



LAND DEVELOPMENT CODE ADVISORY COMMITTEE

**ADMIN EAST BUILDING
ROOM 118
2201 SECOND STREET, Fort Myers, FL 33901**

**FRIDAY, JULY 9, 2021
8:30 A.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – March 12, 2021
3. Captiva Land Development Code Amendments
4. Adjournment
Next Meeting date: August 13, 2021

To view a copy of the agenda, go to www.leegov.com/dcd/calendar.

For more information, contact Debbie Carpenter, (239) 533-8345 or DCarpenter@leegov.com.

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**MINUTES REPORT
LAND DEVELOPMENT CODE ADVISORY COMMITTEE
(LDCAC)
Friday, March 12, 2021
8:30 a.m.**

Committee Members Present:

Paula McMichael, Chair
Amy Thibaut
Jennifer Saper
Linda Stewart

Christopher Scott
Tom Lehnert
Jay Johnson
Patrick Vanasse

Excused / Absent:

Veronica Martin
Randy Krise
Al Quattrone

Bill Prysi, Vice Chair
Daryl (Max) Forgey
Bill Morris, Jr.

Lee County Government Staff Present:

Amanda Swindle, Assistant County Attorney
Debbie Carpenter, DCD Admin., Recorder
David Loveland, Director, DCD

Anthony Rodriguez, Zoning Manager
Audra Ennis, Regulatory Review Manager
Dirk Danley, Senior Planner, Zoning

Outside Consultants/Members of the Public Present:

None

CALL TO ORDER AND AFFIDAVIT:

Ms. Paula McMichael called the meeting to order at 8:36 a.m. in the Commission Chambers, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida.

Ms. Amanda Swindle, Assistant County Attorney, reviewed the Affidavit of Publication and found it legally sufficient as to form and content.

Ms. McMichael welcomed Mr. Christopher Scott, a new member of the committee, and asked Ms. Swindle to review the Conflict of Interest provisions for all the members. Ms. Swindle stated that advisory committees are governed by the Florida Code of Ethics. As a result, committee members must disclose the nature of a conflict and refrain from voting on any item brought before the committee that would inure to the special gain or loss for himself/herself, family or employer. Should that occur the member must recuse himself/herself from voting and must file a Conflict of Interest form with the committee's secretary.

APPROVAL OF MINUTES – January 10, 2020

Mr. Patrick Vanasse made a motion to approve the October 9, 2020 minutes. Mr. Tom Lehnert seconded. The motion was called and carried.

LDC AMENDMENTS 2020-2021 CYCLE – CLEAN-UP AMENDMENTS

Mr. David Loveland, Director, Community Development introduced this item and said these amendments were the kick-off of the two year amendment cycle. In the past, amendments were typically broken out by topic, put together and brought through committees in one or two large packets, however it was hard to keep track of all the changes. This year it was decided to take a different approach. These clean-up amendments are intended to eliminate redundancies and make sure cross references are correct. The more substantive issues will be dealt with by topic area and staff will first brief the Commissioners and get official

authorization to move forward with the amendments. Three areas have been identified so far: Hearing Examiner-related changes; “Casitas”, stand-alone buildings - an issue that came up in a zoning hearing recently; and Dock & Shoreline regulations which are quite dated and which industry representatives would like to see made consistent across jurisdictions; as well as a number of other areas which have been identified. The Executive Regulatory Oversight Committee reviewed the cleanup amendments on 3/10/21, had no major issues or concerns and voted to approve. Committee members did identify several topics, most already identified by staff (Hearing Examiner, Proportionate Share as examples) that needed to be addressed in the future.

Ms. McMichael suggested a page by page review of the amendments with committee comments as needed. She recognized Mr. Dirk Danley, Senior Planner with Community Development who was available to answer any questions.

Ms. McMichael referred to the section related to Impact Fee Credits, and language added in Sec. 2-275 through Sec 2-413 and asked for an explanation as it relates to the staff note: “adjust mechanism of credit appreciation to provide for use of rate change prospectively, while maintaining CPI language for those created prior to recent statutory changes. ...” Ms. Audra Ennis, Manager, Regulatory Review, stated that the current requirements utilize the Consumer Price Index (CPI) to appreciate impact fee credits. Appreciation is based on the CPI from the time the credits were created until they are used. There were some statutory changes as of June 28, 2019 that require impact fee credits issued after that date to appreciate based on the rate change instead of using the CPI, and the language was updated to reflect that change.

Ms. McMichael referred to definitions in Chapter 34 (Sec. 34-2) stating that there was a definition for *independent living unit*, but no definition for an *assisted living unit*. Mr. Danley said the definitions for Assisted Living Facilities, and Assisted Living Units are all nested in the Florida Statutes and independent living unit is derived from the statutory language but not specifically defined. Although there is an independent living facility and it talks about units, it does not tie the two together. The independent living unit is transitional in terms of not yet needing full medical care as would be expected for an assisted living unit so a definition was added. The Assisted Living Facility definition was updated as well to line up with statutory language.

Mr. Patrick Vanasse asked for a clarification of the second paragraph of language added in Sec. 34-1494(4)(c). Mr. Danley explained that this language was moved from Continuing Care Facilities to this section and relates to situations where the square footage of an assisted living facility can be relied upon to account for a slight change in the number of occupants as long as the overall square footage of the facility was not being increased.

Ms. Linda Stewart asked about Sec. 34-3106 with regard to metal buildings and asked whether this language pertained to container buildings. Mr. Danley said this was not specific to container buildings but rather all metal buildings of a certain size in an effort to provide exterior cladding to be consistent with the residential areas in which it resides.

Mr. Loveland referred to the Administrative Code included with the packet, explaining that a separate motion was not required for AC-2-10, that it was included as information only to show the Historic Preservation language removed from Chapter 22 had been moved into AC-2-10. He explained that it has been a long standing approach to have Policies in the Comp Plan, to move regulatory language into the Land Development Code and procedures into the Administrative Code.

Mr. Jay Johnson made a motion to approve the amendments. Mr. Tom Lehnert seconded. The motion was called and pass unanimously.

There were no members of the public present and no public comment.

The next meeting was tentatively scheduled for April 9, 2021.

There was no further discussion and the meeting was adjourned at 8:50 a.m.

DRAFT

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

**TO: Land Development Code
Advisory Committee (LDCAC)**

DATE: June 25, 2021

**FROM: Brandon Dunn
Principal Planner**

RE: Captiva Land Development Code Amendments

The attached Land Development Code amendments are proposed by the Captiva Community Planning Panel and have been authorized to be brought through committee review by the Board of County Commissioners. Staff seeks a recommendation on whether the proposed amendments should be adopted by the Board of County Commissioners.

BACKGROUND

On March 2, 2021 the Board of County Commissioners directed staff to engage with the Captiva Community Planning Panel to review Land Development Code amendments proposed by the Panel. The Panel is a subcommittee of the Captiva Island Property Owners Association and is not affiliated with Lee County. The amendments attached hereto were reviewed by staff and brought to the Board for direction to proceed through the committee review process at its June 1, 2021 Regular Meeting.

SUMMARY

The proposed amendments can be generally summarized as follows:

- Revise Chapter 33 to:
 - Require removal of furniture from the beach overnight and year round;
 - Add outdoor lighting standards for developments within the community plan area;
 - Specify the types of trees and landscaping allowed adjacent to Captiva Drive;
 - Expand the type and size of signs not requiring a permit; and,
 - Other minor amendments for clarification.

cc: Roger Desjarlais, County Manager
Glen Salyer, Assistant County Manager
David Loveland, AICP, Director, Department of Community Development
Michael Jacob, Deputy County Attorney
Amanda L. Swindle, Assistant County Attorney
Mikki Rozdolski, Manager, Community Development Operations, Planning
Anthony Rodriguez, AICP, Zoning Manager
Kevin Ruane, District One Commissioner
Cecil L. Pendergrass, District Two Commissioner
Ray Sandelli, District Three Commissioner
Brian Hamman, Chairman, District Four Commissioner
Frank Mann, District Five Commissioner

LAND DEVELOPMENT CODE

CHAPTER 33 – PLANNING COMMUNITY REGULATIONS

ARTICLE IX - CAPTIVA

Division 1. - In General

Sec. 33-1614. - Definitions.

Beach furniture or equipment: As defined by Section 14-170 of the Land Development Code.

~~*Caretaker:* A person employed to look after a public building or a house in the owner's absence.~~

Light trespass: As defined by Section 34-2 of the Land Development Code.

Division 2. - Environmental Standards

~~Sec. 33-1622. - Tree requirements.~~

~~(a) Trees adjacent to Captiva Drive. For projects requiring a local development order with frontage on Captiva Drive, only trees that are indigenous to Captiva or native to South Florida, and that are not prohibited invasive exotics, may be planted within the minimum required right-of-way buffer.~~

~~(b) Heritage trees. For projects requiring a local development order, heritage trees, as defined in chapter 10, will be preserved or when possible, may be relocated on-site. If a heritage tree must be removed from the site, then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space.~~

Sec. 33-1622. – Beach Furniture and Equipment.

(a) All beach furniture and equipment must be removed from the beach to behind the foredune or vegetation line, whichever is most seaward, between the hours of 9:00 p.m. and 8:00 a.m. at all times of the year between Alison Hagerup Park and the south end of Wiles Drive when not in use and unoccupied. Beach furniture and equipment not removed pursuant to this provision shall be considered abandoned property and subject to removal. [The additional provisions of Sec. 14-173 also apply from May 1 through October 31].

(b) Enforcement of this section is authorized in accordance with Section 14-73(b) and Section 14-177 of the Land Development Code.

Sec. 33-1623. - Outdoor Lighting.

(a) Outdoor lighting standards. The following standards to prevent light trespass apply to outdoor lighting on Captiva in addition to the sea turtle lighting standards found in Sections 14-71 through 79, and the outdoor lighting standards found in Section 34-625 of this Code. Enforcement shall be pursuant to Section 14-73(b) of this Code.

- (1) All new outdoor lighting, including lighting on docks and bulkheads, shall be hooded or shielded so that the direct horizontal surface of the light source is masked, shall not shine directly beyond or above the structure or property to be illuminated, and shall not otherwise constitute light trespass.
- (2) Spotlights on landscaping and foliage shall be hooded or shielded, shall not shine above the highest foliage to be lit, and shall not spill onto adjacent property.
- (3) Fixtures affixed to poles, trees, and other structures shall be no more than 15 feet above grade, hooded or shielded, and directed downward.
- (4) Outdoor lighting shall comply with the above standards at the time the existing lighting is replaced. This provision shall not apply to a repair or a partial replacement of a complete and uniform set of light or lighting fixtures.
- (5) Lights shining directly onto adjacent property are not permitted at any time. Such existing lights shall be corrected immediately and are not subject to Sec. 33-1623(a)(4) above.

(b) Exemptions. The following sources of light are exempt from this section.

- (1) Temporary emergency lighting needed by firefighters, police officers, or emergency work crews.
- (2) Lights on approved vehicles.
- (3) Lights required by government agencies near airstrips or heliports, or on communication towers.
- (4) Seasonal and special event decorations with individual lights in place up to 60 days per year.
- (5) Lights or lighting that is required by other sections of the Code.

Secs. ~~33-1623~~ 33-1624 – 33-1625. – RESERVED.

DIVISION 3. - PROPERTY DEVELOPMENT REGULATIONS

Sec. 33-1628. - Rezoning and density.

(a) through (b) remain unchanged.

(c) *Density limitations.* Except as may be specifically permitted by the Lee Plan, no building or development permits will be issued for development on Captiva Island at a density greater than the following:

(1) through (2) remain unchanged.

(3) Lock-off accommodations ~~units~~ will be counted as a full dwelling unit when computing the allowable density. To be counted as a dwelling unit, lock-off accommodations may contain at least one bedroom with a bathroom and be accessible from a separate door, entering from outside the dwelling unit.

(d) through (e) remain unchanged.

Sec. 33-1630. - Tree and landscaping requirements.

(a) Trees adjacent to Captiva Drive. For projects requiring a local development order with frontage on Captiva Drive, only trees that are indigenous to Captiva, native to South Florida, or Florida Friendly may be planted within the minimum required right-of-way setback.

(b) Landscaping adjacent to Captiva Drive. No vegetation shall encroach into, onto or over Captiva Drive or its paved shoulder below the height of eight (8) feet, and a setback of at least two feet from the edge of the pavement shall be maintained at all times for all vegetation below the height of eight (8) feet.

Sec. 33-1631. Heritage trees.

For projects requiring a local development order, heritage trees, as defined in chapter 10, will be preserved or when possible, may be relocated on-site. If a heritage tree must be removed from the site, then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space.

Secs. 33-1630- 33-16349. - Reserved.

DIVISION 4. - DESIGN STANDARDS; SIGNS

Sec. 33-1642. - Prohibited signs.

The following types of signs are prohibited, except as exempted in section 33-1645(b), "Signs not requiring a permit":

(1) through (6) remain unchanged.

(7) Temporary signs for any of the prohibited signs identified in this section.

Sec. 33-1644. Reserved. ~~Temporary signs.~~

~~Temporary sign permits for prohibited signs will not be issued.~~

Sec. 33-1645. - Signs not requiring a permit.

- (a) *Residential identification sign.* Identification signs not exceeding 6 2.0 square feet ~~in area on lots with total frontage of less than 100 feet and 4.0 square feet in area on lots with frontage of 100 feet or more.~~ The height of identification signs may not exceed four feet above grade and may be placed in rights-of-way and subject to the following standards and restrictions:

(1) through (4) remain unchanged.

- (b) *remains unchanged.*

- (c) Signs denoting the contractor, subcontractor, or design professional on the premises of work under construction and not exceeding 6 four square feet in area. ~~or more than two signs at any time; There may be no more than 2 signs per property and provided, however, those signs may not remain on the premises~~ must be removed within for more than 10 30 days of after the issuance of the certificate of occupancy or certificate of compliance.

- (d) *through (f) remain unchanged.*

- (g) Temporary real estate signs, ~~which~~ for the purposes of advertising the property for sale or rent, including short term rentals, which this section include "for sale," "for rent," "VRBO," "Airbnb," "open house," "open for inspection," "by appointment only," "model home," and similar signs, ~~must be located in a front yard and a minimum of two feet from the property line, parallel to the frontage and~~ conforming to the following restrictions:

- (1) Signs ~~They~~ must be located only on the property advertised.

- (2) In all districts not of residential character signs may not exceed four square feet in area, and may not exceed two square feet in areas zoned as RSC-2, RS-1, TFC-2 and RM-2. The bottom

edge of the signs may not be greater than 12 inches above average grade of the sign's location. ~~The signs must be limited to one sign per parcel; if the parcel includes water access, a second temporary real estate sign not exceeding two square feet in area is allowed either on a permanent dock structure or a minimum of ten feet landward of the property boundary adjacent to the water access or away from the landward edge of the mangrove fringe.~~

(3) *through (4) remain unchanged.*

(5) Signs must be located in a front yard and a minimum of two feet from the property line, parallel to the frontage road.

(6) A property is limited to one temporary real estate sign at any given time. If the parcel includes water access, a second temporary real estate sign not exceeding two square feet in area is allowed either on a permanent dock structure or a minimum of ten feet landward of the property boundary adjacent to the water access or away from the landward edge of the mangrove fringe.

(h) through (i) remain unchanged.

Sec. 33-1648. - Permanent signs in commercial areas.

Ground-mounted or wall mounted signs located in the C-1, CS-1, CT or RM-2 zoning categories must comply with sections 14-76 and 34-625.

(a) Ground-mounted identification signs are subject to the following limitations:

- (1) No signs may be erected closer than 30 feet to the boundary line dividing the zoning district of the property on which the sign is erected from a zoning district in which they are prohibited. Sign area is limited to 32 square feet.
- (2) Signs cannot exceed a maximum of ten feet in height or ten feet in width.
- (3) The sign must display the street number/s of the property on the face of the sign. Each numeral must measure four to six inches in height. The copy area of the street number will not be counted toward the allowable sign copy area.

(b) Wall-mounted signs: Wall signs are limited to ten percent of a tenant's wall area, with a maximum size of 32 square feet.

(c) Illuminated, ground-mounted, and wall signs: Must comply with lighting requirements set forth

~~in section 14-76 and 34-625. Environmental Sciences (ES) staff must review the lighting proposed to ensure compliance with sea turtle regulations in section 14-76 and the outdoor lighting standards in section 34-625 prior to the issuance of the sign permit. The sign must be inspected after dark by ES staff, with all exterior lighting turned on, to determine compliance with an approved lighting plan and this division prior to final inspection.~~