



**LOCAL PLANNING AGENCY
ADMINISTRATION EAST BUILDING
2201 SECOND STREET, FORT MYERS, FL 33901
ROOM 118 (FIRST FLOOR)
MONDAY, AUGUST 29, 2022
9:00 AM**

AGENDA

1. Call to Order/Review of Affidavit of Publication/Pledge of Allegiance
2. Public Forum
3. Approval of Minutes – July 25, 2022
4. Land Development Code Amendments

A. Seasonal Farmers' Markets

Amend existing regulations to permit farmers' markets throughout the year, modify application requirements, and modify items/services allowed within farmers' markets.

5. Other Business
6. Adjournment

This meeting is open to the public. Interested parties may appear at the meeting and be heard. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

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**MINUTES REPORT
LOCAL PLANNING AGENCY
JULY 25, 2022**

MEMBERS PRESENT:

Ray Blacksmith
Dustin Gardner
Alicia Olivo

Stan Stouder (Vice Chair)
Henry Zuba

MEMBERS ABSENT:

James Ink (Chair)

Don Schrotenboer

STAFF PRESENT:

Brandon Dunn, Planning
Phil Gillogly, Natural Resources
Michael Jacob, Deputy County Attorney
Dave Loveland, DCD Director

Janet Miller, Recording Secretary
Mikki Rozdolski, Planning Manager
Joseph Sarracino, Planning Tech Analyst
Beth Workman, Zoning

Agenda Item 1 – Call to Order, Review of Affidavit of Publication/Pledge of Allegiance

Mr. Stouder, Vice Chair, called the meeting to order at 9:00 a.m.

Mr. Jacob, Deputy County Attorney, certified the affidavit of publication and stated it was legally sufficient as to form and content.

Agenda Item 2 – Public Forum - None

Agenda Item 3 – Approval of Minutes – June 27, 2022

Mr. Blacksmith made a motion to approve the June 27, 2022 meeting minutes, seconded by Mr. Gardner. The motion was called and passed 5-0.

For the audio recordings for today's meeting, type in the following link.

<http://www.leegov.com/dcd/committees/committeesearch>

Agenda Item 4 – Lee Plan Amendments

A. CPA2021-00015 Greenwell SR31

Amend the Future Land Use Map, Map 1A, to re-designate approximately 76.82 acres from the Rural and Wetland future land use categories to the Outlying Suburban and Wetlands future land use categories. The property is located on the east side of SR 31, approximately 0.25 miles south of North River Road, in the North Olga Community Plan area.

Mr. Ken Gallander from RWA Engineering, representing the applicant, gave an overview of this project along with a PowerPoint presentation.

Mr. Blacksmith referred to a comment made by Mr. Gallander that two separate neighborhood meetings were held. In reviewing the packet, he did not notice any sort of outcry by the community to what is being proposed today. He asked for more specifics regarding the neighborhood meetings.

Mr. Gallander stated there were no attendees that were overly concerned. The community seemed to be interested in what the opportunities were. For instance, previously, they identified the need for commercial services along SR31. Therefore, they were interested in seeing some commercial development along SR31. Overall, his group had not received much concern or opposing commentary from the community during the two separate neighborhood meetings.

Mr. Blacksmith stated the LPA had received some e-mail correspondence regarding the widening of SR31. He asked if any sketches or design plans were done that would reflect this widening. He asked what the impact would be to this site location if in fact SR31 gets widened.

Mr. Gallander stated they had not done much in the way of that type of analysis. Instead, they have been concentrating on the existing conditions. Although they are aware of what is taking place with the PD&E Study, they have not done any significant analysis of changes to the planned development component of the project.

Mr. Blacksmith stated that SR31 is most likely going to get widened. When it does, he asked if it would make this site unbuildable.

Mr. Gallander did not believe it would make the site unbuildable.

Mr. Blacksmith stated that in reviewing the site plan, it appears as if the SR31 widening project would cause this applicant to possibly lose their commercial outparcels.

Mr. Gallander stated that if this happens, they would redesign the project by possibly pushing the commercial further in or they might rearrange the residential. They would strive to consistently apply for a mixed-use development whether or not the widening takes place.

Mr. Blacksmith asked if this project would be tying into existing sanitary sewer facilities located on Bayshore Road.

Mr. Gallander stated that was correct. The facilities are generally located in the southern portion of the area, which is where they would connect to.

Mr. Zuba stated where they hook-up to utilities will also be influenced by the SR31 expansion. He stated their connections to water and sewer are important to the consideration being made today by the LPA. Since SR31 has not been finally designed, he wondered how they are going to handle the utilities.

Mr. Gallander stated that he did not have that level of details available at this point in the process. They will be working with FDOT and other entities to ensure that the proper utilities are in place.

Mr. Blacksmith asked how many acres of wetlands are on the property today.

Mr. Gallander stated there were just over 25 acres of South Florida identified wetlands.

Mr. Blacksmith commented that he believed that with the current site plan design, they would be required to mitigate some of those wetlands.

Mr. Stouder asked if, at present, there were any water and sewer located.

Mr. Gallander and Mr. Farrar stated that Lee County Utilities are off of Bayshore Road in the southern portion in the general area of the Lee Civic Center.

Mr. Stouder asked about FGCU and where the nearest line would be.

Mr. Gallander and Mr. Farrar stated it would be off North River Road.

Mr. Stouder asked if the accessibility to those services was limited to Babcock as part of their development order.

Mr. Gallander stated he was not aware of it only being limited to Babcock. In coordination with those two utilities (LCU and FGUA), they have indicated that as long as this development is within their service area, this development could utilize and connect to those utilities.

Mr. Stouder stated that since water and sewer are not presently on the site, it would require an extension. He asked who would pay for that extension.

Mr. Gallander stated the developer would pay for those connections. He also noted that through their coordination with FGUA, they have amended their service area to include this property. As part of that amendment, they required confirmation from Lee County Utilities indicating they had no objection to the expansion of their service area.

Mr. Stouder asked what the timing would be if those extensions were to occur.

Mr. Gallander stated he did not have that information.

Mr. Stouder asked if it would be concurrent with the commencement of site improvements or would it be preceding that.

Mr. Gallander stated it would be concurrent with the development once it moves forward.

Mr. Stouder referred to FDOT and asked if they had approved a PD&E for the alignment of SR31.

Mr. Gallander stated FDOT was currently working on the PD&E study.

Mr. Stouder asked if there was an estimated time line for that to be finalized.

Mr. Gallander stated that in his experience the time line can vary.

Mr. Stouder asked if the widening of SR31 is in the 5-Year Plan.

Mr. Loveland stated it was in FDOT's 5-Year Program. He noted it was in two segments. Their evaluation regarding the first segment (SR78 north up into Charlotte County) is almost complete. They are currently moving into a design/build effort. They will be starting construction soon. The second part, which is still underway, involves SR 78 down to SR80. This project includes a bridge replacement. This second segment will be in subsequent phases. There might be a right-of-way acquisition involved before they can go to a design/build phase.

Mr. Stouder asked if the south segment was in the 5-Year Plan.

Mr. Loveland stated it is FDOT's intention to move as quickly as possible on that segment. He noted they have some funding in their work program for it. They must at least have a subsequent phase in the program before they can sign off on the PD&E Study.

The LPA had no further questions at this juncture, so staff proceeded with their presentation.

Mr. Dunn provided a few clarifications before beginning his presentation. He noted that Babcock was its own utilities provider, and is not serviced by FGUA. Instead, it is served by a community development district funded infrastructure. FGUA has a 16-inch main located along Bayshore Road that ends to the west of the Lee Civic Center. It will be extended along Bayshore Road north of SR31 and will continue on North River Road, which was also discussed when reviewing the Owl Creek project. Owl Creek will also be connecting to FGUA sewer service. He emphasized that there is service available in this area to serve both of these projects. Mr. Dunn reviewed the staff report and recommendations along with a PowerPoint presentation.

Ms. Olivo referred to schools and asked what happens in an instance where there is not enough room in the school that might be adjacent to a development. Will buses be available to transport students to other adjacent schools?

Mr. Dunn stated that was correct. The School Board has an agreement regarding their concurrency. If they are full in one area, they go to an adjacent facility. He noted there were three service areas in the schools. Generally, one of the adjacent areas will have capacity.

Mr. Zuba stated that the Outlying Suburban category has a range of density allowed. It does not require 3 dwelling units per acre.

Mr. Dunn stated the standard density range for Outlying Suburban is 1 – 3 units per acre.

Mr. Zuba asked why staff chose the maximum (3 units per acre).

Mr. Dunn stated that at this point staff is only saying the property will be designed to Sub-Outlying Suburban. During the zoning process, both the Board of County Commissioners and the Hearing Examiner will have a chance to review the proposal and an established density will be determined. The density will be between 1 – 3 units per acre. For staff's purposes, they must analyze a project against the worst case scenario.

Mr. Zuba felt they could still achieve a mix of housing types with the reduced density of 1 – 2 units per acre.

Mr. Dunn stated that may be possible.

Mr. Zuba referred to the 400,000 square feet mentioned in the staff report and presentation. He asked how staff concluded it would be 400,000 square feet as opposed to 100,000.

Mr. Dunn stated this proposal would move the subject property from a future non-urban area, which has some controls on commercial approval, to a future suburban area that does not have the same limitations on commercial. The actual square footage will be established as part of the zoning process just as is done

for the density. Mr. Dunn clarified that staff is not approving 125 dwelling units or the 400,000 square feet of commercial, as part of this request. Those two issues will be reviewed under a separate case type.

Mr. Zuba noted that staff is still saying that 400,000 square feet and 3 dwelling units per acre is consistent with the Lee Plan.

Mr. Dunn stated it goes along with the worst case scenario. Although he did not have the applicant's site plan with him, if you take out the areas that are allowed for residential, there will be approximately 40 acres left for non-residential uses. Staff typically assumes about 10,000 square feet per acre in Lee County based on the Land Development Code.

Mr. Zuba stated that this amount of retail typically generates more traffic and more requirements for surface parking. He asked if staff considered precedence in approving this project. In other considerations of rezoning to Outlying Suburban, they have not been approved with this degree of density where they not only have 3 units per acre, but also 400,000 square feet for retail especially in light of the size of this parcel.

Mr. Dunn stated that every case must stand on its own. However, he felt staff did consider precedence. He noted there had been a couple of other cases that were submitted, which had a very similar request. Staff spoke to the applicant and their representatives in those two cases and they agreed to a compromise that they were satisfied with and that also satisfied staff's concerns. With the proposal before the LPA today, there is a difference in that it is not located along North River Road or Bayshore Road. It is located along SR31, which will turn into a major corridor. Mr. Dunn felt this is an appropriate land use for that corridor.

Mr. Zuba referred to an earlier question posed regarding timing. Given the lack of clarity with regards to the expansion of SR31, he asked if staff felt the development of this project and the beginning of its timing was consistent with what will be taking place with SR31.

Mr. Dunn stated the applicant would need this type of clarity about their density/intensity and what they are allowed to do in order to begin designing their project. He referred to a site plan, which was shown during Mr. Gallander's presentation. Mr. Dunn felt the project most likely would not be able to be designed as the site plan outlined, or anything similar, because of the widening of SR31. However, at this juncture, Mr. Dunn felt it was appropriate to identify the future land use category and did not feel that doing so would create any issues.

Mr. Zuba referred to the application itself, which indicated it was an "*expedited state review*." He asked what qualifies a project for an "*expedited state review*."

Mr. Dunn stated that approximately 97% of all comprehensive plan amendments are under the "*expedited state review*" category. This number might decrease in the future because of a change that has taken place in the "*Small Scale*" category. There are only three options to choose from. The first is "*expedited state review*." The second is "*Small Scale*." The "*Small Scale*" category is a map amendment that is 50 acres or less. It used to be 10 acres, but it has been increased to 50 acres or less. This might cause the proportion of small scale cases to increase. The last category is "*State Coordinated Review*." This only relates to instances where something causes a change to the Lee Plan in its entirety. If staff were to rewrite an entirely new Lee Plan, it would go through a state coordinated review process where they would have 60 days to review it instead of 30 days. Generally, most comprehensive plan review cases that the LPA reviews will be "*expedited reviews*."

The LPA had no further questions, so Mr. Stouder opened this item for public comment.

Mr. Keith Dean, long-time resident of Lee County, stated the following:

- He grew up in Lee County. He used to live along McGregor Boulevard, which at the time, had many empty lots. As it grew, his family moved behind the Page Field area. It was also more Rural at that time with plenty of room. As that area grew, he eventually moved to Alva.
- However, his office is 12 miles away on Highway 80. It is a benefit because he does not have to drive down Colonial Boulevard or Six Mile Cypress in order to go to town or the store because of where his business is located.
- He compared this to Lehigh, which he felt is an example of a poor planned community. Residents must drive down SR82 to go anywhere. He noted that the corridors are going to expand and were not developed in a proper manner.
- He expressed the importance of developing properties and the corridors correctly so that people can easily go to a doctor's office, restaurants, stores, etc.
- He felt this type of development is needed for the area stating we need corridors especially with the expansion of SR31. He emphasized that we need to have corridors developed where residents can have access to commercial businesses, doctor's offices, schools, fire stations, planned developments, etc.
- This type of development allows people to go places that are closer to home instead of driving 20 miles to go anywhere.

Mr. Steve Brodtkin, representing the Concerned Citizens of Bayshore Community and Women for a Better Lee, read a letter into the record (attached). He also distributed a public notice from FDOT (attached).

No other members of the public wished to comment, so the public comment segment was closed.

Mr. Blacksmith stated there was discussion today on what may or may not happen with SR31. He noted that the site planning effort is going to be handled through the zoning process and he felt that is where it should be considered.

Mr. Zuba stated that regarding density, it seemed to him that the goal of any increase in density should be to tap into a utility system instead of having septic and well, which has been acknowledged to be the most common situation for residential that abuts this particular site. If they can connect to a utility system, it is an incentive to increase some density. The same is true with regard to traffic impact. Centralizing both residential and commercial helps in terms of traffic design. He expressed concern over the issue of timing. He also felt the density was excessive in terms of the range, but he understood staff's perspective that the LPA is not in the business of dictating the density. Mr. Zuba stated that in terms of whether or not this proposal is consistent with the Lee Plan, he felt part of it is and part of it is not.

Mr. Gardner agreed with Mr. Blacksmith's sentiments that the density, square footage, and what will be allowable, is going to be handled during the zoning process. He did have concerns with the expansion of SR31 and felt it would greatly impact this property. He understood Mr. Brodtkin's concerns in terms of

this proposal elevating the price tag of the property for potential density at the tax payers cost. To him, this was a realistic outcome. Regardless, he felt it was not something that is under the LPA's purview.

Ms. Olivo asked staff if they felt that this adjustment to the plan to accommodate the widening of SR31 adequately answers staff's questions.

Mr. Dunn concurred with Mr. Brodtkin that staff did ask the applicant and their representatives a couple of times throughout the initial sufficiency review for additional information about SR31. This was not addressed by them. They do not have an exact alignment yet, so they would only be speculating by providing a response. This type of information will be needed as this project moves forward, but at this level of review where it goes before the LPA, there are no intricate text amendments that anyone is attempting to make with a certain amount of acreage. Mr. Dunn felt that with the level of detail provided, staff has the information they need.

Ms. Olivo asked for clarification that staff finds it to be consistent with the Lee Plan.

Mr. Dunn stated that was correct.

Mr. Stouder stated he did not feel this request was outside of the LPA's purview in terms of density because comprehensive plans do not assign specific density, but instead assign density ranges. He expressed concern with the 400,000 square feet, which he felt was a massive overreach. Mr. Stouder stated he had less concern with the 3 dwelling units per acre for residential. With regards to the 400,000 square feet, it would cause the area to grow to the size of the Edison Mall, which is inconsistent with both the Northeast Lee County and Olga community plans. Mr. Stouder believed that the LPA approved the ability for commercial to occur within a ¼ mile of SR31 approximately 3-4 years ago. It allowed for community commercial through a CPD, which accommodates the 2045 Lee Plan requirement for a meeting space (a Village Center). Since the Lee Civic Center is already there, it provides an adequate compliance with Goal 27 and Goal 29 of the Lee Plan. Although the widening of SR31 and how it impacts this project is outside the LPA's purview, it is a large unknown that can be addressed. This amendment would be addressed more accurately, and possibly more favorably, once that knowledge is revealed. Mr. Stouder stated his conclusion is that this proposal is not consistent with the Lee Plan and he would not be voting in favor of it because it is too significant of a deviation. He is also not in favor of having a "donut hole" in the midst of rural, with all rural and wetlands surrounding it. For these reasons, he did not feel it was consistent with the Lee Plan.

Ms. Olivo made a motion to recommend transmittal of CPA2021-00015 Greenwell SR31, seconded by Mr. Blacksmith. The motion was called and passed 3-2. Ms. Olivo, Mr. Blacksmith, and Mr. Gardner were in favor. Mr. Stouder and Mr. Zuba were opposed.

Agenda Item 5 – Other Business- None

Agenda Item 6 – Adjournment

Ms. Olivo made a motion to adjourn, seconded by Mr. Blacksmith. The motion was called and passed 5-0.

The next Local Planning Agency meeting is scheduled for Monday, August 29, 2022, at 9:00 a.m.

The meeting adjourned at 10:05 a.m.

LPA Members,

We have concerns about the Greenwell SR 31 Lee Plan Amendment with regard to the intensity and the timing.

1. We know that development has been spurred in the northeast part of the county by Babcock, which is designated under the land use category of New Community. New Community in North Olga allows a maximum of 1 d/u per 2.5 acres. This restriction on density in the North Olga planning area for New Community was put in place specifically to keep residential densities low. The Greenwell property, now in the rural land use category, allows up to 1 d/u per acre, which already far exceeds the emerging development pattern for the area. Residents in the northeast part of the county overwhelmingly want to see the area remain as rural as possible, and the proposed land use change to Outlying Suburban would increase the residential density even further, up to 3 d/u per acre. There is no place in Northeast Lee County, including Bayshore, North Olga, and Alva, within the outlying suburban land use category.

2. Without any changes to the Lee Plan, up to 100,000 sq. ft. of commercial space can already be permitted on the property as allowed by policy 6.1.2. One hundred thousand sq. ft. is more realistic for the property when considering the fact that Mr. Greenwell will lose a large portion of land when SR 31 is relocated to the east of its current location. From maps available to the public, it looks like he'll lose almost 300 feet of his property along SR 31. So no land use change is needed for the property in order to build a development consistent with the emerging land use pattern for the area, and considering the reality that the property will shrink when SR 31 is relocated.

3. On March 11, 2021 FDOT held a public hearing with regard to the widening of SR 31, and FDOT staff explained that the proposed alignment was the only feasible alignment based on several factors, including a settlement on lawsuit over the gas pipeline that is located on the east side of SR 31. Mr. Greenwell was in attendance. On May 26, 2021 FDOT put out a statement accepting the PD&E study which includes this alignment as the only option (attached). Mr. Greenwell submitted his application for a Lee Plan Amendment on Nov. 12th 2021, long after it was known that he would lose a significant portion of his property. His plan does not take into account FDOT plans for the relocation of SR 31, making his plan unrealistic.

4. At a public meeting held by the applicant, the consultants were disingenuous with their answers to some of the questions from the audience. One of the participants asked:

"I would assume that everyone is aware of the SR 31 widening and that it seems to be moving along, and is financed, and the current plans would have to shrink." The consultant responded:

"It's hard for us to have an opinion on this because they are still in the PD&E phase of the project, and we are not completely sure what the alignment of the road will be."

Another participant asked:

"I understand they do not have an exact number of feet of which the road would be widening, but I am confident that it will happen because the PD&E was accepted with only one alignment shown and it was found financially feasible." The consultant responded: "I appreciate your comments, but you have made a number of assumptions that we do not have enough evidence on at the moment for us to act on."

Of course, these responses are not true. FDOT presented the alignment as the only viable option at the 3/11/2021 public meeting, and issued a statement accepting the alignment on 5/26/2021, months before the application for the land use change was submitted on 11/12/2021.

In addition, at the July 12th, 2022 Alva commission district 5 candidate forum, Mr. Greenwell stated he will be losing part of his property due to the relocation of SR 31.

5. In county staff's RAI letters staff never received a complete answer from the applicant regarding the impact of the widening of SR 31 to the proposed development.

Staff asked:

"Miscellaneous Comments: a. (Previous Comment) How will the widening of State Route 31 by FDOT impact the proposed amendments and the subject property? Staff acknowledges the previous comment, however please see following link for the segment of the SR 31 project adjacent to the applicant's property and if necessary reach out to FDOT in order to provide a response to the previous comment."

"Response: As mentioned previously, we have not received any formal notification of a proposed taking for the widening of SR 31. As such, assessing preliminary plans is at best speculative in nature and at worst detrimental to the current Comprehensive Land Use Plan Amendment presented.

However, at your suggestion, we reached out to FDOT and this is the response that we've received from FDOT on the subject project: 2/16/2022:"

"The procurement process to select the contractor/engineering team to widen SR 31 from 2 to 4 lanes from SR 78 to Horseshoe Rd. was completed last month. The design and permitting phase will begin shortly and take approximately 18-24 months. The construction phase will follow. The right-of-way phase will overlap the design and construction phases. We will be able to provide more specific time frames in a month or so, once the Design-Build Firm has been able to develop their project schedule." - Brian Blair, Assistant District Construction Engineer, FDOT

So in FDOT's response, the only answer was about the time frame, not the alignment. As far as we could tell, the applicant never addressed the question and staff didn't discuss the question in the staff report.

6. We also believe it is not wise to continue increasing residential density within the Coastal High Hazard Flood Zone.

7. So why was the application submitted well after it became clear that the relocation of SR 31 would take a significant portion of the applicant's land? We can only conclude that the purpose is to increase the value of the land prior to a portion of it being condemned for the road relocation. This will be at taxpayers expense.

Mr. Greenwell has been a long time member of the community and we know residents appreciate his contributions to the area, including his farm stand and store. However, we believe the proposed Lee Plan change is too intense (inconsistent with the emerging development pattern), sets a bad precedent for the future of NE Lee county (no current outlying suburban land use), increases density in the Coastal High Hazard Flood Zone, doesn't take into account the relocation of SR 31, and will unnecessarily cost taxpayers more when SR 31 is relocated.

Thank you,
Steve Brodtkin
CCBC
WFBL

**Announcement of State Environmental Impact Report Acceptance
State Road 31 Project Development and Environment (PD&E) Study
from State Road 78 To Cook Brown Road in Lee and Charlotte Counties, Florida**

On May 26, 2021, the Florida Department of Transportation (FDOT) granted Acceptance of the State Environmental Impact Report for State Road (SR) 31 from SR 78 to Cook Brown Road in Lee and Charlotte Counties. The Selected Interim Improvements include construction of a new four-lane divided roadway east of the existing SR 31 from SR 78 to Horseshoe Road. From Cypress Parkway to Horseshoe Road, the roadway shifts back to the west and involves widening SR 31 to the east of its existing alignment and will use a combination of the existing SR 31 roadway right-of-way and new right-of-way. The existing two-lane undivided section of SR 31 will remain in place from north of SR 78 to the Lee/Charlotte County line, and will serve as a frontage road for local access. The selected interim typical section from SR 78 to Cypress Parkway includes two, 11-foot travel lanes in each direction separated by a 44-foot median that will accommodate future inside widening. A 12-foot wide shared-use path is proposed along both sides of the roadway. From the Lee/Charlotte County line northward, a 12-foot wide shared use path will be provided along the west side of the road and the shared-use path on the east side will be 10 feet wide and located within Babcock Ranch. From Cypress Parkway to Horseshoe Road, the selected typical section includes two, 11-foot travel lanes in each direction separated by a 22-foot median. This typical section includes dual ditches and a 12-foot shared-use path along the west side of the road. A 10-foot shared-use path will also be provided along the east side of the road within Babcock Ranch.

The Selected Ultimate Improvements include providing six lanes for SR 31 from SR 78 to Cypress Parkway and four lanes from Cypress Parkway to Cook Brown Road. The design speed is 45 mph. The ultimate six-lane selected alternative includes widening the interim four-lane divided SR 31 roadway to a six-lane divided roadway from SR 78 to Cypress Parkway. This will involve adding one through lane in each direction to the median. From Cypress Parkway to Horseshoe Road, the interim four-lane divided roadway will remain. From Horseshoe Road to Cook Brown Road, the existing two-lane SR 31 roadway will be widened to a four-lane divided roadway to the west. The selected ultimate six-lane typical section from SR 78 to Cypress Parkway includes three, 11-foot travel lanes in each direction separated by a 22-foot median. From Cypress Parkway to Horseshoe Road, the selected four-lane interim improvement will remain as the ultimate improvement.

Between Horseshoe Road and Cook Brown Road, the existing SR 31 roadway will be reconstructed as a four-lane divided roadway with widening to the west. The selected ultimate four-lane typical section includes two, 11-foot travel lanes in each direction separated by a 22-foot median. Additional information is available on the project websites at www.swflroads.com/sr31/bayshorerdtoriverrd (FPID 428917-1) or www.swflroads.com/sr31/cr78tocookbrownrd (FPID 428917-2).

This project will now proceed to the next phase of development. For more information, please contact FDOT Project Manager, Patrick Bateman, P.E. by phone at 863-519-2792, email at Patrick.Bateman@dot.state.fl.us, or by mail to the Florida Department of Transportation, P.O. Box 1249, Bartow, FL 33831.

Patrick Bateman, PE

Project Manager

Environmental Management Office

FDOT District 1

(863) 519-2792

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Local Planning Agency (LPA)

DATE: August 18, 2022

FROM: Anthony R. Rodriguez, AICP
Zoning Manager

RE: **LDC Amendments**
Seasonal Farmers' Markets

The attached Land Development Code amendments, scheduled for consideration at the August 29, 2022 LPA meeting, have been prepared to broaden existing regulations affecting seasonal farmers' markets. Staff seeks a recommendation on whether the proposed amendments are consistent with the Lee Plan.

BACKGROUND AND SUMMARY

In June of 2022, the Board of County Commissioners (BoCC), in response to a request from Commissioner Ruane, directed staff to review existing regulations pertaining to seasonal farmers' markets and to prepare amendments to these regulations to better align the County's regulations with those of other jurisdictions in the region. Staff completed the requisite research, received input from an industry representative, and subsequently prepared draft amendments to achieve this objective in July of 2022. On August 2, 2022, the BoCC directed the attached amendments through the advisory committee review process prior to final consideration for adoption.

If adopted, the proposed amendments will:

- permit farmers' markets as a temporary use throughout the calendar year, which assures consistency with other local jurisdictions;
- prohibit farmers' markets from operating within easements consistent with prohibition on other uses within easements;
- require coordination with Lee County Sheriff's Office where off-site parking is proposed;
- prohibit operation of more than four days per week on the same premises;
- add fine art, arts and crafts, jewelry, apparel, and booths operated by local businesses, non-profits, and local governments to list of permitted vendors; and

- establish a percentage maximum for sale of non-agriculture-related goods/services as ancillary sales to the principal farmers' market use, which is consistent with the approach of other local jurisdictions.

COMMITTEE REVIEW COMMENTS TO DATE

None. Consideration by the LPA is the first of three steps in the committee review process. As a reminder, the LPA's role in reviewing proposed County regulations is to determine consistency with the County's comprehensive plan.

Attachments

Proposed amendments with staff annotations

Sec. 34-3048. Seasonal ~~f~~Farmers' markets.

Staff summary: This section is being revised to permit farmers' markets as a temporary use throughout the calendar year. Current regulations permit farmers' markets to operate between the months of October and April. Permitting farmers' markets all year assures consistency with other local jurisdictions. Amendments to this section also propose revisions to the list of items permitted to be sold at farmers' markets, subject to certain restrictions, to assure consistency with other local jurisdictions.

- (a) Farmers' markets are allowed in the parking lot or grassed areas of properties developed with churches, schools, clubs, ~~as defined in section 34-2 (df)~~, parks (section 34-622(c)(32)), commercial or industrial uses, or on-site recreational facilities, ~~as defined in section 34-2 (df)~~. Farmers' markets are prohibited on vacant lots.

Staff note: revise subsection (a) to provide cross-reference to definitions. Pluralize "markets."

- (b) Farmers' markets are permitted in accordance with the following requirements: from October through April. A temporary use permit may be issued for no more than four days a week in the same location. A year round farmers' market requires compliance with this Code.

(1) A farmers' market must obtain a temporary use permit from the Department of Community Development. The application for the temporary use permit must include the following:

- a. A site plan indicating the layout and number of vendors, boundaries of the market, and proposed parking areas.
- b. If parking is not located on the same premises as the market, then the permittee must coordinate with the Lee County Sheriff's Office to provide traffic control, and must submit written approval from the Sheriff's Office indicating that traffic control will be provided.
- c. An initial list of vendors, with a description of goods sold or services offered as identified in subsection (d). Vendors may be changed and substituted without notification to the county provided that the market remains compliant with subsections (d) and (e).
- d. The days of the week and hours of operation for the market.

(2) The market may be located within parking areas with written consent of the property owner. The market is not permitted in open space or preserve areas, as designated on an approved local development order, within an easement, or within a County right-of-way. Adequate pedestrian and vehicular access to the site must be demonstrated;

(3) A farmers' market may not operate more than four days per week on the same premises.

~~(c) The application for the temporary use permit must include the following:~~

- ~~(1) A site plan indicating the layout and boundaries of the market. The market may be located within parking areas with written consent of the property owner. The market is not permitted in open space or preserves areas, as designated on an approved local development order, or within a County right-of-way. Adequate pedestrian and vehicular access to the site must be demonstrated;~~
- ~~(2) The day of the week and hours of operation for the market.~~

Staff note: Revise subsection (b) to consolidate existing subsections (b) and (c). Add language prohibiting farmers' markets from operating within easements consistent with prohibition on other uses within easements. Add language requiring coordination with Lee County Sheriff's Office where off-site parking is proposed. Clarify that farmers' markets may not operate more than four days per week on the same premises. Require list of vendors by type to assure compliance with items permitted to be sold as permitted by subsections (d) and (e).

~~(c)(d)~~ Each vendor within the farmers' market is responsible for securing and displaying all necessary licenses, including but not limited to any license/approval required when offering prepared food for consumption, etc. (i.e., Florida Department of Agriculture, Food Safety, and Department of Business and Professional Regulation, etc.).

Staff note: Revise to renumber subsection (d) to subsection (c). Clarify that regulation applies to individual vendors within the farmers' market and not the farmers' market operator.

(d) Allowed products and services are limited to:

- (1) Unprocessed agricultural products such as fruits, vegetables, grains, flowers, and plants;
- (2) Processed agricultural products such as milk, cheese, oils, vinegars, meats, poultry, eggs, honey, spices, coffee, jams, nuts, sauces, pasta, soaps, ice cream, herbal preparations, jellies;
- (3) Prepared foods such as ready-to-eat baked goods, breads, meats, cheeses, cakes, and pies;
- (4) Mobile food vendors ~~Food booths~~, with proper licensing, where preparation of food occurs on site;
- (5) Agriculture-related crafts, such as handmade wreaths, swags, dry flower arrangements, pressed flowers, scented sticks and potpourri, ~~candles, and raffia-scented sticks~~;
- (6) Non-agriculture-related goods including fine art, arts and crafts, jewelry, and apparel, subject to compliance with subsection (e).
- (7) The advertising, promoting, or offering of non-agriculture-related goods or services by local businesses, subject to subsection (e).
- (8) Community outreach activities by local non-profit organizations, local governments, or other similar organizations.
- ~~(9)(6)~~ Items designed to promote water, soil, or energy conservation, such as rain barrels, organic fertilizer, compost boxes, and related educational materials;
- ~~(10)(7)~~ Musical entertainment may occur only at one location within the market area and must comply with the County noise ordinance; and
- ~~(11)(8)~~ Other goods and services determined by the Zoning ~~Manager~~ Director to be substantially similar to the above vendor types.

Staff note: Reorganize to create subsection (d) for ease of administration. Update "food booths" to "mobile food vendors" consistent with current definition. Add fine art, arts and crafts, jewelry, apparel, and booths operated by local businesses, non-profits, and local governments to list of permitted vendors. Correct reference to position title of zoning section manager.

(e) Vendors selling non-agriculture-related goods or advertising, promoting, or offering non-agriculture-related goods or services may constitute a maximum of 20 percent of the total number of vendors within a farmers' market.

Staff note: Create new subsection (e) establishing a percentage maximum for sale of non-agriculture-related goods/services as ancillary sales to principal farmers' market use. Permitting sales of these goods/services subject to a maximum percentage makes County regulations more consistent with how other local jurisdictions permit and regulate the number of non-agriculture-related vendors within farmers' markets.

~~(f)(e)~~ Prohibited items and vendors: Used goods, antiques, collectibles, and all other goods and services not expressly set forth above.

~~(g)(f)~~ The Department of Community Development has the authority to modify or revoke the farmers' market temporary use permit upon a finding of a violation of any condition of the temporary use permit approval or the provisions of this section. Prior to revoking a permit, the permittee will be given written notice of the violation and the action necessary to correct the same. The notice will be delivered in compliance with F.S. § 162.12. The notice will provide that failure to correct the violation will result in the revocation of the temporary use permit.

Staff note: Renumbers subsections (e) and (f) to (f) and (g). Revise subsection (g) to require compliance with provisions of this section.