



Lee County
Southwest Florida

LDC Amendments (Building Height and Resiliency)

Public Meeting #2

August 2, 2023



Summary of Stakeholder Discussion

- Principal areas of concern
 - Increase in building height on Captiva from 35'/42'/28' to 35'
 - Ambiguities in build-back provisions and policies
 - Land Development Code
 - Post-disaster Ordinance (Ordinance #07-20, codified in Ch. 13 ½-57)
 - Elimination of 3 DU/A restriction on hotel units for South Seas Resort and concerns for:
 - Impacts on the built environment
 - Impacts on demand for services and feasibility of future septic to sewer conversion efforts
 - Lack of connection to resiliency
 - Creates pressure within Captiva and Sanibel (e.g., traffic)
 - Exemption of South Seas Resort from Captiva-specific land development regulations
 - Allows increase in building height
 - Exempts hotel units from density calculation

Increase in Building Height

- Current Captiva regulations provide three alternatives for measuring building height
 - Choose least restrictive of:

Lesser of:

- 35 from average grade of lot to peak of roof
- 42 from mean sea level to peak of roof

OR

28 feet above the lowest horizontal member at or below BFE to mean level between eaves and ridge

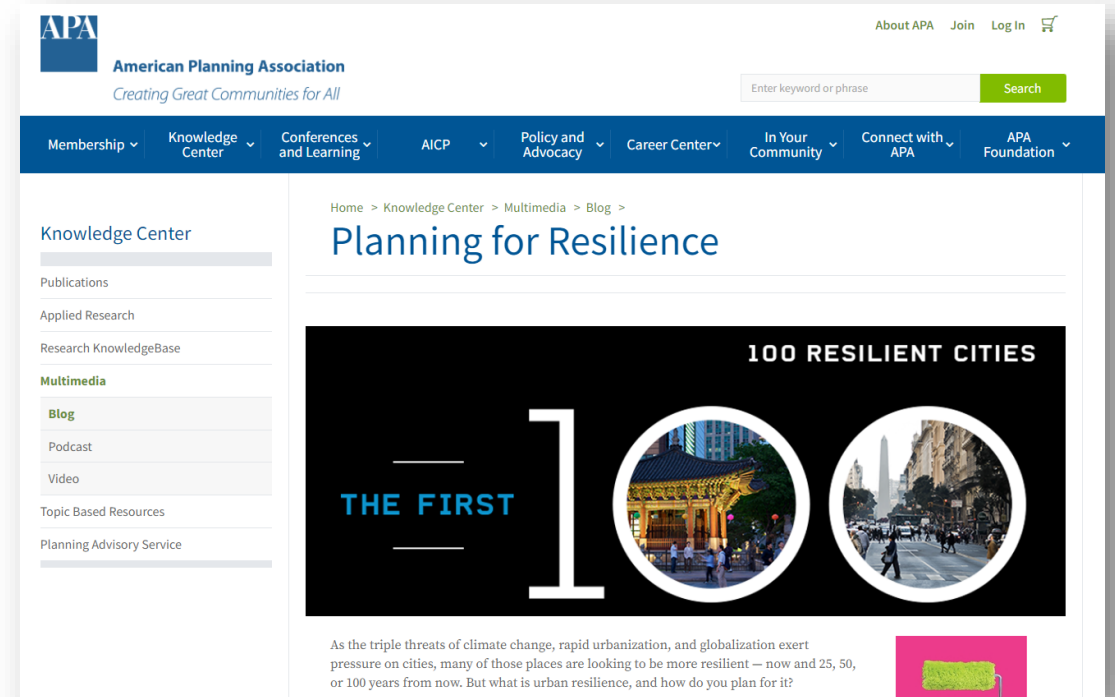
- Proposed regulations include one height (35 feet) measured in accordance with standardized method of measuring height proposed by amendments
 - Starting point: The lowest minimum habitable floor elevation for which a building permit may be issued.
 - Finishing Point: (1) the highest point of the roof surface of a flat roof; (2) the deck line of a mansard roof; or (3) the mean height level between the eaves and ridge of gable, hip, shed and gambrel roofs.

STAKEHOLDER POSITION: MAINTAIN 28-FOOT MAXIMUM HEIGHT ON CAPTIVA

Resiliency and Insurability

“Resilience is the capacity of individuals, communities, institutions, businesses, and systems within a city to survive, adapt, and grow no matter what kinds of chronic stresses and acute shocks they experience.”

American Planning Association,
Planning for Resilience



The screenshot shows the American Planning Association (APA) website. The header includes the APA logo, the tagline "Creating Great Communities for All", and navigation links for "About APA", "Join", "Log In", and a shopping cart icon. A search bar is located in the top right. The main navigation menu includes "Membership", "Knowledge Center", "Conferences and Learning", "AICP", "Policy and Advocacy", "Career Center", "In Your Community", "Connect with APA", and "APA Foundation". The left sidebar lists various resources under the "Knowledge Center" heading, including "Publications", "Applied Research", "Research KnowledgeBase", "Multimedia", "Blog", "Podcast", "Video", "Topic Based Resources", and "Planning Advisory Service". The main content area displays a breadcrumb trail: "Home > Knowledge Center > Multimedia > Blog >". The article title is "Planning for Resilience". Below the title is a large graphic with the text "100 RESILIENT CITIES" and "THE FIRST" next to a large number "100". The graphic features two circular images: one showing a traditional building and another showing a modern city street. Below the graphic, the text reads: "As the triple threats of climate change, rapid urbanization, and globalization exert pressure on cities, many of those places are looking to be more resilient — now and 25, 50, or 100 years from now. But what is urban resilience, and how do you plan for it?"

Build-Back Policy (Nonconforming Buildings and Structures)

Sec. 34-3241. - Nonconforming buildings and structures.

- b. Structures damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50 percent of the replacement cost of the structure may be reconstructed at, but not to exceed, the legally documented actual use, density and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style and type of their original construction, including their original square footage; provided, however, that the affected structure, as rebuilt or replaced, complies with all applicable federal and state regulations, local building and life safety regulations, and other local regulations that do not preclude reconstruction otherwise intended by the Lee Plan and Lee County Ordinance No. 07-20, as amended from time to time.

- B. County Build-Back Policy. Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds fifty percent (50%) may be reconstructed at (but not to exceed) the legally documented actual use, density, and intensity existing at the time of destruction, thereby allowing those structure to be rebuilt or replaced to the size, style, and type of their original construction, including original square footage; provided, however, that the affected structure, as rebuilt or replaced, complies with all federal and state regulations, local building and life safety regulations, and other local regulations, which do not preclude reconstruction otherwise intended by this policy.

From Ordinance 07-20

What are *Use, Density and Intensity*?

Sec. 34-2. - Definitions.

Use means any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Density means an existing or projected relationship between numbers of dwelling or housing units and land area. Refer to article VII, division 12, subdivision II, of this chapter, and article VII, [division 19](#), of this chapter.

Intensity means a measurement of the degree of customarily nonresidential uses based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation or floor area ratios.

Build-Back Policy (Nonconforming Buildings and Structures)

- Inconsistencies tied to:
 - Process
 - Establishment of Emergency Review Board
 - Difference in specificity between Post-Disaster Ordinance and LDC
 - Specific limitation on allowing building height to be exceeded

STAKEHOLDER POSITION: ALLOW RESTORATION OF USABLE SPACE THAT EXISTED BEFORE SUBSTANTIAL DAMAGE, EXCEEDING HEIGHT TO THE MINIMUM NECESSARY TO ASSURE RESILIENCY. CLARIFY BUILD-BACK POLICY.

In accordance with this policy, this ordinance provides:

1. Structures damaged up to and including fifty percent (50%) may be rebuilt to their original conditions, with repair work subject to current building and life safety codes, except that structures damaged by flood waters in a disaster by more than twenty-five percent (25%) which have recorded one or more national flood insurance losses of one thousand dollars (\$1,000.00) or more since 1978, must be brought into compliance with current regulatory standards for new construction.
2. Structures damaged more than fifty percent (50%) may be rebuilt to their original square footage and density, provided they comply with:
 - a. federal requirements for evaluation above the 100-year flood level;
 - b. building code requirements for floodproofing;
 - c. repair work meets current building and life safety codes;
 - d. Coastal Construction Control Lines regulations (if applicable);
 - e. disability access regulations; and
 - f. any required zoning and other development regulations (other than density or intensity), unless compliance with those regulations would preclude reconstruction otherwise intended by the build-back policy as may be determined by the Emergency Review Board set forth below.

Density – Residential vs. Hotel

- Hotels specifically defined in LDC (Section 34-1801)
 - 10 or more sleeping rooms under singular control
 - Accommodating transient guests/tenants
 - Registered as bona fide hotel/motel operation with State of Florida
 - Subject to tourist development tax
- Includes density equivalents for hotels less than 200 rooms (conventional zoning)
- 200 rooms or more must be developed as a planned development
- Treated as commercial intensity by Lee Plan

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Dwelling unit means a room or rooms connected together, which could constitute a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units that may be in the same structure, and containing sleeping and sanitary facilities and one kitchen. The term "dwelling unit" does not include rooms in hotels, motels or institutional facilities. See *Housing unit* and *Living unit*.

STAKEHOLDER POSITION: HOTELS, INCLUDING SOUTH SEAS RESORT, SHOULD CONTINUE TO BE SUBJECT TO A THREE UNIT PER ACRE LIMITATION ON CAPTIVA

The Rezoning Process and Considerations

- Public hearing process governed by Land Development Code and Administrative Codes
- Requires specific data and analysis to support a request
- Requires specific findings related to:
 - Lee Plan and LDC Compliance
 - Compatibility with existing and planned uses
 - Sufficiency of access and impacts on transportation facilities
 - No adverse impacts to environmentally critical/sensitive areas or natural resources
 - Provision of public services (e.g., utilities, fire, EMS)
 - Appropriateness of mix of uses at proposed location
- Allows conditions to safeguard public interest and public safety
- Allows deviations from LDC

STAKEHOLDER POSITION: FUTURE ZONING AND DEVELOPMENT ACTIONS WITHIN SOUTH SEAS SHOULD BE SUBJECT TO CAPTIVA-SPECIFIC PROVISIONS OF THE LAND DEVELOPMENT CODE

Next Steps

Public Information Session #3

Wednesday, August 9, 2023 from 5:30 p.m. to 7:30 p.m.
Lee County Public Works Building
1500 Monroe Street, Fort Myers, FL 33901

BoCC Workshop

Tuesday, August 29, 2023 at 1:30 p.m.
Lee County Administration East Building, Room 118
2201 Second Street, Fort Myers, FL 33901

Continued Public Hearing (Ordinance)

Tuesday, September 5, 2023 at 9:30 a.m.
Board Chambers, Old Lee County Courthouse
2120 Main Street, Fort Myers, FL 33901

Public Hearing (CPA)

Wednesday, September 6, 2023 at 9:30 a.m.
Board Chambers, Old Lee County Courthouse
2120 Main Street, Fort Myers, FL 33901