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## Town of Lee Little but Proud

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### ARTICLE FOURTEEN. PERMITTING AND CONCURRENCY MANAGEMENT

14.12.3 Action on site and development plan. The Land Development Regulation Administrator shall forward the application for site and development plan approval along with any comments or criticisms to the Planning and Zoning Board for approval. The Planning and Zoning Board shall handle such matters in a public session as part of a previously prepared agenda, however, no public notice and hearing is required. All matters relating to Planning and Zoning Board consideration of site and development plans shall be a public record and approval, approval with conditions, or denial shall require formal action of the Planning and Zoning Board. A petition for a zoning amendment and an application for site and development plan approval shall not be handled concurrently. Rather, an application for site and development plan approval shall be heard only after the applicant has secured the appropriate zoning on the subject parcel. Appeals from decisions of the Planning and Zoning Board shall be heard as set out in Article 12 of these land development regulations.

In reaching a decision as to whether or not the site and development plan as submitted should be approved with a directive to the Land Development Regulation Administrator to issue building permits, the Planning and Zoning Board shall be guided in its decision and the exercise of its discretion to approve, approve with conditions, or to deny by the following standards; the Planning and Zoning Board shall show in its record that each was considered where applicable and it shall make findings in regard to those of the following standards which it finds to be applicable:

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1. Sufficiency of statements on ownership and control of the development and sufficiency of conditions of ownership or control, use, and permanent maintenance of common open space, common facilities, or common lands to insure pre-preservation of such lands and facilities for their intended purpose and to insure that such common facilities will not become a future liability for the Town Council.
2. Density and/or the intended use of the proposed development with particular attention to its relationship to adjacent and nearby properties and effect on those properties and relationship to the Town Comprehensive Plan.
3. Ingress and egress to the development and proposed structures on the development, with particular reference to automotive and pedestrian safety, minimization of marginal friction with free movement of traffic on adjacent streets, separation of automotive traffic and pedestrian and other traffic, traffic flow and control, provision of services and servicing of utilities and refuse collection, and access in case of fire, catastrophe, or emergency.
4. Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the proposed development, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or

catas-trophe, and screening and landscape.

5. Sufficiency of proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the proposed development.

6. Manner of stormwater management on the property, with particular reference to the effect of provisions for stormwater management on adjacent and nearby properties and the consequences of such stormwater management on overall public stormwater management capacities.

7. Adequacy of provision for sanitary sewers, with particular relationship to overall sanitary sewer availability and capacities.

8. Utilities, with reference to hook-in locations and availability and capacity for the uses projected.

9. Recreation facilities and open spaces, with attention to the size, location, and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the proposed development, and relationship to community open spaces and recreational facilities .

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10. General amenities and convenience, with particular reference to assuring that appearance and general layout of the proposed development will be compatible and harmonious with properties in the general area and will not be in conflict with other development in the area as to cause substantial depreciation of property values.

11. Such other standards as may be imposed by these land development regulations on the particular use or activity involved.

14.12.4 Issuance of building permits. Upon the approval of the site and development plan application by the Planning and Zoning Board or its approval with conditions, building permits for the proposed development shall be issued by the Land Development Regulation Administrator. The development shall be built substantially in accordance with the approved site and development plan. If after such approval, should the owner/applicant or his or her successors desire to make any changes in the site and development plan, such changes shall be submitted to the Land Development Regulation Administrator. If the Land Development Regulation Administrator deems there to be a substantial change or deviation from that which is shown on the approved site and development plan, the owner/applicant or his or her successors shall be required to submit the amended site and development plan for approval as set forth in Section 14.11 of these land development regulations. Failure to submit such amended site and development plan for determination by the Land Development Regulation Administrator that a substantial change or deviation is occurring or has occurred, prior to such changes, shall constitute a violation of these land development regulations and shall be punishable as provided in Article 15 of these land development regulations.

SECTION 14.13 CONSISTENCY WITH THE TOWN COMPREHENSIVE PLAN This Land Development Regulation is required by law to be in conformance with the Town Comprehensive Plan. All development, required by law to be in conformance with this Land Development Regulation, shall therefore be in conformance with the Town Comprehensive Plan.

14.13.1 Generally. No development may be approved unless the development is found to be in conformance with the Town Comprehensive Plan and that the provision of certain public facilities will be available at prescribed levels of service concurrent with the impacts of the development on those facilities.

14.13.2 Determining Conformance with the Town Comprehensive Plan. If a development proposal is found to meet all the requirements of these land development regulations, it shall be presumed to be in conformance with the Town's Comprehensive plan in all respects except for compliance with the concurrency requirement. Any aggrieved or adversely affected party may, however, question the consistency of a

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development proposal with the Town Comprehensive plan. If a question of consistency is raised, the Land Development Regulation Administrator or any of the appointed boards, or the Town Council depending on which is responsible for approving the development, shall make a determination of consistency or inconsistency and support that determination with written findings.

14.13.3 Maintaining Level of Service Standards. The Town shall require a concurrency review to be made with applications for development approvals and a Certificate of Concurrency issued prior to development. The review will analyze the development's impact on traffic circulation, sanitary sewer, solid waste, drainage, potable water, and recreation and open space for available service in order for the development to be concurrent. If the application is deemed concurrent, a Certificate of Concurrency will be issued by the Land Development Regulation Administrator. If the development requires any other development permit, a copy of the Certificate of Concurrency shall be included with any future application for a development permit. A separate concurrency review shall not be required for each development permit for the same project. Concurrency review addresses only the availability of public facilities and capacity of services and a Certificate of Concurrency does not represent overall development approvals. If the application for development is not concurrent, the applicant shall be notified that a certificate cannot be issued for the development. The burden of showing compliance with the adopted levels of service and meeting the concurrency test shall be upon the applicant. The Town Council shall review applications for development and a development approval shall be issued only if the proposed development does not lower the existing levels of service of public facilities and services below the adopted level of service in the Comprehensive Plan.

14.13.3.1 Generally.

1. The Adopted Level of Service Must be Maintained.

a. No development activity may be approved unless it meets the following requirements designed to insure that certain public services are available at prescribed levels of service concurrent with the impacts of development.

b. However, the prescribed levels of service may be degraded during construction of new facilities if upon completion of the new facilities the prescribed

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levels of service will be met.

2. Determination of Available Capacity. For purposes of these land development regulations, the available capacity of a facility shall be determine by adding together:

a. the total excess capacity of the existing facilities with the total capacity of new facilities. The capacity of new facilities may be counted only if one (1) or more of the following is shown:

(1) Construction of the new facilities are under way at the time of application.

(2) The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the development permit is issued.

(3) The new facilities have been included in the Town annual capital budget.

(4) The new facilities are guaranteed in an enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163-332, Florida Statutes, as amended, or an agreement or development order pursuant to Chapter 380, Florida Statutes, as amended. Such facilities must be consistent with the Capital Improvements Element of the Town Comprehensive Plan and approved by the Town Council.

(5) The developer has contributed funds to the Town necessary to provide new facilities consistent with the Capital Improvements Element of the Town Comprehensive Plan. Commitment that the facilities will be built must be evidenced by and appropriate budget amendment and appropriation by the Town or other governmental entity.

b. Subtracting from that number the sum of:

(1) the demand for the service created by existing development or previously approved development orders; and  
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(2) the new demand for the service that will be created concurrent with the impacts of the proposed development by the anticipated completion of other presently approved developments.

3. Burden of Showing Compliance on Developer. The burden of showing compliance with these level of service requirements shall be upon the developer. In order to be approvable, applications for development approval shall provide sufficient information showing compliance with these standards.

14.13.4 Procedures for Concurrency Determination. A concurrency test shall be made of the following public facilities and services for which level of service standards have been established in this Comprehensive Plan, which are (1) traffic circulation, (2) sanitary sewer, (3) solid waste, (4) drainage, (5) potable water and (6) recreation and open space.

1. For traffic circulation the following determination procedures shall apply:

a. The Town shall provide level of service information as set forth in the most recent Data and Analysis Report in support of the Town Comprehensive Plan. If this level of service information indicates a level of service failure, the applicant may either (1) accept the level of service information as set forth in the most recent Data and Analysis Report supporting the Town Comprehensive Plan, or (2) prepare a more detailed Highway Capacity Analysis as outlined in the Highway Capacity Manual, Special Report 209 (1985) or a speed and delay study following the procedure outlined by the Florida Department of Transportation, Traffic Engineering Office in its Manual for Uniform Traffic Studies.

b. If the applicant chooses to do a more detailed analysis the (1) applicant shall submit the completed alternative analysis to the Land Development Regulation Administrator for review, and (2) Land Development Regulation Administrator shall review the alternative analysis for accuracy and appropriate application of the methodology.  
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c. If the alternative methodology, after review and acceptance by the Land Development Regulation Administrator, indicates an acceptable level

of service, the alternative methodology shall be used in place of the most recent Data and Analysis to support the Town Comprehensive Plan.

d. Any proposed development generating more than 750 trips a day shall be required to provide a trip distribution model, in addition to the requirements outlined above.

2. For sanitary sewer, solid waste, drainage, potable water, and recreation and open space the following determination procedures shall apply:

a. The Town shall provide level of service information as set forth in the "most recent Data and Analysis Report in support of the Town Comprehensive Plan.

b. If such level of service information indicates that the proposed project would not result in a level of service failure, the concurrency determination would indicate that adequate facility capacity at acceptable levels of service was available.

c. If such level of service information indicates that the proposed project would result in a level of service failure, the concurrency determination would be that adequate facility capacity at acceptable levels of service was not available at the date of application or inquiry.

4.13.5 Determination of Project Impact. The impact of proposed development activity on available capacity shall be determined as follows:

14.13.5.1 Building Permits. The issuance of a building permit has more of an immediate impact on the level of service for public facilities than may be the case with the issuance of other types of development orders.

Therefore, building permits shall be issued only when the necessary facilities and services are in place. The determination of the existence of the necessary facilities and services being in place shall be made by the Land Development Regulation Administrator as part of the Certificate of

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Concurrency Compliance procedure. For traffic circulation, this determination shall apply to the adopted level of service standards for roads within the Town's jurisdiction. All public facility impacts shall be determined based on the level of service of the facility throughout the facility geographic service area.

14.13.5.2 Other Types of Development Orders. Other types of development orders include, but are not limited to approval of subdivisions, re-zoning, special permits and site and development plan approval. These other types of development orders have less immediate impacts on public facilities and services than the issuance of a building permit. However, public facilities and services must be available concurrent with the impacts of development permitted by these other types of development orders. Therefore, subject to the Land Development Regulation Administrator determining that the necessary facilities or services are in place and are maintaining the adopted level of service, the following concurrency management requirements shall apply for the issuance of such development orders.

1. Provisions shall be included within the development order which shall require the construction of additional public facility capacity, where public facilities, due to the impacts of the development proposal do not meet the adopted level of service; and

2. Such provisions shall require the necessary public facilities be constructed by the developer and at the developer's expense, or by the public or private entity having jurisdictional authority over the facility to the adopted level of service so that the necessary facilities and

services will be in place when the impacts of the development occurs and within conformance with the 5-year schedule of improvements found within the Town Capital Improvements Element.

14.13.6 For development orders and permits, the following determination shall apply:

1. If an applicant desires to determine whether there is sufficient capacity to accommodate their proposed project, the Land Development Regulation Administrator shall make an informal non-binding determination of whether there appears to be sufficient capacity in the public facilities and services to satisfy the demands of the proposed project.

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If there appears to be insufficient capacity, the Land Development Regulation Administrator shall then make a determination of what public facilities or services would be deficient if the proposed project were approved.

2. There are certain development approvals that are ineligible to receive concurrency reservation because they are too conceptual and, consequently, do not allow an accurate assessment of public facility impacts. These development approvals are land use amendments to the Comprehensive Plan and rezoning requests. Those development approvals shall receive a non-binding concurrency determination.

3. Any concurrency determination, whether requested as part of an application for development approval or without an application for development approval, is a non-binding determination of what public facilities and services are available at the date of inquiry. The issuance of a Certificate of Concurrency Compliance shall be the only binding action, which reserves capacity for public facilities and services.

14.13.7 Certificate of Concurrency Compliance. A Certificate of Concurrency Compliance shall only be issued upon final development approval. The Certificate of Concurrency Compliance shall remain in effect for the same period of time as the development order or permit granting final development approval. If the development approval does not have an expiration date, the Certificate of Concurrency Compliance shall be valid for twelve (12) months from the date of issuance.

14.13.8 Application Priority. In such cases where there are competing applications for public facility capacity, the following order of priority shall apply:

1. Issuance of a building permit based upon previously approved development orders permitting redevelopment;
2. Issuance of a building permit based upon previously approved development orders permitting new development;
3. Issuance of new development orders permitting redevelopment;
4. Issuance of new development orders permitting new development.

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14.13.9 The Concurrency Management System. The following conditions apply to the Town concurrency management system:

1. Amendments to the Town Comprehensive Plan can be made twice each year and as otherwise permitted as small scale developments. In addition, changes can be made to the Capital Improvements Element of the Town Comprehensive Plan by ordinance if the changes are limited to the technical matters listed in Chapter 163, Part II, Florida Statutes, as amended.

2. No development or development permit order shall be

issued which would require the Town Council to delay or suspend construction of any of the capital improvements on the 5-Year schedule of the Capital Improvements Element of the Town Comprehensive Plan.

3. If by issuance of a development order or development permit a substitution of a comparable project on the 5-Year schedule is proposed, the applicant may request the Town Council to consider an amendment to the 5-Year schedule in one (1) of the twice annual amendment reviews.

4. The result of any development failing to meet the required level of service standards for public facilities shall require a halting of the affected development or the reduction of the standard for level of service, which will require an amendment to the Town Comprehensive Plan.

14.14 LEVEL OF SERVICE STANDARDS The Town Council shall use the following level of service standards for making concurrency determinations.

14.14.1 Traffic Circulation. New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for traffic circulation as established in the Traffic Circulation Element of the Town Comprehensive Plan:

1. C.R. 255 (from the Town of Lee's north limits to south limits), Level of Service "D";
2. U.S. 90 (from Town of Lee's east limits to Town of Lee's west limits), Level of Service "C";

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14.14.2 Sanitary Sewer. New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for sanitary sewer systems as established in the Sanitary Sewer Element of the Town's Comprehensive Plan:

FACILITY TYPE	LEVEL OF SERVICE STANDARD
Individual Septic Tanks 10D-6, Florida Administrative Code in effect upon adoption of this Comprehensive Plan.	Standards as specified in Chapter
Community Sanitary Sewer System	Not Applicable

14.14.3 Potable Water. New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for potable water systems as established in the Potable Water Element of the Town Comprehensive Plan:

FACILITY TYPE	LEVEL OF SERVICE STANDARD
Private individual water wells in Chapter 17-22, Florida Administrative Code in effect upon adoption of this Comprehensive Plan	Standards as specified as
Community Potable Water Systems	Not Applicable

14.14.4 Drainage. New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for drainage systems as established in the Drainage Element of the Town Comprehensive Plan:

14.14.4.1 For all projects which fall totally within a stream, or open lake watershed, detention systems must be installed such that the peak rate of post-development runoff will not exceed the peak-rate of pre-development runoff for storm events up through and including either :

1. A design storm with a 10-year, 24 hour rainfall depth with Soil Conservation Service type II distribution falling on average antecedent

moisture conditions for projects serving exclusively agricultural, forest, conservation, or recreational uses; or

2. A design storm with 100-year critical duration rainfall depth for projects serving any land use other than agricultural, silviculture, conservation, or recreational uses.

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14.14.4.2 All other stormwater management projects shall adhere to the standards as specified in Chapter 17-25, Florida Administrative Code (rules of the Florida Department of Environmental Regulation) and Chapter 40B-4, Florida Administrative Code (rules of the Suwannee River Water Management District), as effective on the date of adoption of the Town's Comprehensive Plan.

14.14.4.3 Any development exempt from Chapter 17-25 or 40B-4 as cited above, and which is adjacent to, or drains into a surface water, canal, or stream, which empties into a sinkhole, shall first allow the runoff to enter a grassed swale designed to percolate 80 percent of the runoff from a three year, one hour design storm within 72 hours after a storm event.

14.14.5 Solid Waste . New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for solid waste facilities as established in the Public Facilities Element of the Town's Comprehensive Plan:

FACILITY TYPE	LEVEL OF SERVICE STANDARD
Solid Waste Landfill	.89 tons per capita per year

14.14.6 Recreation. New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for the recreation facilities as established in the Recreation and Open Space Element of the Town Comprehensive Plan:

RESOURCE BASED RECREATION ACTIVITY/FACILITY LEVEL OF SERVICE STANDARD:

ACTIVITY	LEVEL OF SERVICE STANDARD
Swimming (non-pool)	A 25,000 person threshold for the initial access point at a beach, stream, spring, river, lake or pond, with a 25,000 person increment for each additional access point at a beach, stream, spring, river, lake or pond, within a 25 mile radius of the Town.
Fishing (non-boat)	A 2,500 person threshold for the initial access point, with a 2,500 person increment for each additional access point, within a 25 mile radius of the Town.

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Fishing (boat)	A 4,300 person threshold for the initial boat ramp, with a 4,300 person increment for each additional boat ramp, within a 25 mile radius of the Town.
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Camping (Recreation Vehicle and tent)	A 5,600 person threshold for the initial acre of camping area, with a 5,600 person increment for each additional acre of camping area within a 25 mile radius of the Town.
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Picnicking	A 500 person threshold for the initial picnic table, with a 500 person increment for each additional picnic table.
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Bicycling	A 1,000 person threshold for the initial mile of local roadway, with a 1,000 person increment for each additional mile of local roadway.
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Hiking	A 7,000 person threshold for the initial mile of available hiking trail, with a 7,000 person increment for each additional mile of available hiking trail, within a 25 mile radius of the Town.
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Nature Study	A 2,500 person threshold for the initial
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7.0 acres of wildlife management area, with a 2,500 person increment for each additional 7.0 acres of wildlife management area, within a 25 mile radius of the Town.

ACTIVITY BASED RECREATION ACTIVITY/FACILITY LEVEL OF SERVICE STANDARDS;

ACTIVITY

LEVEL OF SERVICE STANDARD

Golf A 32,500 person threshold for the initial 9-holes of golf course, with a 32,500 person increment for each additional 9-holes of golf course.

Equipped play area A 1,000 person threshold for the initial equipped play area, with a 1,000 person increment for each additional equipped play area.

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Tennis A 5,000 person threshold for the initial tennis court, with a 3,000 person increment for each additional tennis court.

Baseball/softball A 3,000 person threshold for the initial ball field, with a 3,000 person increment for each additional ball field.

Football/Soccer A 15,000 person threshold for the initial multi-purpose field, with a 15,000 person increment for each additional multi-purpose field.

Handball/racquetball A 10,000 person threshold for the initial court, with a 10,000 person increment for each additional court.

Basketball A 1,000 person threshold for the initial goal, with a 1,000 person increment for each additional goal.

Swimming (pool) A 25,000 person threshold for the initial pool, with a 25,000 person increment for each additional pool.

Shuffleboard A 10,000 person threshold for the initial court, with a 10,000 person increment for each additional court,

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