to utilize this district to implement the Sarasota County Comprehensive Plan, Apoxsee, within those areas of Sarasota County shown as "Designated Urban Areas", and more specifically, the "Town, Community and Village Activity Centers" as shown on the "Future Land Use" Plan Map. Whenever transient accommodations are involved, maximum density shall be guided by the Urban Area Residential Checklist and the Urban Area Residential Intensity Matrix contained within the "Future Land Use" Plan Chapter's Guiding Principles of Apoxsee.

2. Amend Item E, SPECIAL EXCEPTIONS, Subsection #8, and deleting #18 to read:

E. SPECIAL EXCEPTIONS:

(Permissible after Public Notice and Hearings by the Planning Commission and the Board of County Commissioners, see Section 20, "Special Exceptions".)

1. Package store for sale of alcoholic beverages, and bar or tavern for on-premises consumption of alcoholic beverages.
2. Automotive service station.
3. Public utility buildings and facilities necessary to

0 83-08

- serve surrounding neighborhoods (not including storage or service yards).
4. Multiple family dwellings (but not for one or two family dwellings).
 5. Motor bus terminals.
 6. Plant nursery.
 7. Transient Accommodations (Principal Permitted and Accessory Uses as per "RTR" District, See S-60-a & b.)
 8. Boat livery.
 9. Miniature golf-course.
 10. Sale and display in other than completely enclosed building of any merchandise otherwise allowed as a permitted use in this district.
 11. Buildings over thirty-five (35) feet in height but not in excess of eighty-five (85) feet, provided an additional ten (10) feet for each story devoted primarily to parking within the structure up to a maximum additional height of twenty (20) feet may be added to the limit.
 12. U. S. Post Office.
 13. Emergency Services.
 14. Night clubs (see Sec. 28.23), but not adult entertainment establishments.
 15. Fast food restaurant.
 16. Rehabilitative clinic.

3. Amend Item F, MAXIMUM RESIDENTIAL DENSITY to read:

F. MAXIMUM RESIDENTIAL DENSITY:
(Dwelling units per acre, see Sec. 28.33, "Density, Residential" definition.)

1. Multiple Family Dwellings:
Nine (9) units per acre.
2. Transient accommodations where not more than twenty-five percent (25%) of the units have cooking facilities:

Intensity Level Band (see Future Land Use Plan Map in <u>Apoxsee</u>)	Maximum Density (Subject to provisions of <u>Apoxsee</u>)
Band B	36
Band C	26
Band D	18
Band E	12

3. Transient accommodations where more than twenty-five percent (25%) of the units have cooking facilities:

Intensity Level Band (see Future Land Use Plan Map in <u>Apoxsee</u>)	Maximum Density (Subject to Provisions of <u>Apoxsee</u>)
Band B	18
Band C	13
Band D	9
Band E	6

4. Amend Item L, MINIMUM OFFSTREET PARKING REQUIREMENTS, Subsection 6 to read:

6. Transient accommodations: 1 space for each sleeping room plus 1 additional space for each 10 sleeping rooms. Offstreet spaces shall not be used for storage of boats or boat trailers.

C. Amend the Schedule of District Regulations, CHI, as follows:

1. Amend Item A, INTENT to read:

Siesta Key Community Attachment C-3