



**LAND DEVELOPMENT CODE ADVISORY COMMITTEE
COMMUNITY DEVELOPMENT/PUBLIC WORKS BUILDING
1500 MONROE STREET, FORT MYERS**

First Floor Conference Room 1B

**FRIDAY, APRIL 12, 2013
8:00 A.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – MARCH 8, 2013
3. BCC directed LDC Amendment – Electronic Message Signs
4. Adjournment – Next Meeting Date: MAY 10, 2013



**MINUTES REPORT
LAND DEVELOPMENT CODE ADVISORY COMMITTEE
(LDCAC)
Friday, March 8, 2013
8:00 a.m.**

Committee Members Present:

Bill Prysi	Tom McLean
Richard Ibach	Jerry Murphy
Peter Kemezys	Matt Smith
Jay Johnson	Debi Pendlebury
Al Quattrone	Michael Ekblad

Excused Absences:

Liz Donley	Jerry Murphy
Patrick Vanasse	Jennifer Sapen

Lee County Government Staff Present:

Michael Jacob, Asst. County Attorney	Mikki Rozdolski, Sr. Planner, Zoning
Peter Eckenrode, Director, Develop. Svcs	Pam Houck, Director, Zoning
Carol Lis, Principal Planner, Environmental	Ben Dickson, Development Services Rep.
Rob Price, Development Services Rep.	Becky Sweigert, Principal Planner, Environmental
Donna Hock, DCD Admin Svcs., Recorder	

Consultants and Public Present:

Kim Williams, UPS	Mark Morig, UPS
Barbara Luikart, Attorney (UPS)	

Call to Order and Affidavit:

Mr. Bill Prysi called the meeting to order at 8:00 a.m. in the first floor conference room (1B), 1500 Monroe Street, Fort Myers, Florida.

Mr. Michael Jacob, Assistant County Attorney, reviewed the Affidavit of Posting and found it legally sufficient as to form and content.

APPROVAL OF MINUTES – FEBRUARY 8, 2013

Mr. Matt Smith made a motion to approve the February 8, 2013 minutes; seconded by Mr. Peter Kemezys. The motion was called and carried.

TEMPORARY MAIL DISTRIBUTION LDC AMENDMENT

Ms. Pam Houck stated this item was a privately initiated LDC amendment to which staff had no objection. Kim Williams, Human Resources Manager for UPS State of Florida, Mark Morig, Fort Myers Business Manager for UPS and Barbara Luikart, Attorney, Phelps Dunbar, LLP, were in attendance to present the amendment and answer any questions.

Ms. Luikart said the amendment (**Sec. 34-3049**) would be a new addition to the Temporary Use section of the code in order to provide for storage units (PODs, shipping containers) to be used in conjunction with parcel distribution in residential communities during the peak holiday period of November 1st through December 31st. As allowed by statute, parcels would be delivered by golf cart. Containers placed in common areas would require permissions from Homeowner or Condo associations; use of private residential properties would require approval of abutting properties. There is an economic benefit of providing this service – employment of seasonal workers, fuel savings and less wear and tear on roads. Another benefit is that golf carts are

less intrusive in the residential neighborhoods, with less emissions and less noise, and deliveries are made earlier in the day which makes the residents happy.

Mr. Williams said UPS has been providing this service within the state of Florida for the past four or five years and last year started expanding on a county by county basis, meeting with each to determine any compliance issues. Lee County regulations did not address this type of service therefore this temporary use amendment has been drafted to formalize the permit process.

Mr. Smith asked what neighborhoods would typically benefit from the service. Mr. Williams said the service has been provided in years past in The Landings, Gulf Harbour, The Shores, Bella Terra and Jamaica Bay. Briefly he explained that the POD or storage unit would typically be placed in a common area of a community, a golf cart would be locked inside and someone, generally a resident hired by UPS, would have a key. Each morning a UPS driver drops off 20 to 40 packages, the resident unlocks the POD, gets the golf cart and make the deliveries. The UPS driver stops back at the end of the day and picks up the delivery confirmation device.

Mr. Kemezys was concerned because according to subsection (g), a property owner, not the violator (in this case UPS) would be cited for a violation. Mr. Jacob explained that a Code Officer could use discretion on which to cite, but for tracking purposes would more likely cite the property owner since a future temporary use permit may not be issued for the property subject to the violation. Mr. Stewart confirmed that if there was a problem with the service, the likelihood was a permit would not be issued the next year.

Mr. Jerry Murphy asked about container markings. Mr. Williams said there are no markings, however, a copy of the permit identifying UPS would be attached to each container. The containers are placed as unobtrusively as possible. There will be no pick up at the location, no money transactions, no packages left overnight, and there will be no power to the unit. The golf carts are gas powered and refueling is handled by an outside vendor.

Mr. Smith made a motion to forward the amendment on for approval. Mr. Michael Ekblad seconded. The motion was called and carried unanimously.

FLOOD HAZARD REDUCTION LDC AMENDMENT

Mr. Bob Stewart, Building Official, said this was an amendment of the 2010 Florida Building Code, as adopted in 2012. Previously, each local government was responsible for adopting their own flood ordinance. In an effort to assist local jurisdictions, the State took the structural requirements from FEMA's model flood ordinance, incorporated them into the Building Code, then wrote a new model ordinance to work hand in hand with what they did. This amendment replaces the old language with new standard language. Although the new ordinance is lengthier, it will not cause anything to be done differently from what is being done now.

Mr. Kemezys asked if the language had been approved by other jurisdictions. Mr. Stewart said the language was going through the adoption process but FEMA has given its approval, therefore it would be unlikely that the language would not be approved.

Mr. Murphy made a motion to move the amendment forward. Seconded by Mr. Kemezys. The motion was called and carried unanimously.

LDC AMENDMENTS (REGULAR 2012-2013 CYCLE) PACKET #3

Ms. Mikki Rozdolski, Senior Planner, Zoning Department introduced the third and final packet of regular amendments for the 2012-2013 cycle. Development Services, Environmental and Zoning staff were present to answer any questions.

She highlighted some of the changes. Chapter 6 amendments were made at the request of the Building Department. Chapter 10 included amended language related to lake bank slopes, a reduction and clarification of LDO types and updated fire safety regulations. Chapter 12 updates provide consistency with Chapter 34. Chapter 30, changes are mainly housekeeping with an amendment related to entrance signs. Chapter 33, are housekeeping and changes to make consistent with other chapters. She reminded everyone that, as noted in an email on 2-28-13, **Sec. 33-1052 – 33-1055**, Coastal Rural Development Regulations (Pine Island) had been withdrawn and would not be moving forward. Chapter 34 amendments included several revisions to the application submittal requirements; added a provision for DRIs (a built-out determination); the number and type of administrative variances that will not require a public hearing has been expanded; and, revisions were made to the Use table. A section for seasonal farmers markets, a growing trend, was added.

Mr. Kemesyz asked about Temporary signs and the change allowing signs for 30 days rather than 15 days. Ms. Rozdolski said this was to provide consistency. The timeframe for Temporary Use Permits was changed recently from 15 days to 30 days, this allows the sign for the same time period.

At Mr. Murphy's request, the packet was reviewed page by page. Mr. Pysi asked that questions or comments be made accordingly.

Page 6

Mr. Murphy asked why **Sec. 2-440** was deleted. Mr. Jacob explained that the language was redundant; procedures for Special Magistrate proceedings are governed by Administrative Code and included there.

Page 7

Ms. Rozdolski confirmed Mr. Murphy's assumption concerning **Sec. 6-73**, that the intent was to eliminate separate boards and have just one Board of Adjustment and Appeals.

Page 8

Mr. Murphy questioned the deletion of **Sec. 10-3**. Ms. Rozdolski said the LDC contains numerous references to CRAs. The County no longer has established CRAs, so this was a housekeeping measure to delete the reference.

Sec. 6-117(g)(2). Mr. Ekblad asked why the size threshold for trellises had been added. Ms. Rozdolski said previous to this only height triggered the need for a permit, however, the Building Department requested this limitation to prevent excessive area.

Page 10

Mr. Murphy asked why "substantial" had been added as a modifier of compliance in **Sec. 10-123(a)(4)**. There was brief discussion. Mr. Jacob suggested staff review the language since the requirement is only that the project be *in compliance* with the Lee Plan. Ms. Houck said it was helpful with respect to master concept plans. Mr. Rob Price said when reviewing extension requests, especially for older DO's, it is important that a project be in substantial compliance with the major components. Mr. Murphy said this placed more burden on the County.

Page 11

Mr. Murphy questioned the rules for renewal or extension, **Sec. 10-123(d)(1)**. His concern was that a request may not be submitted sooner than six months prior to the expiration date, but may be requested after the expiration date almost indefinitely. Mr. Eckenrode explained the development order and concurrency certificate process. Mr. Murphy thought there should be a sunset provision.

Mr. Murphy suggested a wording change in **Sec. 10-151** to specify digital versus “electronic” submittals. He suggested specifying the type of file format that will be accepted as well.

Page 12

Mr. Murphy had a concern about Property Information **Sec. 10-153(3)2**, and using a strap number rather than a legal description. Ms. Rozdolski said a legal description is still required with the application but the requirement was redundant and not warranted here.

Page 14-15

Mr. Murphy pointed out that **Sec. 10-171** referenced the Director of Development *Services* and Director of Development *Review*. He suggested reviewing the document for consistency; staff agreed to review.

Mr. Murphy applauded the effort to streamline the development review process.

Page 20

Mr. Murphy said the wording changes makes the submittal a mandatory requirement (**Sec. 10-175**). He suggested deleting not only the word “shall” but also the word “which” throughout; also suggested a slight wording change for (2) from “A plan” to “A plan depicting”

Mr. Prysi suggested the addition of “Florida Registered” engineer within **Sec. 10-381**.

Page 28 & 29

Mr. Prysi suggested changing residence to “residential” in **Sec. 10-416 (a)(1)**. Mr. Prysi and Ms. Sweigert had a brief discussion concerning the landscape standards language. Ms. Sweigert said the amendment was necessary because of the small lot size in some developments which makes tree placement difficult; this was intended to allow a more general placement of trees and greater flexibility. Mr. Prysi understood the purpose but said the language needed to be more direct, more literal. Ms. Sweigert agreed to review.

Page 30

Mr. Prysi referred to **Sec. 10-419**, suggesting again that the intent should be made more direct. His suggestion was to delete the “including but not limited to” wording. Ms. Sweigert said that the reference to “existing developments” allowed more flexibility.

Mr. Prysi also wanted to encourage staff to drop the 100% native requirement on the landscape betterment plans because it hampers the ability to do something creative. There was a short discussion. Ms. Sweigert agreed to take a look at that.

Mr. Murphy questioned the two layers of Director’s discretion mentioned in the first and last sentences of that section (**Sec. 10-419**). He was not sure the first reference was necessary and suggested amending the second for the Director to approve “or deny” the proposed plan. Mr. Prysi said the discretion would come only if the plan was approvable.

Page 32

Mr. Murphy had a question about the drawing and Mr. Eckenrode confirmed that the drawing had been revised to make it consistent with the Code. Mr. Murphy said it was not clear what was being done, he suggested making the changes more evident.

Page 34

Mr. Kemezys asked about the additional language in **Sec. 12-119**. Ms. Sweigert said this was added to enable properties shown on Map 14 of the Lee Plan (where mines are allowed) to request a deviation for bank slopes. Mr. Murphy asked why the prohibition was being lifted and

a variance allowed. Mr. Eckenrode explained that a strict prohibition did not allow the County to help find a solution to lake bank erosion on a case by case basis. The intent was to find a way to protect slopes from eroding away and this was a way to help facilitate that.

Page 35

Mr. Murphy asked about **Sec. 12-121(b)(4)**. Staff advised that this language should have been removed before the packet was sent. Paragraph (4) has been deleted.

Page 37

Mr. Murphy asked about the change to the Coastal Rural Development Regulations. As previously stated, staff confirmed that **Sec. 33-1052 through 33-1055** had been withdrawn and would not be moving forward with this round of amendments.

Page 42-43

Mr. Murphy said it appeared that community review was no longer going to be required for LDO's. Staff confirmed that was correct, however, said the Director still has the discretion to send LDO's to the community prior to approval. There was a brief discussion. Mr. Murphy asked if the communities were aware of this change; he thought there might be community "push back" on this. Ms. Houck said communities were being made aware. Mr. Prysi thought compressing them may be helpful.

Page 46

Mr. Murphy commented on the fact that the purpose and intent language was being taken out of the code. He felt the County Attorney's office should prepare a memo as to why this change was being made.

Mr. Jacob stated policy and intent language serves no purpose in the code, it belongs in the ordinance that directs it.

Page 48

Mr. Kemezys asked about the meaning of "competent substantial evidence" in **Sec. 34-83(b)(4)a.1**. Mr. Jacob was not sure if the term was defined elsewhere but said it was a legal term.

Mr. Murphy asked about para (3). He said the strike through language, by its absence, appeared to allow the Board to attach conditions in conventional zoning. Mr. Jacob disagreed with that assessment but agreed to review his notes as to why the language was struck. Staff agreed this could be problematic and agreed to review that wording as well.

Page 55

Mr. Murphy asked for a wording change in the last sentence of **Sec. 34-202(a)(10)** from "as outlined" to "as provided".

(b)(1) a. Mr. Murphy noted that the Disclosure language had been struck through in Chapter 10 (pgs. 11 & 12) and he suggested doing the same here. However, Mr. Jacob explained that the intent was not the same. The disclosure requirement in Chapter 34 was different and the paragraph was correct as written.

Page 56

Mr. Murphy asked why paragraphs **(2)** and **(3)** were being deleted. Ms. Rozdolski said deed restrictions or covenants are not regulated by the County, therefore are not needed with the submittal. Ms. Houck said the structure affidavit would be handled at the time of D.O. and was not relevant here.

Page 87

Mr. Murphy commented that the County looked to be moving away from planned developments and back toward conventional zonings. He asked if there was going to be an effort to collapse the “15 or so” zoning categories. Staff confirmed that was the next big project. The plan was to look at all the zoning districts and get rid of the ones not being used to make things simpler.

Further to the conversation concerning the landscape standards, (pg. 30) **Sec. 10-419**, Mr. Jacob suggested the following alternate language based on comments:

“Landscape architects may demonstrate that the intent of this division can be more effectively accomplished through an alternate landscape betterment plan. Alternative creative designs are encouraged on sites that include, but are not limited to, in-fill developments, existing developments and irregularly shaped parcels...” and the rest would remain the same.

Ms. Sweigert recalled that she had made some revisions to that language before it was sent to EROC for review. Ms. Rozdolski offered to provide a copy of the language that had been included in the EROC packet.

Mr. Murphy made the motion to move the packet forward. Mr. Smith seconded. The motion carried unanimously.

Nomination and Election of Officers

Mr. Pysi suggested, and the committee agreed, that to avoid a mid-year election, Ms. Liz Donley should move into the position of Chair and Mr. Pysi would be the Vice Chair, her alternate. A regular election will be held at the end of the term, in October, hopefully with more committee members present. Mr. Murphy made the motion, Mr. Smith seconded and the committee voted its unanimous agreement.

Motion to adjourn. The meeting was adjourned at 9:10 a.m.

The next meeting was tentatively scheduled for April 12, 2013.

**LDC AMENDMENT
SEC 30-153**

Chapter 30 SIGNS

ARTICLE IV. RESTRICTIONS BASED ON LOCATION

DIVISION 2. ON-SITE SIGNS

Sec. 30-153. Permanent signs in commercial and industrial areas.

(1) Thru (5)a. 1 thru 3 remain unchanged

4. Along U.S. 41 between the intersection of Gladiolus Drive/Ben C. Pratt Six Mile Cypress Parkway and the intersection of Alico Road.

(5) b. – e. remain unchanged.

Locational Map

