

**MINUTES REPORT
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
(EROC)**

**Wednesday, July 10, 2024
2:00 p.m.**

Committee Members Present:

Randal Mercer, Chairman	Sam Hagan
Tracy Hayden, Vice-Chair	Tim Keene
Carl Barraco, Jr.	Bob Knight
Annette Carrasquillo	Ian Moore
Bill BeDeugd	Mike Roeder
David Gallaher	

Excused / Absent:

Victor Dupont	Michael Reitmann
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Lee County Staff Present:

Joe Adams, Assistant County Attorney	Tracy Toussaint, DCD Administration
Dirk Danley, Jr., Principal Planner	Anthony Rodriguez, Zoning Manager
Adam Mendez (Zoning)	Katherine Woellner, Planning
William Diaz, Code Enforcement Manager	Aixa Cruz, Dev. Services Supervisor
Abby Henderson, Dev. Services Supervisor	Carol Lis, Principal Planner
Rebecca Sweigert, DCD Senior Manager	Dirk Danley, Jr., Principal Planner
Ohdet Kleinmann, Dev. Services Manager	
Paula Quezada, Code enforcement Specialist	
Pakorn Sutitarnnontr, DOT Project Manager	

CALL TO ORDER AND AFFIDAVIT:

Mr. Randal Mercer, Chairman, called the meeting to order at 2:00 p.m. The meeting was held in the Community Development/Public Works Building, 1500 Monroe Street, Fort Myers, Florida, Conference Room 1B. Mr. Mercer stated we have a quorum and asked Mr. Joe Adams, Assistant County Attorney, if we had a legal meeting.

Mr. Joe Adams, County Attorney's Office, confirmed the Affidavit of Posting was legally sufficient as to form and content and the meeting could proceed.

Announcement by Randal Mercer, Chairman: Committee Member Michael Reitman has submitted his resignation after serving on this committee for over 30 years. Letter has been submitted to the Commissioners so Commission Sandelli can fill the position for District 3.

APPROVAL OF MINUTES – May 8, 2024

Mr. Mercer asked if anyone had any comments or changes to the Minutes from the May 8, 2024, meeting. There were none. He asked if there was a motion to approve.

Mr. Knight made a motion to approve the May 8, 2024, minutes as written, Ms. Hayden seconded. The Chair called the motion and it passed 10-0.

AGENDA ITEM 3 – LAND DEVELOPMENT CODE AMENDMENTS

A. Development Services Amendments

1. Platting Code Changes (SB812)

Mr. Joe Adams, Assistant County Attorney, gave an overview of the Platting Code Changes (SB812). He stated that the Platting process is broken up into two steps being the preliminary plat application and approval and the final plat review and approval. The statute states that after receiving the preliminary approval the applicant can begin to pull building permits. The applicant can't get a certificate of occupancy until a final approval is received and recorded in the public records.

Mr. Barraco Jr. asked if the changes that are being made with SB812 to specify preliminary approval and final approval was not in currently chapter 177?

Mr. Adams stated That the senate bill defines these terms and incorporates them into chapter 177. The intent is that the definitions in the senate bill will mirror the definitions in chapter 177.

Mr. Keene asked, in order to get a preliminary approval, the assurance of completion needs to be accepted by the County?

Mr. Adams stated that the Surety, Infrastructure Assurance needs to be in place prior to approval.

Mr. Barraco Jr. asked about for clarification of the 110% amount of the surety bond?

Mrs. Kleinmann stated that 110% is the typical format that is used with surety bonds.

Mr. Mercer moved on to Sec.10-211 on Pg. 2-3.

Mr. Barraco Jr. asked for clarification on having a Certificate of Compliance issued for the modern sale centers, is this for certification something that needs to be done on phases for build the model sales centers?

Mr. Adams stated that the way the code was written before allowed you to pull building permits to build the model sales centers prior to plat approval. So, with this change the County wanted to make sure that you were still able to construct model homes prior to they were too far into the process.

Mr. Rodriguez suggested to Mr. Mercer, Chair to require a motion, second, and a vote to keep each item separate. Since there was so much being considered this afternoon.

Mr. Roeder made a motion to approve the information that was just reviewed in Chapter 10, Sec 10-1, Sc. 10-154, Sec. Sec. 10-211 and Sec. 10-212. The motion was

seconded by Mr. BeDeugd. The Chair called the motion and it passed 10-0.

2. Chapter 10 Deviations

a. Dumpster Size Reduction

Ohdet Kleinmann, Development Services Manager introduced the section about Solid Waste Disposal Facilities in Sec. 10-261. This item is clean up work to identify specific uses within mini warehouses. A note was added under the table so we can identify mini warehouses due to the amount of deviation requests that we receive to reduce Solid Waste requirements specifically for mini warehouses. They would like to only assess the square footage of the office rather than the entirety since majority of the Solid Waste is generated by the office. The cleanup work that was done on the table was just to separate multi-family developments with respect to the garbage collection separate from the recycles collection, initially that was one cell showing the total, but majority of multi-family uses come in requesting to use a compactor so separating these two will allow them to still provide the recyclable square footage needed.

Tim Keene asked about footnote number 1 under notes in the table and how you would calculate the garbage requirement?

Mrs. Kleinmann stated that it would be based off the office.

Mr. Keene noted that they don't all have offices.

Mr. Moore made a motion to approve the information as drafted. The motion was seconded by Mr. Keene. The Chair called the motion and it passed 10-0.

3. Minor Change Limitations

Ohdet Kleinmann, Development Services Manager stated that this section goes over the amount of Minor Changes that are allowed within a Development Order. Previously there were strong caps on whether you were a small development or a large development and within the code it already identifies what qualifies as a minor change verse an amendment depending on the amount of reviewers looking at the project. So, in this case we are allowing an unlimited number of Minor Changes depending on the number of reviewers that will be looking at the project.

Mr. Moore made a motion to approve the information as drafted. The motion was seconded by Ms. Hayden. The Chair called the motion and it passed 10-0.

4. Types of Development Entitled to Limited Review

Ohdet Kleinmann, Development Services Manager gave an overview of Sec. 10-17. Development Services has had quite a bit of Limited Development Orders particularly with sites that are vacant over a year and historically they would've been reviewed as a Type A but what they have come to find out is that they have majority of departments looking into those vacant sites and we would prefer them under a Type D so they would like to codify that those redevelopment properties come in under a Type D Limited

Development Order. The other change that is recommended is we are starting to see a lot more increase in square footage for improvements for things like sheds within common element projects so rather than 100 square feet they would like to bump it up to 200 square feet just to accommodate those larger structures that are now coming in.

Mr. Keene asks if the addition to the code is for applicants that are looking to tear down the building and building new?

Mrs. Kleinmann the change was not for tearing down. Majority of projects that come in are for existing gas stations that have been vacant for over a year and are wanting to be a gas station again. This is so they can come up to current standards. Complete demos would come in as a full Development Order.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Moore. The Chair called the motion and it passed 10-0.

5. Sidewalk Fee-In-Lieu/Absence of Need Reexamination

Adam Mendez, Zoning Planner, this item scope is limited to providing a clear direction for those who are required to develop pedestrian facilities in a state road Right of Way. The waiver process is very definitive and states that you must develop the facilities in the state road ROW.

Mr. Moore asked if they were looking to defer to a waiver at no objection from FDOT?

Mr. Mendez stated that was correct.

Mr. BeDeugd asked if FDOT would supersede the County and the City?

Mr. Mendez stated that FDOT has jurisdiction of what is allowed in the ROW so we can't require someone to put in a sidewalk if FDOT will not permit it.

Mr. Keene asked if FDOT will not permit a sidewalk will the applicant still have to pay a fee in lieu of.

Mr. Mendez stated that was correct.

Mr. Keene had a complaint about the fees in lieu and made suggestions to the Sidewalk Program and asked staff to make some future suggestions in this process.

Mr. Moore made a motion to approve with suggestions for the future. The motion was seconded by Mr. Keene. The Chair called the motion and it passed 10-0.

6. Street design and Construction Standard

Adam Mendez, Zoning Planner introduces this item. There were some references of

products no longer on the market. In table Sec. 10-296, table 3 minimum pavement design specifications there was also the absence of the general interchange future land use category when determining the specific design of the facility as it relates to future land use category. So, both items have been addressed as you can see Superpave type III has been removed in numerous places throughout the table. There has also been clarification on the last row under Shared Use/Path/Sidewalk/Cycle Track with a clarification, specifies asphaltic concrete option.

Mr. BeDeugd wanted to know why is it limited to asphalt?

Mr. Sutitarnnontr stated there are two options for the sidewalk construction. You can use six-inch cement concrete or asphalt. Asphalt is usually used for the shared use path.

Me. Keene explains that with this change they are eliminating the requirement of the compacted base beneath the six-inch concrete.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Barraco Jr. The Chair called the motion and it passed 10-0.

7. Bicycle Parking Design

Ohdet Kleinmann, Development Services Manager explained that the proposed changes in this section provide some relief with the design standards for bicycle rack rather than the U shape but to the S shape design which has typically come in for multiple developments to be utilized. This allows some relief to utilize this design regarding the setbacks, but we do want to make sure that we are utilizing the appropriate materials and appropriate mounting, and the bicycle racks are stabilized rather than free moving.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Knight. The Chair called the motion and it passed 10-0.

8. Access width Requirements for Fire Station

Ohdet Kleinmann, Development Services Manager this is regarding access requirements. What we have been seeing is the maximum width at the property line is set at 35 feet, but a lot of emergency service facilities tend to always exceed that range. So, we are clearly identifying maximum width rather than the radius to include the radius flare out. Essentially, Fire and EMS will be exempt from the 35 feet requirement to allow a maximum but not to exceed 80 feet.

Mr. Keene asked in current practice, when I have a driveway approaching a road at the ROW line the radius end up being halfway in the ROW and halfway out of the ROW and we used to have to measure where the radius intersected the ROW line, I won't have to do that anymore?

Mrs. Kleinmann stated that was correct.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Keene. The

Chair called the motion and it passed 10-0.

B. Code Enforcement Amendments

1. Unsafe Building Abatement Code

William Diaz, Code Enforcement Manager this section mirrors the Unsafe Building Abatement Code which was established in 1985 and has not been revised since. The only addition to this code is to allow staff to post a Notice of Violation on the property if the certified mail was not accepted by the property owner. This opens up another avenue to have communication with the property owner if their mailing address is not up to date with the property appraiser's office. This will confirm notice and staff can proceed with the unsafe building violation cases.

Mr. Knight made a motion to approve. The motion was seconded by Ms. Hayden. The Chair called the motion and it passed 10-0.

2. Penalties and Liens

William Diaz, Code Enforcement Manager, this is a striking and update to mirror the State Statute. The state statute reflects the daily fines for initial and up to \$1,000 a day on initial violations and repeat violations up to \$5,000 a day and for any irreputable or irreversible damage is up to \$15,000 a day.

Mr. Knight made a motion to approve. The motion was seconded by Ms. Hayden. The Chair called the motion and it passed 10-0.

3. Sea Turtle Conservation

Paula Quezada, Code Enforcement Specialist, this section is about Sea Turtle Conservation and the purpose of this update is to have it better reflect modern lighting technology and research and incorporate parts of the State of Florida's model lighting ordinance which was updated in 2020.

Ms. Hayden pointed out that there was a typo in the second sentence.

Ms. Hayden, on page 7 (B-2), How does this effect the road construction projects, are they exempt?

Ms. Quezada stated there is a section for emergency lighting, they would be exempt.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. BeDeugd. The Chair called the motion and it passed 10-0.

4. Beach and Dune Management

Paula Quezada, Code Enforcement Specialist, this section has changes to reflect the changes in the Sea Turtle section because there is reference within, and some examples were added for property owners. There were changes to the Dune Vegetation, it was

turned into a table to include the scientific names because common names sometimes refer to more than one species.

Ms. Hayden, on page 3 sec. 14-173(A) & (D-1), How would the average person know where the mean high water level line is? Equipment rules? How will these sections be regulated?

Ms. Quezada stated that the average vacationer would not know the rules for this section. is more targeted for commercial resorts and they are in contact with the sea turtle monitors every morning as they must strike through the tracks.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Knight. The Chair called the motion and it passed 10-0.

5. Invasive Exotics Table

Carol Lis, Principal Planner, this Sec. 10-420 we corrected some typographical errors and added a few additional species to the table. Also, clarification on page 2 regarding grasses in dry detention areas and that they should stay there, there have been many code violations regarding this section.

Mr. Keene made comment about grass cutting because nutrient removal is important.

Ms. Lis stated that what they are seeing is grass being cut down to dirt where it doesn't grow back.

Mr. Knight made a motion to approve. The motion was seconded by Mr. Moore. The Chair called the motion and it passed 10-0.

C. Clean-Up

1. HEX Powers and Duties

Adam Mendez, Zoning Planner, this section is to amendments to the Hearing Examiners authority under Sec. 34-145. A couple of years ago the Hearing Examiner was granted the authority to be the final decision maker in some of the rezoning cases and amendment to Planned Developments. The amendments presented now is that they are seeking to expand that authority. The Hearing Examiner was running into issue because of the term Intensity is too broad. The term Intensity has been stricken the term non-residential floor area is introduced which should capture all floor area that isn't residential in terms of an increase, and this was really the intent back in 2022. There are also some housekeeping items just to provide more clarification.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Barraco Jr. The Chair called the motion and it passed 10-0.

2. Right to Farm Act (Fish Farm Reversion)

Anthony Rodriguez, Zoning Manager, this item is a correction to the code to comply with

the states Right to Farm Act, about five years ago the section was amended to capture special exception requirements for the keeping or raising of marine life in storage containers of brackish or saline water. Prior to that amendment taking place the LDC only required a special exception if that use took place in a man-made closed system. Code was amended to require a special exception if this was done in ponds or some other methodology. Turns out that the amendment that was made was contravene the Right to Farm Act and invalidates the special exception requirements for that particular use because it is considered agricultural in nature. So, the code is being amended to remove the special exception requirement and allow that use by right in AG Districts.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Keene. The Chair called the motion and it passed 10-0.

3. Off-Street Parking Requirements for Residential Communities with a Golf Course

Anthony Rodriguez, Zoning Manager, this section is an amendment to parking requirements for residential communities especially in amenity areas where there is a golf course in a residential community which requires staff to apply a golf course parking standard for non-residential uses and require staff to calculate each individual use in an amenity area. So, they proposed is to add a footnote to that table that says if you have a golf course, and the golf course has a restaurant you have to park it a certain standard and everything else gets parked at 4 spaces per 1,000 square foot to reduce the parking requirement.

Mr. Keene asked if you have a large building and it has a restaurant, everything other than the restaurant would be calculated at the 4 spaces per 1,000 square feet and the area that is restaurant would be 12.5 per 1,000 square feet?

Mr. Rodriguez stated that was correct or six spaces per golf hole, whichever is greater.

Mr. BeDeugd made a motion to approve. The motion was seconded by Mr. Keene. The Chair called the motion and it passed 10-0.

4. Post-Disaster Ordinance Cross References

Anthony Rodriguez, Zoning Manager, this section is removal of a Cross Reference of the County's Post- Disaster Recovery Ordinance which was repealed by the Board of County Commissioners earlier this year by Ordinance 24-08.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Knight. The Chair called the motion and it passed 10-0.

5. Separation of Building Official/Floodplain Administrator Duties

Mr. Joe Adams, County Attorney's Office, this section, the way the code was written the Floodplain Administrator had to be the Building Official. Following the hurricane, we

identified that we needed to expand this role. So therefore, we are changing to code to make the Floodplain Administrator appointed by the County Manager.

Mr. Knight made a motion to approve. The motion was seconded by Ms. Hayden. The Chair called the motion and it passed 10-0.

6. Quorum Requirements for Board of Adjustments and Appeals

Mr. Joe Adams, County Attorney's Office, this has to do with the Board of Adjustment and Appeals. This section required a seven-person quorum, so the proposal is to reduce the quorum to a five-person quorum.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Knight. The Chair called the motion and it passed 10-0.

7. Street Names

Anthony Rodriguez, Zoning Manager, the LDC currently recognizes that street names are approved in writing by DCD and that is not how street names are assigned and practiced. This section is to amend that Public Safety and E911 Addressing are responsible for the assignment of the street names.

Ms. Hayden made a motion to approve. The motion was seconded by Mr. Barraco Jr. The Chair called the motion and it passed 10-0.

4. Adjournment

The next meeting is scheduled for Wednesday, September 11, 2024.

There was no further business.

Ms. Hayden made a motion to adjourn. The motion was seconded by Mr. Roeder. The Chair called the motion and it passed 10-0. The meeting adjourned at 3:00 p.m.