

GROUP 3, ITEM A.5
SIDEWALK FEE-IN-LIEU/ABSENCE OF NEED REEXAMINATION

AMENDMENT SUMMARY

- Issue: The LDC states developer must construct bicycle and/or pedestrian facilities on State roads within the boundaries of the State Road right-of-way, subject to FDOT approval. However, the LDC does not specify a waiver process in the event FDOT cannot approve the facility or a facility is already planned. Additionally, Lee Plan Map References in section 10-1 and section 10-256, subsection (a) require updates.
- Solution: Amend language to reference waiver mechanism established in subsection (5) and accurately reference Lee Plan Maps.
- Outcome: Ability to seek waiver for pedestrian facilities within FDOT jurisdiction when an absence of need and/or duplicate facility is planned by FDOT and the applicable Lee Plan Maps are accurately referenced.

Chapter 10 - DEVELOPMENT STANDARDS

ARTICLE I. – IN GENERAL

Sec. 10-1. Definitions and rules of construction.

Absence of need means where it can be reasonably determined that:

- (1) The facility is not likely to connect to an existing or planned facility, scheduled for construction in a five-year transportation work program;
- (2) Is not identified on the Lee Plan Map 3-A (~~Financially Feasible Highway Plan~~ Cost Feasible Roadway Projects), 3-C (~~Financially Feasible Transit Network~~ 2045 Financially Feasible Transit Network) or 3-D (~~Unincorporated Bikeways/Walkways Facilities Plan~~ Lee County Walkways & Bikeways); and
- (3) The roadway frontage is more than 60 percent developed, without facilities and the remainder of the undeveloped land will not provide a continuous facility at the time of build out.

ARTICLE III. –DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. – GENERALLY

Sec. 10-256. Bikeways and pedestrian ways.

- (a) *Required for development and redevelopment in urban and suburban areas.* All development and redevelopment proposed within future urban areas or future suburban areas, as defined by the Lee Plan, or along trails depicted on the Greenways Master Plan (Lee Plan Map ~~4-E22~~), or along walkways and bikeways depicted on the County Walkways and Bikeways Map (Lee Plan Map ~~3-D 3D~~) are required to provide for bikeways and pedestrian ways.
- (b) *Requirements for bikeways and pedestrian ways.*

No changes to subsection (1)

 - (2) *Location.*

- a. All new development and redevelopment must construct the required bikeway and pedestrian facilities in the abutting road right-of-way, or alternate on-site location may be approved in accordance with Subsection (b)(2)d of this section.
- b. The developer must coordinate with the FDOT for ~~construct~~ construction of bicycle and/or pedestrian facilities required in subsections 10-256(a) and (b) on State roads within the boundaries of the State road right-of-way that is subject to approval and issuance of a general use permit by FDOT. Facilities may not be constructed in easements abutting the State roadway unless approved by FDOT prior to local development order approval. A copy of the written FDOT approval must be submitted to the County. A waiver from required facilities in the State road right-of-way may be requested in accordance with subsection (5) with a copy of written confirmation from the FDOT.

Remainder of subsection remains unchanged. Subsections (3) and (4) remain unchanged.

No changes proposed to subsection (5). Subsection included for context.

(5) *Waiver (fee-in-lieu).*

- a. Notwithstanding the provisions of Subsections (a) and (b) of this section, a bikeway and pedestrian way will not be required where the Development Services Director, along with a recommendation from the Director of the Department of Transportation, determines that:
 - 1. Construction of the bikeway or pedestrian way would be contrary to public safety; or
 - 2. There is an absence of need as defined in Section 10-1-; or
 - 3. A waiver from the required facilities in a state road right-of-way is provided in writing from FDOT.
- b. As a condition of granting the waiver, the applicant is required to make a fee-in-lieu contribution equal to the estimated cost of constructing the improvement. The cost estimate must include: design; mobilization, clearing, and grubbing; embankment; drainage, including inlets, grates, headwalls, pipes and mitered ends; sidewalk and grading; bridge, gravity wall and handrail; and finish items, including sod, and miscellaneous driveway work where applicable. The amount of the fee must be paid prior to the issuance of a development order.
- c. For projects adjacent to a County facility with an active construction bid, the actual bid price will be accepted. The fee is to be calculated using the line items from the bid tabulation submitted by the contractor building the project.
- d. The fee-in-lieu will be deposited in a CIP subfund, County-wide bicycle and pedestrian facilities, created for expenditure on a bicycle or pedestrian facility within the same road impact fee district as the proposed development.