

MINUTES REPORT
LAND DEVELOPMENT CODE ADVISORY COMMITTEE
(LDCAC)
Friday, December 13, 2024
8:30 a.m.

Committee Members Present:

Jem Frantz	Jarod Prentice
Jay Johnson	Jennifer Saper
Randy Krise	Christopher Scott
Tom Lehnert	Amy Thibaut, Chair
Jack Morris	Patrick Vanasse

Excused / Absent:

Veronica Martin	Al Quattrone
Bill Prysi	

Lee County Government Staff Present:

Joe Adams, Asst, County Atty.	Anthony Rodriguez, Zoning Manager
Aixa Cruz, Dev. Services	Brian Roberts, Planning
Lindsay Hickey, DCD Admin.	Katie Woellner, Planning
Adam Mendez, Zoning	Beth Workman, Zoning
Janet Miller, DCD Admin.	

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 – ELECTION OF OFFICERS

It was announced that Paula McMichael, previous Chair, did not seek reappointment. Therefore, a nomination for an alternate member to serve as Chair would be required.

Chair

Mr. Krise made a motion to nominate Ms. Thibaut as Chair, seconded by Mr. Vanasse. The motion was called and passed 10-0.

Vice Chair

Mr. Vanasse made a motion to nominate Mr. Krise as Vice Chair, seconded by Mr. Johnson. The motion was called and passed 10-0.

AGENDA ITEM 2 - APPROVAL OF MINUTES – July 12, 2024

Mr. Scott made a motion to approve the July 12, 2024 minutes, seconded by Mr. Johnson. The motion was called and passed 10-0.

AGENDA ITEM 4 – LAND DEVELOPMENT CODE AMENDMENTS

Mr. Rodriguez stated there were nine items being brought before the Committee today. Various staff will be presenting the items and will be available to answer questions and to document committee concerns and comments. He referred to Item F and noted that it was originally listed as “*Street Design and Construction Standards,*” which was incorrect. Instead, the title is “*Planting Requirements in Airport Wildlife Hazard Protection Zones.*” This has been corrected in the packet, website, and other pertinent areas. Mr. Rodriguez requested that the items be addressed individually with a separate motion for each item.

A. Food Truck Parks

Ms. Katie Woellner provided an overview of this section.

Mr. Lehnert referred to Section 34-2020. – Required Parking on Page 4 of 6 and noted that in some instances staff states “*10 spaces per conveyance parking space,*” but in other areas staff refers to the conveyance pad. For consistency purposes, he suggested staff list it as “*10 spaces per conveyance pad.*”

Mr. Scott stated he was not in favor of the word “*conveyance.*”

Mr. Rodriguez stated that the word “*conveyance*” is a defined term. There is the mobile food vendor who is the person conducting the business and then the conveyance which is the point of service.

Mr. Morris asked how staff derived at the “*10 spaces per conveyance parking space.*”

Ms. Woellner stated that when looking at creating the parking standard, staff looked at existing food truck parks and what they were parked at as well as other food truck parks in the state. As a result of that review, staff came up with an average for that number. Staff was concerned with overburdening some of the food truck parks with parking, so they went with slightly less spaces for the multiple use development and the mixed-use overlay. Staff wanted to make sure that the parking requirement is context specific so more suburban areas would have more parking, and more urban areas would have less.

Mr. Morris asked what the ratio was for Backyard Social.

Ms. Woellner believed they had 13 or 14 spaces per food truck, but their parking was counted under a restaurant use.

Mr. Lehnert referred to Backyard Social, which his firm handled. They have conveyance pads around the pavilion area where patrons can sit. It has a bar and restaurant. He asked if that is addressed when calculating the parking or is it 6 conveyance pads at 60 spaces. Can someone have a 5,000 square foot seating area with a bar or is staff going to separate everything.

Ms. Woellner stated that if something is clearly accessory such as a food truck park having a stage in the area for entertainment or something else along those lines, the stage area for entertainment would be counted separately meaning there would need to be parking for both areas.

Mr. Lehnert felt it could overburden food truck parks if they have a 5,000 square foot area with a bar, seating, and band area and their parking is 13 per thousand plus 10 per conveyance pad.

Ms. Woellner stated the original intent would be to have a set number of parking spaces per conveyance pad. If something is clearly accessory, it would have to be parked at whatever that accessory use would require.

Mr. Lehnert felt this would be problematic for a 5,000 square foot restaurant that had to comply with 10 spaces per conveyance pad on top of this other requirement. He noted that food trucks are basically kitchens. When working on Backyard Social, they felt it was reasonable to have it treated as a restaurant in the multiple use and mixed-use areas. They get a reduction in parking. If he brought that same project in today with these new rules, it would mean 10 parking spaces per conveyance pad and potentially the bar could have to provide more parking if it is more than 50% of the area to where the project is not feasible due to all the parking.

Mr. Vanasse concurred with Mr. Lehnert that if parking is provided for the bar and restaurant, they should not have to provide parking for the truck as well.

Mr. Rodriguez stated the code requires projects to park accessory uses in accordance with whatever those accessory uses are and calculate those separately. Staff will have to look at that further to see how all of these factors fit together. He appreciated the Committee's comments.

Ms. Woellner stated the additional parking would only come in if there is a food truck park that also has a stage, event venue, bowling alley, or something else that is clearly accessory to the main purpose of these establishments which is to eat and hang out. As stated by Mr. Rodriguez, staff will look at this language further.

Mr. Scott asked if someone would be considered a Food Truck Park if they had two food trucks.

Mr. Rodriguez stated that the code currently regulates food trucks as a temporary use. He noted that approximately two years ago staff brought forth a set of amendments to this committee to establish some parameters by which a mobile food vendor could operate as a temporary use where they have a property owner's authorization to be at a specific site, conduct their business, pack up at the end of the day, and leave the site. He explained that what is being presented today is a different concept because it is intended to be a permanent facility. The issue staff is faced with is that there are many permanent facilities throughout the county that are operating illegally with no permits. It is becoming an increasing problem. Staff is trying to address it by providing some parameters by which those developments could occur either through a planned development zoning action or through a development order process if it is allowed in the underlying zoning district.

Mr. Scott asked for confirmation that it is not a question of number of trucks, but rather the permanency.

Mr. Rodriguez stated that was correct because there is no limitation currently on how many mobile food vendors operate as a temporary use on a particular site. This means that, theoretically, someone could have 6 food trucks show up to a site under a temporary use and then go home at the end of the day, which is allowed by today's code.

Mr. Vanasse stated there are currently instances where a food truck park has more pads than they have trucks on any given day because they do a rotation. They may sign up for 10 trucks but might only end up with 4 trucks. He felt this might be something staff should look into further because staff is viewing a place such as Backyard Social as a whole facility/venue and then they count the pads on top of that. He stated they should get a discount for the pads since they are not going to be used every day.

Ms. Frantz stated that the proposed amendments allow for reduced parking if the food truck park is within a ¼ mile of 100 residential units. It is a slightly different calculation than if you are in a multiple use or mixed-use development. She asked if it could be the same calculation as if the food truck park is in a walkable area regardless of whether it is residential or mixed use.

Ms. Woellner stated that is possible. If the food truck park is in an urban area with central utilities and also within a ¼ mile of at least 100 residential units, it can have reduced parking. For multiple use developments, they have 5 spaces per conveyance and the mixed-use overlay is 4 spaces per conveyance. Ms. Woellner stated she would have to look into it again to determine why there was a 1 space difference between the two.

Mr. Prentice suggested staff go with the lower number values or perhaps have a supplemental bike ride provision.

Ms. Woellner stated that was the intent. The idea is that people from the neighborhoods are going to walk or bike ride there.

Mr. Morris stated it would also be good to add a requirement that there be connectivity. This seems to be an issue in our area where neighborhoods are nearby but there is no connectivity.

Ms. Woellner stated she would look into that further.

Mr. Krise referred to the bottom of 5 of 6 where it says, “(b) *Generators. Generators are prohibited. Power sources must be provided on-site through permanent electrical outlets at each conveyance parking pad.*” He noted that with large facilities, such as Backyard Social, they should be allowed to have a generator for an emergency or regular power outages. He felt that prohibiting generators is not realistic or protecting the public.

Ms. Woellner stated she would add clarifying language to this section. It is supposed to be that generators are prohibited on each of the food trucks. The idea is that they would connect to a central electricity connection. Staff did not want there to be a generator on each truck while they are running.

Mr. Scott suggested saying something along the lines of “*generators as the primary power source for each mobile vendor.*”

Mr. Vanasse stated staff could also flip it around. Instead of prohibiting something they could say “*They shall be connected to central power.*”

Mr. Vanasse referred to (a) Purpose. on Page 5 and suggested rewording it because it will become outdated within a few years.

Mr. Lehnert referred to (b) under Sec. 34-3181 on Page 5 where it says, *“Zoning Application. Food Truck Parks that do not follow the requirements in this section must apply for a Planned Development to ensure appropriate compatibility, circulation, and safety. In instances where Food Truck Parks are allowed via a Special Exception, the development standards in this section apply, and additional conditions may be required to ensure compatibility.”* He noted that special exceptions are easier. He was not in favor of a development having to go through a planned development process because they cannot meet a couple of code provisions. He felt a special exception could be used in instances such as that. He asked if it could be a choice to go through a planned development or a special exception.

Ms. Woellner stated she was not opposed to that and would look into it further.

Mr. Lehnert referred to Sec. 34-3182. Requirements (a) 2. on Page 5 that reads, *“Permanent sanitary facilities meeting the water and sewer requirements of the Lee Plan and Florida Building Code.”* He asked why staff was referring back to the Lee Plan instead of Chapter 10 of the Land Development Code. He asked why staff would go back to the Lee Plan to talk about water and sewer.

Ms. Woellner stated the intent was to meet the thresholds that are in the Lee Plan. If they are in the Land Development Code, staff can refer to that instead. She was not opposed to it.

Mr. Lehnert asked what the thresholds were.

Ms. Woellner believed it was 5,000 gallons per day. If someone exceeds that, they will be required to connect to water and sewer.

Mr. Lehnert noted this is outlined in the Land Development Code. He stated there have been increasing comments in development order applications requiring that something comply with the Lee Plan. To him, this is going backwards because the Lee Plan is more of a broad-based document that deals with the bigger picture. The Land Development Code is supposed to be the implementation phase of it. If there is something in the Land Development Code that does not cover what staff is trying to refer to, it should be added to the Land Development Code in lieu of referring back to the Lee Plan since the Lee Plan is a broad governing document. He referred to Number 5 on Page 5 which states, *“Internal circulation for conveyances providing direct access from the right-of-way to the places where conveyances will park. In no instance shall a conveyance traverse a required buffer or landscaped area to access the area it parks to serve the public.”* Mr. Lehnert used Backyard Social as an example. There is a way to get trucks out of the Food Truck Park, but they do not go to the right-of-way. He believed the intent is that the county does not want people running over the buffer requirements in the right-of-way. Staff wants people to be able to get the vehicles out, and not be there permanently with no way to get out. However, he felt that clarifying language is needed because staff’s intent does not match how this section is currently written.

Ms. Woellner stated that the county has seen food truck park proposals come in for Informals where their site plan has them driving over landscaping and curbs. The intent for this item is to make sure that does not happen.

Mr. Lehnert referred to Number 6 on Page 5 and stated he was not clear on what is meant by *“decorative lighting.”* In addition, there is mention of spill over. The Land Development Code currently has a standard set for potential spill over on photometric plans. If someone has a food truck and they put up decorative lighting, do they need to amend their development order to show the new photometrics?

Ms. Woellner stated the intent is to address some food trucks that have a lot of extra lights that are placed around their food trucks. Staff wants to make sure it does not cause issues with neighbors or that it will not need additional mitigation or criteria for that. Someone would not have to amend their development order if they simply put up Christmas lights. The intent is that if there is an issue with the lighting on a food trucks lighting, there is a way to remedy the issue from a code enforcement standpoint.

Mr. Lehnert felt further clarification was needed because he did not feel this verbiage matched staff's intent. It seems as if someone would need to amend their development order and provide new photometrics.

Mr. Morris asked if there could be a way to write it that at the time of a project's development order there will be certain assumptions in place for lighting in the photometric section of the code with translation built into it.

Mr. Roberts stated that when staff discussed the site lighting, it dealt primarily with the site lighting and the stringing of multiple lights on the site, not the trucks themselves. Many times there are food truck parks that have multiple strings of lights on the site across the seating areas with multi-colors that are very bright and shine in different directions. Those will not be exempt from the lighting requirements. This is the intent of Number 6, not the conveyance itself.

Mr. Lehnert stated that if someone complies with the photometrics of their development order, he did not see why staff could not just leave it at that.

Mr. Roberts stated there are certain light wattages and lumens that would be exempt in 34-625 but would go over certain thresholds in some of these food truck parks. There are instances where these food truck park owners string lights around the boundaries but feel it is exempt because it is a certain wattage.

Mr. Mendez referred to Section 34-625 in the Land Development Code that reads, "*Low wattage holiday decorative lighting fixtures (comprised by incandescent bulbs of less than eight watts each or other lamps of output less than 100 lumens each) used for holiday decoration.*" Therefore, low wattage holiday decorative lighting fixtures would be exempt from outdoor lighting standards.

Mr. Lehnert stated his issue is that it specifically says "*decorative lighting must be included in the photometric plans.*"

Ms. Woellner stated that if a food truck park was operating every day of the year and had Christmas lights up year-round that are particularly bright, they would NOT be exempt because the lighting is not allowed to spill over to neighboring properties. That is the intent.

Mr. Lehnert asked why staff was singling out food trucks when this would apply to many other businesses as well.

Ms. Workman stated this is being vetted for the first time. Staff can look into it further.

Ms. Sopen stated it is the term "*decorative lights*" that is problematic.

Mr. Morris stated he agreed with Mr. Lehnert on this issue.

Mr. Lehnert stated that if someone does something against the rules, which results in complaints, they are subject to Code Enforcement like any other use in Lee County.

Staff agreed to look into this further and reword it.

Mr. Scott referred to Number 4 on Page 5, which reads, "*Common, roofed seating or dining facilities must account for a minimum of 30 percent of the total seats.*" He asked for more specifics on this item.

Ms. Woellner stated the intent is that a business might have some outdoor seating that is not covered. Staff understands that with the heat index in Florida, some sort of covered seating is ideal. 30 percent of the seating area on site needs to be roofed. The rest can be open such as picnic tables, etc.

Mr. Scott stated that the comma should be removed between the words "Common" and "roofed" because it seems like you have common seating and roofed seating.

Staff stated they would clarify the language.

Mr. Lehnert referred to Number 1 on Page 6 which states, "*Food truck parks must include a permanent waterproof structure capable of storing and securing any outdoor furniture and other accoutrements during a hurricane or extreme weather event.*" He asked how this would be calculated and felt it is problematic on both sides of the equation when something is open ended like this.

Ms. Woellner stated the intent is that if there is a hurricane or other weather event, there needs to be a place for a business to store their chairs, tables, etc. She explained that the reason for the vagueness is to prevent overburdening the developers with something defined. It is purposely open ended to allow for flexibility. The structure needs to be weather proofed and capable of storing items in it such as chairs and tables, etc. to ensure they do not become floating or wind-blown debris.

Mr. Prentice asked if it would need to meet building code standards.

Mr. Lehnert stated it would need to meet building code standards if it is a structure. He referred to Number 2. on Page 6 regarding the conveyance pads. He asked if the conveyances are a flood hazard since much of Lee County is a flood hazard area. To him, this says food trucks are not allowed in Lee County.

Ms. Thibaut asked if this was a FEMA issue because they are temporary structures. She also asked if this addresses conveyances generally or if it is a single conveyance. For instance, there may be 5 pads, but 7 trucks rotate through the park. Is it that each individual food truck cannot be there for more than 180 consecutive days?

Mr. Rodriguez stated that it says, "*Onsite for fewer than 180 consecutive dates; or,*" and then it goes into item b. He explained that if the food truck is licensed and ready for use, in that you can transport it off the site, then it is allowed, and the 180 consecutive days do not apply. The intent is to make sure that anything that will be permanent and retrofitted for a kitchen meets the building code including FEMA requirements.

Mr. Lehnert made a motion that staff make amendments to Group 4, Item A, based on today's conversation and bring this back to the LDCAC for further review, seconded by Mr. Prentice. The motion was called and passed 10-0.

B. Fences and Walls

Mr. Mendez provided an overview of this section.

The Committee had no questions/comments.

Mr. Krise made a motion to find Group 4, Item B, consistent with the Lee Plan, seconded by Mr. Lehnert. The motion was called and passed 10-0.

C. Pools, Pool Decks, and Screen Enclosures

Mr. Mendez provided an overview of this section.

The Committee had no questions/comments.

Mr. Lehnert made a motion to find Group 4, Item C, consistent with the Lee Plan, seconded by Ms. Sapen. The motion was called and passed 10-0.

D. Entrance Gates and Gatehouses

Mr. Rodriguez provided an overview of this section.

Mr. Lehnert made a motion to find Group 4, Item D, consistent with the Lee Plan, seconded by Mr. Scott. The motion was called and passed 10-0.

E. Density Calculations

Ms. Woellner provided an overview of this section.

Mr. Lehnert referred to (1) a. 3. on Page 2 where it states, "*Land area non-residential uses, including infrastructure needed to support the non-residential uses.*" Mr. Lehnert stated he was not clear on what is meant by "*infrastructure*" because infrastructure can mean lakes, water management, water, sewer, lift stations, berms, etc.

Ms. Woellner stated that was the intent of the language. It includes any infrastructure including lakes, water, berms, etc., but she stated staff would amend the language to clarify that.

Mr. Lehnert stated he was not accustomed to seeing something this broad when it comes to density calculations. He referred to number 4 on Page 2 where it states, "*Acres of any areas classified as freshwater wetlands, with clarification if they are to be preserved or impacted.*" He asked why saltwater does not have the same language.

Ms. Woellner stated that saltwater wetlands do not count towards density, only freshwater wetlands can count towards density.

Mr. Lehnert made a motion to find Group 4, Item E, consistent with the Lee Plan, seconded by Mr. Vanasse. The motion was called and passed 10-0.

F. Planting Requirements in Airport Wildlife Hazard Protection Zones

Ms. Workman provided an overview of this section.

Mr. Prentice referred to pages 3 and 4 and noted that staff is not requiring herbaceous plants even though they do not grow taller than waist high. Instead, they are requiring wetland trees that grow 80-120 feet tall. He asked how this coincides with the airport tree planting requirements where the growth cannot exceed a certain height requirement within this same zone.

Ms. Workman stated that the 10,000-foot hazardous wildlife zone is off the airport operations, so it is measured from the airport property line. She explained that many of the county's projects are within the industrial areas. Applicants provide red maple, cypress, etc. in lesser amounts; thereby not creating habitat. She noted the landing areas are far away from these areas because the airport has not built in their landing strip. Ms. Workman stated she only had one occurrence that happened at Page Field, which had nothing to do with littorals, where a plane went down close to Chicos because they clipped pines. As a result, staff had to change a buffer area to have lower plant material. Since 2009, the airport has been reviewing all deviations. Staff's solution was to swap with trees because there is a water quality issue on surface water management lakes. Because of this, staff looks at the type of trees and landing areas. The airport has a list of plants that are allowable within these areas. Staff and applicants have that list as well.

Mr. Prentice stated he has been precluded from using certain trees and particular wetland species because of this airport. He was not certain that disqualifying all herbaceous materials and only requiring wetland trees is necessarily the route to go.

Ms. Workman stated this comes directly from the airport. It is in the airport section of the code. The actual littoral plans are not in that section of the code, which is why this amendment is being brought forward. Staff is handling these projects on a case by case basis and they use the airport compatibility list of plant material to review projects within the 10,000-foot airport wildlife hazard protection zones.

Mr. Lehnert asked why staff was still doing littoral shelves when the goal is to get rid of bird attractions.

Ms. Workman stated the littoral shelves are there for the area to plant wetland trees. Staff is calculating at the 20-foot littoral shelf. A developer is not physically putting in a 20-foot littoral shelf. An area is needed for the wetland trees. A wetland tree is not allowed to be placed in a parking lot. Ms. Workman also noted that the FAA will not grant any funding unless the littorals are removed because they want to reduce bird strikes. A study was conducted and environmental staff had to rethink how they review these lakes within 10,000 feet of the airport wildlife hazard protection zone. At that time, a code did not exist. Instead, they had the "*Alternate Landscape Betterment Plan*" until staff could figure out how to deal with this issue. It involved many meetings with the airport staff. The amendments being proposed today are a result of those meetings with the airport. Since 2009-2010, there have been three deviations requested on planned developments. Staff has been reviewing them the same way every time and the airport reviews them as well. Staff uses the same conditions on each case, so it is time for there to be a code.

Mr. Prentice was in favor of it being codified. Ms. Sopen and Mr. Lehnert agreed.

Mr. Prentice asked that going forward staff consider not just requiring wetland trees but perhaps wetland shrubs or other material besides trees. Another possibility would be to indicate that an understory tree can be utilized instead of only a canopy tree. He felt that the more latitude allowed, the better the project will be.

Ms. Workman stated that beginning in 2009, staff allowed a shrub swap instead of trees, but it became problematic for the airport. This has been vetted with the airport and FAA.

Mr. Lehnert made a motion to find Group 4, Item F, consistent with the Lee Plan, seconded by Mr. Morris. The motion was called and passed 10-0.

G. General Provisions for Surface Water Management

Mr. Rodriguez provided an overview of this section.

The Committee had no questions/comments.

Mr. Krise made a motion to find Group 4, Item G, consistent with the Lee Plan, seconded by Mr. Lehnert. The motion was called and passed 10-0.

H. Required Street Access

Mr. Rodriguez provided an overview of this section.

The Committee had no questions/comments.

Mr. Lehnert made a motion to find Group 4, Item F, consistent with the Lee Plan, seconded by Mr. Morris. The motion was called and passed 10-0.

I. Development Order Review of Capital Improvement Projects

Mr. Roberts provided an overview of this section.

The Committee had no questions/comments.

Mr. Lehnert made a motion to find Group 4, Item F, consistent with the Lee Plan, seconded by Mr. Krise. The motion was called and passed 10-0.

AGENDA ITEM 5 – ADJOURNMENT/NEXT MEETING DATE

Mr. Rodriguez noted that although the agenda states the next meeting is February 14, 2025, that was decided before staff knew that Item A, Food Truck Parks, would need to be amended and brought back to this Committee. Staff wants to modify this section and bring it back to this Committee on January 10, 2025.

There was no further discussion. Ms. Thibaut adjourned the meeting at 9:32 a.m.