

**MINUTES REPORT**  
**LAND DEVELOPMENT CODE ADVISORY COMMITTEE**  
**(LDCAC)**  
**Friday, March 8, 2024**  
**8:30 a.m.**

**Committee Members Present:**

Jay Johnson	Christopher Scott
Veronica Martin	Linda Stewart
Jack Morris	Amy Thibaut, Vice Chair
Jarod Prentice	

**Excused / Absent:**

Jem Frantz	Bill Prysi
Randy Krise	Al Quattrone
Tom Lehnert	Jennifer Sapen
Paula McMichael, Chair	Patrick Vanasse

**Lee County Government Staff Present:**

Joe Adams, Asst, County Atty.	Adam Mendez, Zoning
Dirk Danley, Jr., Zoning	Janet Miller, DCD Admin.
Tad Delnay, Deputy Bldg. Official	Brianna Schroeder, Zoning

**AGENDA ITEM 1 - CALL TO ORDER/REVIEW OF AFFIDAVIT OF PUBLICATION**

Ms. Thibaut, Vice Chair, called the meeting to order at 8:30 a.m. in the Large First Floor CR 1B, Community Development/Public Works Building, 1500 Monroe Street, Fort Myers, Florida.

Mr. Joe Adams, Assistant County Attorney, reviewed the Affidavit of Publication and found it legally sufficient as to form and content.

**AGENDA ITEM 2 – EXTENSION OF OFFICER TERMS**

Mr. Danley explained that normally the Election of Officers for the Land Development Code Advisory Committee is handled in October of each year. However, since the Committee has not met since last May of 2023, the Election of Officers was not addressed. Staff's preference is to stay with the yearly schedule of October, so they asked for a motion to extend the current officer terms until October 2024.

**Mr. Scott made motion to extend the term of the existing officers (Chair and Vice Chair) through October 2024 until such time that the Election of Officers can take place, seconded by Mr. Johnson. The motion was called and passed unanimously.**

**AGENDA ITEM 3 - APPROVAL OF MINUTES – May 12, 2023**

**Ms. Martin made a motion to approve the May 12, 2023 minutes, seconded by Mr. Morris. The motion was called and passed unanimously.**

**AGENDA ITEM 4 – LDC AMENDMENTS – A. MICRO-BREWERIES, WINERIES, AND DISTILLERIES**

Mr. Dirk Danley, Principal Planner, gave an overview of the amendments.

Mr. Prentice asked who would be regulating the thresholds for the barrel counts locally.

Mr. Danley stated those are handled by having a license with the state. The 2COP rider limits the number of barrels that are produced. The ATF reviews those licenses every year as they do for a typical 2COP or a 4COP license to make sure they are remaining in compliance with that. The way the County regulates it is similar where someone can obtain a special exception or administrative approval. Staff reviews them for separation from certain uses as they would for a typical bar or cocktail lounge and then relying on the state's regulatory process to keep the businesses in compliance.

The Board had no questions on Page 1.

## **Page 2**

Mr. Scott stated that microbrewery includes the incidental for the tasting room language, but it is not reflected in the brewpub definition. He was uncertain whether this was an issue or not, but it seemed odd to him that one clearly referenced that the tasting room is incidental.

Mr. Danley stated the definitions were a blend of defined uses in State Statute as well as applying some other uses that neighboring jurisdictions have applied to their code. He noted that the difference between a brewpub and a microbrewery is relatively small, so staff wanted to make sure that a brewpub could operate as a restaurant if it needed to. There is a scaling effect of the alcohol production. It is more flexible for the brewpub whereas with the microbrewery, it gets closer to an industrial use. It should mostly be the production of alcohol. It is more flexible with the brewpub and is more stringent for the microbrewery.

Mr. Scott referred to the taproom brewery definition, which says "*see bar and cocktail lounge.*"

Mr. Danley stated the way the statute is written, it is basically the same as a bar and cocktail lounge. The taproom itself is not necessarily operating any different than what a typical bar and cocktail lounge would be.

Mr. Scott asked for confirmation that if someone had a taproom, they would not be brewing beer.

Mr. Danley stated there is an option for them to expand so that they can brew beer, but it would be functioning as a bar at that point.

Mr. Scott asked for confirmation that a taproom brewery is considered as a cocktail lounge.

Mr. Danley stated that was correct.

The Board had no questions on Pages 3 through 8.

## **Page 9**

Ms. Stewart referred to brewpubs and noted that many breweries brew their own brand, but they sell to each other as well. She wanted to make sure this was something that would be allowable in the guidelines. There are also instances where there is consumption off premises. For instance, some breweries sell 6 packs that people can purchase and leave the premises with. It is not just a situation where they consume on-premises. They can consume off premises as well. She felt this should be added as an incidental for the offsite.

Mr. Danley stated staff would take this under advisement and explore adding some verbiage to include that.

## **Page 10**

Ms. Stewart referred to Sec. 34-1264. Sale or service for on-premises consumption. She asked if there would be an option to submit for an administrative approval or special exception.

Mr. Danley stated there was certain criteria the applicant would need to meet in order to have an administrative approval. There is a separation requirement from churches, schools, and homes. Although he could not recall the other standards, he noted there were approximately four or five other standards that are typical for most bars and cocktail lounges.

Mr. Prentice asked if the regulations include proximities to doorways, portals, and property lines.

Mr. Danley stated that was correct. It is measured from the doorway of the establishment to the property line of one of those uses.

The Board had no questions on Page 11.

## **Page 12**

Mr. Scott referred to the parking requirements for brew pubs. He noted the tasting rooms have the same parking requirements as bars and cocktail lounges. He asked how the parking is currently handled and if it would create issues or non-conformities for existing microbreweries.

Mr. Danley noted there were only a few microbreweries in the county and he was uncertain how they calculate the parking. He thought that perhaps the brewpubs could have the same parking as bars and cocktail lounges, but the requirements could be changed for a heavier manufacturing component. For instance, staff completed a project that includes a rock wall, gym, and brewery off Six Mile Cypress. It is a large facility. He was uncertain how they calculated the parking requirement for the bar uses versus the manufacturing uses. He noted that staff would review this further to ensure that larger scale/industrial production uses do not have the same kind of parking requirement.

Mr. Scott asked that staff consider whether introducing new regulations will affect existing breweries to where they will become non-conforming as it relates to parking.

Mr. Danley stated staff would review this issue further.

Mr. Morris asked how the parking is calculated (21 spaces per 1,000 square feet) compared to restaurants and fast food that are 13 and 14 spaces. He asked for the reasoning behind increasing the number significantly.

Mr. Danley stated the parking requirement for bars and cocktail lounges have been in place for a long time and are based on ITE.

Mr. Morris asked if anyone specifically looked at brewpubs and microbreweries.

Mr. Danley stated he believed that when it was reviewed the categories were lumped together, but noted that staff would check into this further before it goes to the Local Planning Agency and the Board of County Commissioners.

### **Page 13**

Ms. Thibaut referred to Note (18) on Page 13. She asked how staff was defining what is related to brewery functions. For instance, a brewpub can have food. Would the food portion of the brewpub be included in the maximum of 35 percent that is non-brewery related?

Mr. Mendez stated this threshold was initially in the definition. Staff tried to distinguish between the brewpub and the microdistillery and characterize it. What affects this is the parking requirement. It is determining whether you have parking at 14 spaces per 1,000 in a mixed-use or 21 spaces in a single-use establishment.

Mr. Danley stated the thought process for exceeding the 35% would be that the establishment is switching over to a different use.

Mr. Mendez stated the 35% is to characterize brewpub versus microdistillery.

Mr. Danley stated it could involve a restaurant as well depending on whether someone wants a restaurant or a taproom. It is a way to box into a certain type of characteristic for a brewpub, but staff is open to discussion on that number.

Ms. Stewart stated she thought the 35% figure was small because when you have small establishments, half of their building is manufacturing in the back area, yet they have small areas up front. They may manufacture more than the number that the county has allocated. If they do, the 35% limits them because they are being put into a higher category even though they may not fit into that number just because of their square footage.

Ms. Danley stated staff would review this further.

Mr. Scott believed the county was trying to keep the on-premises consumption at these facilities as an ancillary use. He was not certain that putting more parking or an emphasis on parking for that ancillary use was the better direction to go.

Mr. Morris referred to the term "*non-brewery related functions.*" He asked if the manufacturing and packaging of ale beers was non-brewery related. He referred to Note (17) on Page 13 which mentions "*Floor area dedicated to the manufacturing and packaging of ales, beers, meads, wines, liquor or similar beverages...*" He asked if those were non-brewery related functions that would be outside of the 35%.

Mr. Danley stated those functions would be considered part of the brewery related functions.

Ms. Thibaut felt it might be helpful if there was a definition added for brewery related functions.

Mr. Prentice stated he was confused over the terms "*manufacturing*" and "production," which is throughout the document. If the intent is to allow brewpubs, microbreweries, and non-industrial uses, staff might consider omitting the term "manufacturing," and use the word "*production*" instead. The term "*manufacturing*" could be used in instances where the county wants certain facilities in a heavier commercial/industrial district.

Mr. Danley stated staff would go through the document and try to clean that up by using the word “*production*.” He felt this was a valid point.

Mr. Scott referred to Note 18 as it relates to an earlier question regarding definitions. Brewpub did not specify incidental whereas the micro-breweries and micro-distilleries had incidental in here. The county is now introducing a parking restriction that says brewpubs are only allowed a smaller percentage for these essentially incidental uses whereas the definition makes it sound like brewpubs can have large restaurants and micro-breweries and micro-distilleries should only have incidental tasting rooms. Note 18 seems to flip this around a bit because microbreweries and micro-distilleries are not included in this. He asked what the rationale was for only having this apply to brewpubs.

Mr. Danley stated staff was not tied to what is written in Note 18. Staff was trying to cull together some State Statute and what staff sees taking place in other jurisdictions. Staff would be fine if the LDCAC makes a motion to remove that condition.

Ms. Thibaut suggested that staff might add some verbiage so that a person could get an administrative variance to up to 45% or some other percentage.

Mr. Danley stated staff could work with 45% to 50%.

Mr. Scott stated his preference is to remove the percentage because the county is allowing all these uses (bars, cocktail lounges, etc.) in any of the listed zoning districts. Since they can be in any of the zoning districts, why put a cap on what a microbrewery or brewpub can have or a bar area or restaurant area?

Ms. Stewart agreed and noted that the 2COP and 4COP also have rules regarding providing food depending on what license someone has. Several brewpubs do not have restaurants, but they bring in food trucks. It allows them to have the license they need and comply with state requirements. Some of the brewpubs are small and do not have the room for a restaurant area. She noted there are also brewpubs that will provide menus to customers from adjacent restaurants, and they have the food delivered. Even though they do not have the room for a restaurant, they are still able to provide food through another outlet. She felt that some of these regulations restrict brewpub owners who also must comply with the 2COP and 4COP regulations.

Mr. Prentice asked if a restaurant owner would be able to come in and operate a brewery or microbrewery out of their restaurant within the current standards.

Mr. Danley stated that if someone has a typical restaurant and wanted to incorporate a large bar as part of their restaurant, they could seek approvals to allow a bar within their restaurant if both of those uses are allowed within their zoning district. This is supposed to function the same way that a bar or cocktail lounge would in any other zoning district.

Mr. Prentice stated that the owners must also comply with the floor area ratio requirements. Is it a percentage of those dual uses? He referred to a restaurant that has a brewery on premises in Jacksonville called Seven Bridges Grille & Brewery, which is a big chain.

Mr. Scott stated that BJ’s Restaurant and Brewhouse in Fort Myers has this as well.

Mr. Prentice asked if these regulations would create a nonconformity or further hardship for someone that is not just a brewery.

Ms. Stewart agreed that these regulations might make things too tight to where businesses cannot fit in them.

Mr. Danley stated staff will review this further to see if there are ways to make the regulations more flexible.

Ms. Thibaut asked if the COP for a restaurant would be different than a COP for a brewpub or a microbrewery under the state regulations.

Mr. Danley stated that a 2COP is beer and wine. The microbrewery is a rider to that COP. It is an additional piece to the license, so it is slightly different.

Ms. Thibaut asked for clarification that there is no sub type of COP for a restaurant versus the others.

Mr. Danley confirmed there is no sub type of COP they can obtain. He could only think of one instance where there is a restaurant that is a 4COP. There is a 4COP special food service where someone would need to have 50% of their sales be from food and not from alcohol. When someone dips below the 50%, they are required to have a full 4COP license, which is a full alcohol license (same requirement as a bar). He noted there were only a limited number of those license types, which are expensive comparably.

Ms. Martin referred to the definitions on Page 2. As someone goes through the zoning process, they usually start with the definition of uses. She felt the definitions of uses being discussed today are already listed, which may help when determining the parking ratios for the use when staff is determining whether it is a freestanding brewpub, multiple brewpub, microbrewery or distillery. In trying to determine how she would calculate this if it were her project, it seemed to her that there is not a problem with how it is written once you go back to the definitions and compare it with the parking calculations because they are very distinctive. She also noted that it did not currently seem as if someone could sell food with the microbrewery, taproom, or tasting room. She asked for confirmation of that.

Mr. Mendez stated that was correct. The brewpub is a hybrid brewery/restaurant scenario.

Mr. Morris referred to Note (8) on Page 13 and asked if the definition issue would be resolved by adding brewery and other wineries to this note.

Mr. Danley felt there was validity in that. Staff will consider adding that verbiage.

**Ms. Thibaut made a motion to accept the amendments as written with the following exceptions: 1) removing note (18); 2) replacing the word “*manufacturing*” with the word “*production*” in the definitions; and, (3) amend Note (8) by adding brewery and other wineries to the verbiage, seconded by Mr. Scott.**

Mr. Danley referred to Ms. Thibaut’s earlier suggestion to include a definition of brewery related uses.

Ms. Thibaut did not feel it was necessary if staff removes Note (18).

**The motion was called and passed unanimously.**

Mr. Danley thanked the LDCAC for their comments and stated it was very helpful to staff.

**AGENDA ITEM 4 – LDC AMENDMENTS – B. CLEAN-UP AMENDMENTS – FLORIDA BUILDING CODE (2023) COMPLIANCE AND EMERGENCY SHELTER MITIGATION (MOBILE HOME AND RV DEVELOPMENTS)**

Mr. Dirk Danley, Principal Planner, gave an overview of the amendments.

The Board had no questions or comments on this portion of the amendments.

**Ms. Thibaut made a motion to approve these amendments as written, seconded by Ms. Stewart. The motion was called and passed unanimously.**

Staff stated that the next meeting is scheduled for May 10, 2024.

There was no further discussion. Ms. Thibaut adjourned the meeting at 9:10 a.m.