



**EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
COMMUNITY DEVELOPMENT/PUBLIC WORKS BUILDING
FIRST FLOOR CONFERENCE ROOM 1B
1500 MONROE STREET, FORT MYERS**

**WEDNESDAY, March 12, 2025
2:00 P.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Election of Officers
3. Approval of Minutes – December 11, 2024
4. Land Development Code Amendments
 - A. Historic District Parking Requirements
 - B. Amendments to County Flood Ordinance Definitions
5. Adjournment – Next Meeting Date: May 14, 2025

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

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

**Wednesday, December 11, 2024
2:00 p.m.**

Committee Members Present:

David Gallaher

Tracy Hayden, Vice-Chair

Tim Keene

Bob Knight

Randal Mercer, Chairman

Ian Moore

Mike Roeder

Excused / Absent:

Carl Barraco, Jr.

Annette Carrasquillo

Bill BeDeugd

Victor Dupont

Sam Hagan

Lee County Staff Present:

Joe Adams, Assistant County Attorney

Aixa Cruz, Dev. Services Supervisor

Sandy David, DCD Administration

Adam Mendez, Zoning

Janet Miller, DCD Administration

Cassandra O'Donnel, Facilities Mgt.

Brian Roberts, Planning

Anthony Rodriguez, Zoning Manager

Katie Woellner, Planning

Tatum Walker, Economic Development

Beth Workman, Zoning

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.

APPROVAL OF MINUTES – July 10, 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.

Ms. Hayden made a motion to approve the July 10, 2024, minutes as written. Mr. Moore seconded. The Chair called the motion, and it passed 7-0.

Mr. Mercer welcomed our newest member, Scott Edwards from Lennar Homes.

AGENDA ITEM 3 – LAND DEVELOPMENT CODE AMENDMENTS

Mr. Mercer turned the meeting over to Ms. Hayden since she was able to review the materials in more depth than he was able to do.

Mr. Rodriguez stated that there was a correction made to the Cover Memo for Item F on Page 2. It was originally listed as Street Design and Construction Standards, which was incorrect. It was corrected on the Community Development website. Mr. Rodriguez stated staff's preference was to review each item separately and to have a separate vote on each item.

A. Food Truck Parks

Ms. Woellner gave an overview of this section.

Ms. Hayden thanked staff for their red highlighted staff notes on each section and felt it was very helpful.

The Committee had no questions on this section.

Mr. Knight made a motion to find Group 4, Item A consistent with the Lee Plan, seconded by Mr. Moore. The motion was called and passed 7-0.

B. Fences and Walls

Mr. Mendez gave an overview of this section.

Mr. Moore asked if the discretion on grade applied to other areas besides Lehigh.

Mr. Mendez stated that section primarily refers to Lehigh, although he believed San Carlos Island had the same scenario with 3 to 1 slopes and 80 foot wide lots.

Mr. Moore made a motion to find Group 4, Item B consistent with the Lee Plan, seconded by Mr. Knight. The motion was called and passed 7-0.

C. Pools, Pool Decks, and Screen Enclosures

Mr. Mendez gave an overview of this section.

Mr. Moore referred to the 3 ½ foot above grade requirement. He asked if it should be tied more specifically to the base flood elevation because this tends to be a more standard tie.

Mr. Mendez clarified that this particular section is for areas that are not in special flood hazard areas. He referred the Committee to c.1. on Page 5 of 5 where it says, *"Facilities located in a special flood hazard area which are designed and constructed at or below the lowest minimum habitable floor elevation for which a building permit may be issued and may be located a minimum of 10 feet from an artificial body of water or seawalled natural body of water or 25 feet from a nonseawalled natural body of water."* He explained that

the intent is that the 3 ½ feet above grade does not apply to anyone in a special flood area. Applicants will be able to come up to the first habitable floor within the setback requirements that staff provided.

Mr. Moore made a motion to find Group 4, Item C consistent with the Lee Plan, seconded by Mr. Knight. The motion was called and passed 7-0.

D. Entrance Gates and Gatehouses

Mr. Rodriguez gave an overview of this section.

The Committee had no questions on this section.

Mr. Roeder made a motion to find Group 4, Item D consistent with the Lee Plan, seconded by Mr. Knight. The motion was called and passed 7-0.

E. Density

Ms. Woellner gave an overview of this section.

The Committee had no questions on this section.

Mr. Moore made a motion to find Group 4, Item E consistent with the Lee Plan, seconded by Mr. Knight. The motion was called and passed 7-0.

F. Airport Wildlife Hazard Protection Zone Requirements

Ms. Workman gave an overview of this section.

Ms. Hayden asked if the reason for this is to prevent littoral bird nests.

Ms. Workman stated that was correct. It builds habitats. The county wants to prevent bird strikes in the 10,000-foot airport wildlife hazard protection zone.

Mr. Moore made a motion to find Group 4, Item F consistent with the Lee Plan, seconded by Mr. Knight. The motion was called and passed 7-0.

G. General Provisions for Surface Water Management

Mr. Rodriguez gave an overview of this section.

The Committee had no questions on this section.

Mr. Moore made a motion to find Group 4, Item G consistent with the Lee Plan, seconded by Mr. Roeder. The motion was called and passed 7-0.

H. Required Street Access

Mr. Rodriguez gave an overview of this section.

Mr. Moore asked if there might be backlog issues with review times since these will be administratively going through the Director of Public Safety and the Director of the Department of Transportation.

Mr. Rodriguez stated it would not cause a backlog to review times because the public hearing zoning action will have already taken place before these items go to the two directors. He explained this is streamlining the process to cut down the review times.

Mr. Moore made a motion to find Group 4, Item H consistent with the Lee Plan, seconded by Mr. Knight. The motion was called and passed 7-0.

I. Public Projects Coordinator

Mr. Roberts gave an overview of this section.

The Committee had no questions on this section.

Mr. Knight made a motion to find Group 4, Item I consistent with the Lee Plan, seconded by Mr. Moore. The motion was called and passed 7-0.

Mr. Knight complimented staff on their streamlining efforts and noted that it saves a significant amount of money on the construction side. There is a perception that the government does not care, so it is nice to see that staff does care and that they are looking for ways to streamline.

Mr. Mercer concurred with an earlier comment by Ms. Hayden that staff notes and highlights are appreciated and help expedite the review of these amendments.

4. Adjournment

The next meeting is scheduled for Wednesday, January 10, 2025.

There was no further business.

Mr. Moore made a motion to adjourn. The motion was seconded by Mr. Knight. The Chair called the motion and it passed 7-0.

The meeting adjourned at 2:23 p.m.

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Executive Regulatory
Oversight Committee (EROC)

DATE: February 26, 2025

FROM: Anthony R. Rodriguez, AICP, CPM
Zoning Manager

RE: **Land Development Code (LDC) Amendments, Group 5**
*Historic District Parking Requirements and Amendments to County Flood Ordinance
Definitions*

The attached LDC amendments, scheduled for consideration at the March 12, 2025 meeting, propose changes to the LDC to apply Mixed Use Overlay parking reductions in the Boca Grande and Matlacha Historic Districts and update certain definitions in the County's Flood Ordinance to be consistent with Federal Emergency Management Agency (FEMA) Community Rating System (CRS) and Florida Department of Emergency Management (FDEM) guidance.

Staff seeks input and a recommendation on whether the proposed amendments should be adopted by the Board of County Commissioners (BoCC).

Background and Summary

On February 6, 2024, the BoCC authorized staff to begin work on drafting substantive and non-substantive ("clean-up") amendments to the LDC as part of the County's biennial Land Development Code Amendment Cycle. Substantive amendments are focused on eliminating redundancies within the LDC, codifying existing Department interpretations, addressing new uses, and lessening burdensome restrictions where appropriate. Non-substantive amendments will be focused on assuring consistency within the LDC, between the LDC and the Lee Plan, between the LDC and the Florida Building Code, and between the LDC and state and federal regulations. On February 4, 2025, the BoCC directed staff to draft amendments to the LDC to address parking requirements in the Boca Grande and Matlacha Historic Districts to support their physical and economic recovery after Hurricane Ian.

The attached amendments to the LDC are consistent with BoCC direction and are summarized as follows:

A. Historic District Parking Requirements

- The Issue: The Boca Grande and Matlacha Historic Districts are in coastal areas impacted by recent hurricanes. The historic nature, layout, and locations of these districts make rebuilding or redeveloping properties to meet current code requirements difficult or physically impossible on many properties.
- Proposed Solution and Intended Outcome: Revise the LDC to allow Mixed Use Overlay parking reductions within the Boca Grande and Matlacha Historic Districts. The historic nature and physical layout of these historic districts share several characteristics with properties within the Mixed Use Overlay including pedestrian friendly design, location

within future land use categories consistent with Mixed Use Overlay requirements, availability of public facilities, and a mix of commercial, residential, and other uses near one another. Applying Mixed Use Overlay parking reductions is intended to spur redevelopment by easing parking requirements in a manner consistent with the historic character of these communities.

B. Amendments to County Flood Ordinance Definitions

- The Issue: The existing language in the most recent amendment to the County's Flood Ordinance 22-30 (amending 15-09) regarding the 12-month repetitive loss "look back" is not a FEMA or Community Rating System (CRS) requirement. There currently is no CRS credit for this language in the County's ordinance.
- Proposed Solution and Intended Outcome: Amend existing definitions to remove the 12-month repetitive loss "look back" and clean up existing language to be more consistent with FEMA P-758 Substantial Improvement/Substantial Damage Desk Reference, Page 1-1, which aligns the LDC with FEMA requirements and guidance.

Attachments

EROC Ordinance Evaluation Guidelines
Draft LDC Amendments

EROC ORDINANCE EVALUATION GUIDELINES

Proposed Ordinance: Land Development Code (LDC) Amendments (Historic District Parking Requirements and Amendments to County Flood Ordinance Definitions)

1. **What is the public interest that the Ordinance is designed to protect?**
The proposed regulations are intended to ease development regulations with respect to parking in historic districts and revise existing definitions in the County flood ordinance in a manner consistent with FEMA guidance. These modifications will make redevelopment of properties impacted by natural disasters more feasible and bring the County's regulations into compliance with FEMA guidance.
2. **Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**
No. The LDC already regulates parking and flood protection, and the proposed modifications are intended to ease burdensome regulations where appropriate and align with FEMA guidance.
3. **Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**
In part, yes. Amendments to the flood ordinance are proposed to align County regulations with FEMA guidance. Amendments to existing parking regulations are not required by State or Federal law.
4. **Does the regulation duplicate State or Federal programs? If so, why?**
No.
5. **Does the regulation contain market-based incentives? If not, could that be used effectively?**
No.
6. **Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**
Yes. The proposed amendments to existing regulations are intended to ease regulations to spur redevelopment of historic properties that have been impacted by natural disasters and to bring County regulations into compliance with Federal guidance.
7. **Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**
No.
8. **Does the regulation impact vested rights?**
No.
9. **Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**

Yes. Existing processes for prompt and efficient relief mechanisms are established in the LDC and are not proposed to be modified. The proposed amendments will allow for additional opportunities for administrative relief where none currently exist.

10. Even though there is an interest to be protected, is it really worth another regulation?

Yes. The new regulations proposed are intended to streamline the redevelopment process and assure consistency between the County's regulations and federal guidance.

11. Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?

Not to staff's knowledge. However, it is worth noting that when researching potential modifications to parking requirements in historic districts, staff identified that the County's parking requirements are 20 to 30 percent higher than parking requirements in similarly situated barrier island communities elsewhere in the State of Florida.

12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?

There are no costs associated with enacting these regulations.

GROUP 5, ITEM A

HISTORIC DISTRICT PARKING REQUIREMENTS

Chapter 22- HISTORIC PRESERVATION

ARTICLE III. – DESIGNATION OF HISTORIC DISTRICTS AND RESOURCES

DIVISION 2. INCENTIVES

Sec. 22-174. Relief from zoning regulations.

Staff note: Add route for administrative relief from parking requirements in historic districts that allows a 20 percent reduction in parking spaces subject to availability of public parking and pedestrian accommodations within ¼ mile the property in question. This reduction is in addition to the Mixed Use Overlay reductions proposed by amendments to Section 34-2020.

The Department of Community Development director may, by written administrative decision, approve any relief request for designated historic resources or contributing properties to a designated historic district; for matters involving setbacks, lot width, depth, area requirements, land development regulations, height limitations, open space requirements, parking requirements, signs, docks, and other similar relief not related to a change in use of the property in question.

- (1) Before granting relief, the Director must find that:
 - a. The relief will be in harmony with the general appearance and character of the community.
 - b. The relief will not be injurious to the area involved or otherwise detrimental to the public health, safety, or welfare.
 - c. The proposed work is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent properties while affording the owner a reasonable use of ~~his~~ the land.
 - d. For parking reductions, the minimum number of required parking spaces is reduced by no more than 20 percent when there is existing public parking not dedicated to a specific public use or a commercial parking lot located within a 1,320-foot radius of the site's external sidewalk connection, and continuous pedestrian accommodations exist or will be required between the off-site parking and the primary entrance of the building or property in question.

Subsections (2) through (4) remain unchanged.

Chapter 34- ZONING

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 26. PARKING

Sec. 34-2020.-Required parking spaces.

Staff note: Revise section to allow Mixed Use Overlay parking reductions within the Boca Grande and Matlacha historic districts. The historic nature, layout, and locations of these districts make rebuilding or redeveloping properties to meet current code requirements difficult or physically impossible on many properties. In addition, the historic nature and physical layout of these historic districts share several characteristics with properties within the Mixed Use Overlay including pedestrian friendly design, location within future land use categories consistent with Mixed Use Overlay requirements, availability of public facilities, and a mix of commercial, residential, and other uses in close proximity to one another.

- (e) *Parking reduction within the Mixed-Use Overlay and Historic Districts.* The single-use development parking standard will be multiplied by the factors in Table 34-2020(c) to produce the minimum required off-street parking for properties within the Mixed-Use Overlay or Historic Districts within Boca Grande and Matlacha as described in HD90-05-01 and HD90-10-01. Off-street parking may be provided on the lot it serves or with available spaces within a lot described in Section 34-2015(1) within 1,320 feet of the primary entrance of the building it serves.

Table 34-2020(c). Parking Reductions Within the Mixed-Use Overlay and Historic Districts

	<i>Future Land Use Category</i>		
	<i>Intensive</i>	<i>Central Urban</i>	<i>Urban Community</i>
Residential uses (Section 34-2020(a))	0.40	0.50	0.60
Nonresidential uses (Section 34-2020(b)) <u>Note (1)</u>	0.50	0.55	0.60

Notes:

- (1) In Historic Districts where golf cart travel has been approved by Lee County, a maximum of 50 percent of the minimum required off-street parking for a use may be designated as golf cart spaces at a 1:1 parking space ratio by right, provided golf carts will be used as a means of travel to the proposed use and the use is accessed by a street.

GROUP 5, ITEM B

AMENDMENTS TO COUNTY FLOOD ORDINANCE DEFINITIONS

Chapter 22- BUILDINGS AND BUILDING REGULATIONS

ARTICLE IV. – FLOOD HAZARD REDUCTION

DIVISION 2. DEFINITIONS

Sec. 6-479. Definitions in general.

Staff note: The existing language in the most recent amendment to the County's Flood Ordinance 22-30 (amending 15-09) regarding the 12-month repetitive loss "look back" is not a FEMA or Community Rating System (CRS) requirement. There currently is no CRS credit for this language in the County's ordinance (the minimum standard for CRS credit is at least 5 years). Staff proposes removal of this language and clean-up of existing language to be more consistent with FEMA P-758 Substantial Improvement/Substantial Damage Desk Reference, Page 1-1. Removing the 12-month rep loss language will not impact the County's CRS score, CRS classification or FEMA standing.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration of a watercourse through Substantial damage remain unchanged.

Substantial Damage (SD) means damage of any origin sustained by a ~~building or~~ structure whereby the cost of restoring the ~~building or~~ structure to its before-damaged condition would equal or exceed 50 percent of the market value of the ~~building or~~ structure before the damage occurred. Work on structures that are determined to be substantially damaged is considered to be substantial improvement, regardless of the actual repair work performed.

Substantial Improvement (SI) means any combination of repair, reconstruction, rehabilitation, ~~alteration~~, addition, or other improvement of a ~~building or~~ structure ~~for all but repetitive loss properties as defined by FEMA~~, the cost of which equals or exceeds 50 percent of the market value of the ~~building or~~ structure before the improvement or repair is started ~~start of construction of the improvement or repair~~. ~~If a building or structure is identified as part of a repetitive loss property by FEMA, the costs of any repair, reconstruction, rehabilitation, addition or other improvement of a building or structure will be considered cumulatively over the prior 12-month period.~~ If the structure has incurred substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term "~~substantial damage~~" substantial improvement does not, however, include either:

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to ensure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Remainder of section unchanged.