

Land Development Code Amendment Request

ORIGIN: Board of County Commissioners

AUTHOR: Growth Management Staff

DEPARTMENT: Growth Management

AMENDMENT CYCLE: 2015 LDC Amendment Cycle 2

LDC SECTION(S): 3.05.07 Preservation Standards

CHANGE: This amendment modifies the requirements for off-site vegetation retention. The amendment modifies the monetary payment and land donation processes and clarifies several provisions related to off-site native vegetation retention.

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

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

On July 7, 2015, Conservation Collier staff made several preliminary recommendations to the Board for additional 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 land management endowment, beyond seven years, for off-site native vegetation retention preservation and to review the optional monetary donation amount as well.

On March 22, 2016, the Board directed staff to prepare and publicly vet an LDC amendment to modify formulas for determining the amount of the endowments associated with each of these options to ensure the formulas reflect the true costs to manage lands donated to Conservation Collier.

On May 25, 2016, separate recommendations from the CCLAAC and DSAC were presented to the Collier County Planning Commission (CCPC) to increase the monetary payment and land donation options for off-site preservation. The CCPC recommended reviewing the recommendations once again with each of the Advisory Committees to ensure that the proposed changes incentivize and support on-site native preservation, and noted the following:

- Monetary donations should be larger to promote on-site retention and when the off-site option is sought, support the completion of the Conservation Collier "targeted areas."
- The ratio of donated lands should be equal to the value of the to-be-developed parcel.

- The program should place more emphasis on encouraging the natural environment to be incorporated within urban developments rather than utilizing the off-site options.

The following amendments to 3.05.07 H.1.f provide a purpose for the off-site alternative section; revise the applicability section to support the purpose section; update the applicability situations and provide PUD deviation thresholds.

Original intent of off-site preserve LDC section

Off-site alternatives to the native vegetation retention requirement were added to the LDC in 2010 to allow for the purchase or donation of land off-site in lieu of preservation of native vegetation on-site. The criteria for determining when this alternative is allowed, is based on the provisions identified in CCME Policy 6.1.1 (10). Generally speaking, preserves which are smaller in size or those located adjacent to more intense land uses, tend to become less viable over time due to fragmentation of the habitat, uses on adjoining properties, and sensitivity of different types of native vegetation to changes in the environment. Often plants, such as slash pine, die after a few years, depending on the type of development and uses on adjoining properties. It is in these instances where the off-site purchase or donation of land is recommended in lieu of preservation of native vegetation on-site. In accordance with CCME Policy 6.1.1 (10), the type uses for the property and restrictions on when the alternative can be used, have been considered.

The amendment for off-site native vegetation retention alternatives was originally required by the EAR-based GMP amendment to CCME Policy 6.1.1 (10). Policy 6.1.1 (10) states the following:

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;
- 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.

Current request for off-site preserve LDC amendment

This LDC section is being revised to clarify the following:

Purpose section

- The amendment proposes a purpose section to guide the off-site preserve program. This section clarifies the original intent of the program, identifying it is intended to apply to projects with a preserve requirement of one acres or less, with exceptions for Affordable Housing, right-of-way acquisitions, and PUD deviation requests which will allow for the preserve requirement to be satisfied off site.

Applicability section

- The amendment supports retaining existing county approved preserves unless they have dimensional constraints that do not support their viability. The applicability section reiterates the on-site preserve requirement may be met off site where the preserve requirement is one acre or less and requires that one of three scenarios be met in order for the preserve requirement can be satisfied off site. The three scenarios include:
 - New commercial and/or residential development. Industrial is not included because an exception in LDC section 3.05.07.B.2.h. establishes that industrial zoned parcels which have a native vegetation retention requirement of 2 acres or less are exempt from the preserve requirement.
 - Portions of preserves that are located within a single family platted lot
 - Preserves which do not meet dimensional preserve standards

Exceptions to the 1 acre or less threshold include:

- The affordable housing project provision has been amended to be an exception and is more conservative. This change is due to a change in county policy. Previously, the county policy was for developments to provide a low percentage of affordable housing and the remainder market rate. This is no longer the policy and current affordable housing projects provide 100 percent affordable housing, leaving no preserve on site. Therefore, this change supports the notion that all types of development should be able to enjoy preserve areas.
- County ROW projects. No changes are suggested to this section.

Several provisions were removed including:

- Allowing properties zoned commercial where the on-site preserve requirement is less than 2 acres. This was transitioned to the PUD deviation request section which allows an applicant to request satisfying the preserve requirement off-site when the preserve requirement is 2 acres or less.
- Park sites where the on-site preserve requirement is less than one acre in size is removed because the purpose of the section is to support preserves in parks and park-like uses are already allowed in preserves.

- Essential services for any size preserve requirement is removed because the essential service definition includes a lot of commercial and industrial type uses. For example, LDC section 2.01.03, *Essential Services* includes water and sewer lines; many private developments include water and sewer lines. However, they may take a preserve offsite within the proposed thresholds of one to two acres.
- Preserves less than one acre is not needed as it has been qualified under the provision allowing a new commercial and/or residential project to take an acre off site.
- The provision allowing existing or proposed preserve with 75 percent or more coverage with exotic vegetation is removed because it does not provide a cap on acreage and is in conflict with the definition of native vegetation. For example, a site could have 75 percent coverage of the Downy Rosemyrtle shrub with a native canopy of trees and this area would count as part of the native vegetation for the preserve calculation, but could all be taken offsite. Further, this section does not promote property owners being good land stewards as they can take the preserve off site if it becomes filled with exotic vegetation.
- The provision allowing for created preserves which do not meet the success criteria in LDC section 3.05.07 H.1.e.viii or where preserves have not been planted in a manner which mimics a natural plant community is removed because it does not support applicants maintaining or cultivating a viable created preserve.

Changes to the Restrictions section include:

- Identifying the section as prohibitions so that it is clear no deviations shall be requested or allowed that are inconsistent with the criteria. Further, the section clarifies that preserves within flowways should be retained as these are important native vegetation areas that provide multiple functions.

PUD Deviations section

- This provision is introduced to allow for projects with a preserve requirement up to 2 acres to request deviations at the onset of their project. No deviation requests shall be allowed for preserves already approved by the County.

On-site preserves

Allowance for offsite preserve was added to the LDC in 2010 after the EAR-based GMP amendments were adopted to include the option for offsite preserves. Therefore, the offsite preserve portion of the LDC is in its infancy. It has become apparent that certain portions of this LDC section need to be amended for clarification. Even though small preserves may become less viable, the retention of native vegetation, even small areas is valued by the residents Collier County.

The purpose section 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.

The purpose of the on-site preserve requirement is to retain, maintain, and protect existing **native vegetation** on-site as provided for in the GMP's Conservation and Coastal Management Element. Therefore, various revisions to this LDC section are proposed to ensure that preserves remain onsite for proposed preserves larger than two acres with exceptions for with exceptions for Affordable Housing and R.O.W. acquisitions. Preserves less than one acre which fall under the applicability and do not fall under prohibitions will be able to take proposed preserves offsite administratively. Proposed preserves from one acre up to two acres may request a deviation as long as they do not no meet any of the prohibitions. PUDs or other zoning project types with a native vegetation requirement greater than two acres for a proposed preserve do not qualify for the offsite preserve section of the LDC.

Beyond native habitat, preserves provide green space consisting of naturally existing vegetation in urban areas. A Tree Study done by the Nature Conservancy 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" (Nature Conservancy, pg. 2). 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" (Nature Conservancy, pg. 2).

Preserves retained onsite can be 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, urban trees have been shown to have economic value. "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" (Nature Conservancy, pg. 22).

Monetary Payment

Currently, the monetary payment 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 designation or of the average cost of all other designations, as applicable. The DSAC-LDR Subcommittee and CCLAAC have provided the following recommendations regarding changes to the monetary payment:

DSAC Recommendation

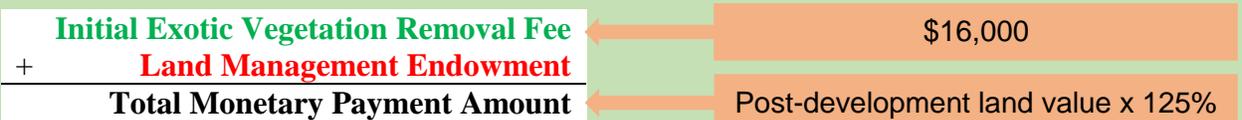
DSAC recommends minor changes to LDC section 3.05.07 H.1.f.iii.a to identify that the monetary payment amount shall be established in the *Collier County Growth Management Department Development Services Fee Schedule*. The fee recommended by DSAC is \$50,000 per acre and based on the following assumptions:

	Per Acre Costs
Average cost to purchase land for Conservation Collier:	\$32,800
Land management endowment (see discussion below):	\$13,200
Initial exotic vegetation removal costs:	\$4,000
Total	\$50,000

The land management endowment assumes annual maintenance costs will be reduced after five years due to the consolidation of parcels maintained by Conservation Collier. Therefore, DSAC assumed the annual maintenance costs to be \$558 per acre for the first five years, and \$141 per acre for each year thereafter. Additionally, assuming 2.25% annual interest and 3.0% inflation, a land management endowment of \$13,200 provides sufficient funds for land management for over 50 years.

CCLAAC Recommendation

CCLAAC recommends codifying a formula to determine the monetary payment amount in LDC section 3.05.07 H.1.f.iv.a. The recommended formula requires an appraisal of the post-development value *of the land required to meet on-site preservation requirement*. A one-time fee of \$16,000 is also required for initial exotic vegetation removal. This fee was determined to be sufficient to pay for the removal of exotics on up to four acres as the number of acres to be purchased by Conservation Collier with this monetary payment may vary.



The following examples of lots with varying native vegetation retention requirements and post-development land values demonstrate potential outcomes of the CCLAAC’s recommendation:

Required preserve area (acres)		Appraised Post-Development Land Value				Land Management Endowment		Initial Exotic Vegetation Removal Fee		Total Monetary Payment Amount
.455	x	\$17,000	x	125%	=	\$9,669	+	\$16,000	=	\$25,669
.50	x	\$300,000	x	125%	=	\$187,500	+	\$16,000	=	\$203,500
.91	x	\$17,000	x	125%	=	\$19,338	+	\$16,000	=	\$35,338
1.0	x	\$300,000	x	125%	=	\$375,000	+	\$16,000	=	\$391,000

This formula would be included in LDC section 3.05.07 H.1.f.iv.a and would require an LDC amendment to make adjustments in the future.

Endowment for Land Donation

When an applicant chooses to donate land for off-site preservation, rather than to make a monetary payment, LDC section 3.05.07 H.1.f.iii.b-c requires that a land management endowment must be included in order to maintain the property in perpetuity. Currently, a \$4,000 endowment is provided along with land donations, regardless of the number of acres donated. This endowment has been insufficient for long term management of these properties due to a relatively higher maintenance cost. The DSAC-LDR Subcommittee and CCLAAC have provided the following recommendations regarding changes to the endowment for land donation:

DSAC Recommendation

DSAC did not make any changes to its previous recommendation regarding endowments for land donations. The Subcommittee determined that the current process and recommended fees already incentivize on-site preservation for the following reasons:

- If the cost of the monetary payment is significantly higher than the cost of off-site mitigation, developers will be more likely to use the off-site mitigation process.
- Limiting the areas that can be donated to the Conservation Collier acquisition area has increased the value of the lots in those areas, making it less likely that the off-site mitigation option will be used.
- There is already a cap on the acreage that can be mitigated off site.
- Developers already frequently donate more land than is required to be preserved. On site preservation requirements are small (sometimes as small as one-tenth of an acre), but the mitigation parcels are generally 1.5 to 2.5 acres since lots in the estates cannot be split and the entire lot is donated.

As a result, DSAC’s recommendation includes minor changes to LDC sections 3.05.07 H.1.f.iii.b-c to identify that the endowment amount shall be established in the *Collier County Growth Management Department Development Services Fee Schedule*. The fee recommended by DSAC is \$17,200 per acre and based on the following assumptions:

	Per Acre Costs
Land management endowment (see discussion below):	\$13,200
Initial exotic vegetation removal costs:	\$4,000
Total	\$17,200

As with DSAC’s monetary payment donation, the land management endowment assumes annual maintenance costs will be reduced after five years due to the consolidation of parcels maintained by Conservation Collier. Therefore, DSAC assumed the annual maintenance costs to be \$558 per acre for the first five years, and \$141 per acre for each year thereafter. Additionally, assuming 2.25% annual interest and 3.0% inflation, a land management endowment of \$13,200 provides sufficient funds for land management for over 50 years.

CCLAAC Recommendation

The CCLAAC recommends modifying LDC sections 3.05.07 H.1.f.iii.b-c to establish a management endowment fee of \$50,000 per acre and applied at a ratio of 4:1, consistent with the CCPC’s discussion. This means that for every 1 acre of required native vegetation retention proposed to be provided off-site, the per acre cost for land management shall be multiplied by 4. The \$50,000 aligns with DSAC’s recommended monetary payment amount. In addition, a one-time \$16,000 initial exotic vegetation fee shall also be paid by the applicant.

	Per Acre Costs	Applied at 4:1 ratio
Land management endowment (See discussion below):	\$50,000	←
Initial exotic vegetation removal (see discussion below):	\$16,000	
Total	\$66,000	

The following examples of lots with varying native vegetation retention requirements demonstrate potential outcomes of the CCLAAC’s recommendation:

Required preserve area (acres)	4:1 Ratio	Land Management Endowment	Initial Exotic Vegetation Removal Fee	Total Land Donation Endowment Amount
.455	x 1.82	x \$50,000	+ \$16,000	= \$57,405
.50	x 2.0	x \$50,000	+ \$16,000	= \$66,000
.91	x 3.64	x \$50,000	+ \$16,000	= \$181,620
1.0	x 4.0	x \$50,000	+ \$16,000	= \$216,000

Although the specific formulas used to determine the required monetary payment and land donation endowments recommended by DSAC and CCLAAC differ significantly, both advisory committees recommended that the formulas should be re-evaluated every three years.

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

RELATED CODES OR REGULATIONS: None.

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

OTHER NOTES/VERSION DATE:

Amend the LDC as follows:

3.05.07 Preservation Standards

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H. Preserve standards.

1. Design standards.

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f. ~~Off-site vegetation retention.~~ Satisfying on-site preserve requirements off-site. The purpose of the on-site preserve requirement is to retain, maintain, and protect existing **native vegetation** on-site as provided for in the GMP's Conservation and Coastal Management Element. However, certain on-site preserves may be less viable as a functional preserve because it is one acre or less and isolated. Therefore, in limited situations, providing for a preserve off-site can achieve the goals of the GMP.

i. ~~Applicability. A property owner may request that all or a portion of the Collier County on-site native vegetation preservation retention requirement be satisfied for only the following situations and subject to the restrictions listed below.~~

i. Applicability. The on-site preserve requirement may be met off-site where the preserve requirement is one acre or less for only the following situations and subject to the prohibitions and PUD deviation requirements listed below. The preserve requirement is based on all of the land identified in the PUD or project or other zoning petition type.

a) Commercial and/or residential projects where preserves have not been approved by the County. Properties zoned commercial where the on-site preserve requirement is less than 2 acres in size.

b) Portions of preserves located within single-family platted **lots** previously approved by the County. Park sites where the on-site preserve requirement is less than one acre in size.

c) Preserves previously approved by the County which do not meet the current minimum dimensional requirements for on-site vegetation retention established in this section.

ed) Exceptions. Where the on-site preserve requirement is greater than one acre, the preserve requirement may be satisfied off-site in only the following situations:

2. Affordable housing projects. Affordable housing projects may receive approval from the Board prior to SDP or PPL approval to satisfy the on-site preserve requirement off-

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site at a rate of 25% of the percent of affordable housing units provided. For example, if 50% affordable housing units are provided the applicant may receive approval to take 12.5% off-site.

3. 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.

- 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. PUD deviations. Requests for deviations from the onsite native vegetation retention requirement may only be granted where the preserve requirement for the PUD is less than two acres. Additionally, no deviations shall be approved to preserves previously approved by the County, except as provided for in 3.05.07 H.1.f.i. b) and c) above. The **applicant** shall provide justification for the requested deviations and explain the unique situation for exceeding the thresholds in LDC section 3.05.07 H.1.f.i above. Deviations shall be processed pursuant to LDC section 10.02.13.

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- iii. ~~Prohibitions. Restrictions, when~~ Where one or more of the following situations occur it shall be prohibited to satisfy the on-site preserve requirement off-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, shall not be allowed to have the on-site **native vegetation** preservation retention requirement provided offsite.
 - b) Preserves shall remain onsite if 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 offsite 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**, 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.
- iiii.v. Off-site Alternatives. Off-site **native vegetation** retention requirements may be ~~satisfied met~~ by monetary payment or by land donation. **Applicants shall provide evidence at the time of the pre-construction meeting for the SDP or PPL that the monetary payment and endowment or the donation of land donation and endowment for management have been accepted by and donated to a governmental entity as provided for below.**
- a) Monetary payment alternative. **Applicants** shall make monetary payment to Collier County prior to the pre-construction meeting for the SDP or final plat and construction plans. 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 per acre and established by resolution in the Collier County Growth Management Department

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~~Development Services Fee Schedule. based on the location of the land to be impacted and be equal to 125 percent of the average cost of land in the Urban Designation or 125 percent of the average cost for all other Designations, as applicable, as defined by the FLUE, purchased by Collier County, through the Conservation Collier program. This monetary payment shall be made prior to the preconstruction meeting for the SDP or final plat construction plans.~~

b) Land donation alternative. In lieu of monetary payment, applicants may choose to donate land for conservation purposes to Collier County or to another government agency. In the event of donation to Collier County, the applicant may acquire and subsequently donate land within the project boundaries of Winchester Head, North Golden Gate Estates Unit 53, by another multi-**parcel** project or any other land designated Conservation Collier donation acceptance procedures.

c) **Applicants** who choose to donate land shall be required to demonstrate that the land to be donated contains **native vegetation** communities equal to or of higher priority (as described in LDC subsection 3.05.07 A.) than the land required to be preserved onsite. In no case shall the acreage of land donated be less than the acreage of land required to be preserved onsite. Land donated to satisfy the off-site vegetation retention requirement must be located entirely within Collier County. Donations of land for preservation shall be made to a federal, state or local government agency established or authorized to accept lands for the conservation and management of land in perpetuity, subject to the policies and procedures of the receiving entity. Lands donated to Collier County must include an endowment a cash payment for management of the land. The endowment amount shall be per acre as established by resolution in the Collier County Growth Management Department Development Services Fee Schedule. ~~The amount of this payment shall be equal to 25 percent of the average cost of land in the Urban Designation or 25 percent of the average cost in all other Designations, as applicable, as defined by the FLUE, purchased by Collier County, through the Conservation Collier program.~~ **Applicants** shall provide evidence that donations of land for preservation and endowments for management

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have been accepted by and donated to the entity stated above, at the time of the preconstruction meeting for the SDP or final plat and construction plans. Exotics shall be removed in accordance with the time frames provided in LDC section 3.05.07 H.2. State and Federal agency requirements for mitigation, remediation and monitoring for the donated land shall be the responsibility of the **applicant**.

~~iv.~~ PUD zoning. Where the off-site **native vegetation** retention alternative is used for portions of preserves not identified on a PUD master plan, a PUD amendment is not required. Preserves or portions of preserves identified on a PUD master plan shall require an amendment to the PUD master plan to use the **native vegetation** retention alternative, subject to 10.02.13 E, unless the option to use the off-site **native vegetation** retention alternative is included in the PUD.

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