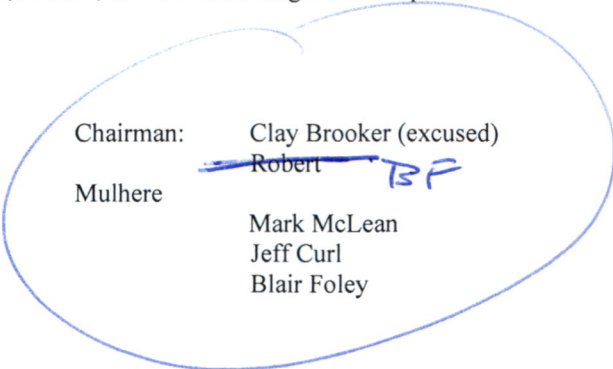


July 27, 2022

MINUTES OF THE COLLIER COUNTY  
DEVELOPMENT SERVICES ADVISORY COMMITTEE  
LAND DEVELOPMENT REVIEW SUBCOMMITTEE MEETING

Naples, Florida, July 27, 2022

LET IT BE REMEMBERED, the Collier County Development Services Advisory Committee-LDR Subcommittee, in and for the County of Collier, having conducted business herein, met on this date at 3:00 P.M. in REGULAR SESSION at the Collier County Growth Management Department Building, Conference Room #609/610, 2800 N. Horseshoe Drive, Naples, Florida, with the following members present:



Chairman: Clay Brooker (excused)  
~~Robert~~ BF  
Mulhere  
Mark McLean  
Jeff Curl  
Blair Foley

ALSO PRESENT: Richard Henderlong, Principal Planner  
Eric Johnson, LDC Planning Manager  
Sean Kingston, Senior Planner

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*Any persons in need of the verbatim record of the meeting may request a copy of the audio recording from the Collier County Growth Management Department.*

**1. Call to Order - Chairman**

**Mr. Johnson** said the subcommittee must decide who will be the acting chairman today. **Acting Chairman Foley** said they already chose him. He called the special meeting to order at 1 p.m. A quorum consisting of four members was convened.

**2. Approval of Agenda**

**Acting Chairman Foley** suggested they modify the agenda and move New Business, which is No. 4, ahead of Old Business, which is No. 3.

*Mr. Mulhere made a motion to approve the agenda, as amended. Second by Mr. Curl. The motion was carried unanimously, 4-0.*

**3. Old Business**

**a. Discussion of the Tree Removal Process for More than 10 Trees**

**Mr. Henderlong** said this is a discussion item that was remanded to DSAC-LDR to discuss and make a recommendation on whether there should be an LDC amendment or any change. Staff prepared this to give you the problem statement on page 1 and then to go through questions for your consideration. Actions to be considered are on page 4. Cormac Giblin, from the Development Review section, is here to answer questions and let you know what staff's position is. Mark Templeton indicated that you can do it one of two ways. You can go with a stipulation for making the changes longer than three years. That was the problem we understood. A memorandum was issued in 2008 for two to three years to complete the installation of trees. That's on page 4, 7A.

**Mr. Curl** said he's glad he found the memorandum because he and Blair thought there was no expiration to an SDPI.

**Mr. Henderlong** said when that came to Mark's attention, he said staff could do a stipulation or they could add a checkbox in the SDPI application to address the time period, which is really what he's looking at, 7.c.

**Acting Chairman Foley** said he appreciates all the background. We looked at the numbers to understand why it was happening, so this is helpful.

**Mr. Henderlong** said it's now up for their deliberation.

**Acting Chairman Foley** asked if they wanted to request an amendment to the Land Development Code or go with one of these suggestions on the page. Any discussion?

**Mr. Curl** said he's in favor of the stipulations. But the numbers of applications that they showed, throw those away because it's happening more and more every day. Pretty soon this is going to become more common. The only thing he would add is that an SDPI typically doesn't have a close-out of a permit. For trees, he typically doesn't do a certificate of compliance that would have an inspection to close it out. He doesn't see that working with this process. He does see Code Enforcement involvement going

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with this process. Maybe just write a letter to say you're in compliance, and Code Enforcement can come in to say they agree and it's gone. That would avoid the permitting dilemma.

**Acting Chairman Foley** said it also could be part of the stipulation work. When staff says two trees, it would give you a six-month or a nine-month period to put them in, and also a letter from the engineer or landscape architect of record to state that it's been completed.

**Mr. Mulhere** said there could be one extension, or something like that.

**Acting Chairman Foley** said that's a good idea, due to lack of material materials or whatever.

**Mr. Curl** said the worst-case scenario would be a major property where oak trees were planted between the sidewalk and the back of the curb. A great example is Saturnia Lakes. We did several hundred trees there. It was a lot of money because they also were repairing curbing and stormwater that also wasn't in compliance. So very quickly, we're not just talking about trees, this ballooned into a major construction project. Quite frankly, he likes prior to 2008.

**Mr. Mulhere** said B is the most appropriate because, as you were indicating, one change could be very different from another one. When he did one on a Livingston Road development, where oak trees were tearing up all the sidewalks, he had to go in and they had a Street Tree Plan that he had to amend the PUD. They were able to take them out and replace them. Mark worked with us on what type of trees would be appropriate and they had to come in and amend their landscape plan. That was probably on a plat because it was mostly single family.

The problem with B is that there could be a situation where somebody is unreasonable and doesn't necessarily agree with staff and can't come to an agreement on when it should be done. That's the most appropriate. If not, provide a standard stipulation on an SDPI addressing the time period. You also need an escape clause, an exception, so you're able to extend that.

**Mr. Curl** said to me, the time period is out the window. (Bill) Lorenz already weighed in with the 2008 memo and gave three years. It's more about what you're talking about with B. Stipulations could be open-ended because that could address the inspection, which would tie to a time period. The timing of removal with immediate replacement. That's the other thing we're looking at, the worst-case scenario. All the trees were removed, but they know they have three years to put them back in. That's where the focus should be. If they take them out, they need to put them right back in.

**Mr. Mulhere** agreed. So as part of the insubstantial change process, make a checkbox to indicate changes to the landscape plan. He doesn't understand the process.

**Mr. Giblin** said you can't do an ICP to an SDP.  
*A discussion ensued.*

**Mr. Giblin** said you would do an SDPI and that 2008 memo says there was a time frame on those. Back then, it was two years. The LDC now says it's three years, so we might need that memo to be restated by the current plan director to bring it in sync with today's LDC. But the process should be the same whether it's ICP or SDPI, group processes.

**Mr. Mulhere** agreed.

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**Acting Chairman Foley** said he liked that.

**Mr. Mulhere** said our recommendation would be to formally recognize the process to change either in SDP or an SDPI for replacing existing landscape trees and to identify it – an up to three-year process to accomplish that. Correct nuances that neither the 2008 memo nor the LDC have a time frame on ICPs. This should establish that.

*A discussion ensued and the following points were made:*

- The landscape component is usually only a small portion of the work.
- Utilities may or may not be part of the work.
- There could be a simple valley gutter replacement and an engineer wouldn't be involved in that because you haven't changed the grade, just connecting point A to point B.
- If there's a stump, grind it down flat.
- Make it simple.

**Mr. Johnson** asked if a, b, c, or d embodied where they wanted to go with this.

**Mr. Mulhere** said they'd decided on A.

**Mr. Giblin** said A, and they have it do it for both an SDPI or ICP and establish today's time frames.

**Mr. Johnson** said it's a discussion item, but he recommended they make a motion to DSAC to make a recommendation to staff.

**Mr. Henderlong** said they needed to recommend not moving forward with an LDC amendment.

**Mr. Mulhere** made a motion to recommend that DSAC consider option A, which may require revisions to the 2008 memo and establishment of ICPs.

**Mr. Johnson** clarified that they'd agreed not to move forward with an ICP amendment.

**Mr. Mulhere** said that was correct.

**Mr. Curl** said he'd second that, but they needed to address the timing so they had an overall process of three years. For the drill down process, he wouldn't want to see three years. In other words, they remove them. They have three years to put it back or just less than three.

**Mr. Mulhere** said staff could address that.

**Acting Chairman Foley** asked if they'd submit something as part of the application, saying you estimate you could replace the trees within a year, six months. How would that work?

**Mr. Curl** said Mark Templeton said it's 60 days. They take it down and they have to put the trees back within 60 days. Expand that into these processes.

*A discussion ensued and the following points were made:*

- What if they can't get materials in time?

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- You can't clearcut an area and leave it barren for three years.
- The overall process should be three years, not two.
- Staff could make a decision on the time period; that should be part of the recommendation.
- We're not going to do a stipulation for the time period, but use the memo.
- Rewrite the memo to say the maximum time period is three years, from tree removal to replacement.
- There is no time period for an ICP.
- The time period to replace trees could be shortened.
- Ask staff to work with Mark Templeton to develop appropriate language to specify a reasonable time frame for replacement of trees.
- In the case of replacement of trees or landscaping, the applicant and the County may agree to a shorter time frame.

*Mr. Mulhere made a motion to revise the 2008 memo to reflect that the ICP is also included; that the time frame is three years; and that the applicant and the County, in the case of landscape replacement, landscape material plantings replacement and related improvements, should establish a time frame that is the most expeditious, and less than three years. Acting Chairman Foley seconded it. The motion passed unanimously, 4-0.*

**b. Discussion of Automobile Parking for Single-Family Dwelling Units**

Acting Chairman Foley said they had one more item and there is someone in the audience for this item.

Mr. Johnson said we have two minutes before we have to end at 5 p.m.

Mr. Henderlong said this is an item on residential parking issues, a reduction from the 40% requirement as it relates to *cul-de-sac* lots. This is a request from CBIA. It says that 40% of the front yard has to be reserved for pervious areas. What's happening is there was no recommendation as to what the relief should be. In your documents, we identified all the buildings and locations where people are going ahead in the high-end district. It's really a problem in Vanderbilt Beach and Connors Beach *cul-de-sac* lots, the bigger lots, and people oversizing and building their homes at a higher level. They can go with the Type 1 or Type 2 stormwater plan. They're going to the Type 2, where they come up with more of the engineering aspects, but they still have to maintain at least some kind of pervious area.

Mr. McLean said he's got one of these going on in a Pine Ridge lot that's a pie-shaped lot and it's almost impossible to get down to that 40% for a driveway.

Mr. Mulhere said we're not going to be able to solve this today.

Mr. McLean said it's tough and needs to be resolved.

Mr. Henderlong said the other thing for your consideration is that in Pelican Bay, their design has a 55% rule, as opposed to 40%, and that's different.

Mr. McLean said the recommendation is that we reduce that 40% recommendation on a pie-shaped lot.

Mr. Mulhere said we won't be able to finish and decide this by 5 p.m. today. [Others agreed.] It should just go to the DSAC. He's sorry for the people who came for this today.

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**Mr. Henderlong** said they could continue it.

**Mr. Curl** said this is the second time they've tried to hear this.

**Mr. Henderlong** said they could put it on the August 3 DSAC agenda.

**Mr. McLean** said he'd make a motion to recommend that on the pie-shaped lots, we make a reduction on the front yard impervious requirement from 40% to 25% countywide.

**Mr. Curl** said the only reason he can't support that is how do you determine a pie-shaped lot?

**Mr. Mulhere** said he'd have to look at it.

*The motion failed and discussion ensued. The subcommittee agreed to continue it to the August 3 full DSAC meeting.*

*[Adjourned due to time constraints.]*

#### **4. New Business**

##### **a. PL20220004273 – Medical Marijuana Dispensaries**

[Heard before Item 3]

**Mr. Johnson** told the audience that the subcommittee will be following Robert's Rules of Order and their speaking time would be limited.

**Acting Chairman Foley** said it would be a good idea for the group to choose 3 or 4 representatives to speak on subject matter so it goes more smoothly. The public can speak once we're done.

**Mr. Henderlong** said staff has been tasked with this presentation to revisit this issue the subcommittee undertook in 2018 and he will go over their prior recommendations later in the presentation and the status of them within the current amendment.

On May 10, 2022, the BCC directed staff to advertise and bring back for their consideration this LDC amendment, which allows medical marijuana dispensaries to become a new permitted land-use in the same zoning districts where pharmacies are allowed. It has been updated to conform to the 2021 Florida Statute 381.986, Regulatory Framework for Medical Marijuana Dispensing Facilities. The zoning districts where pharmacies are currently allowed in the County include C-2, with the limitation of 1,800 square feet or less gross floor area; C-3, C-4 and C-5; Business Park, Research and Technological Park PUDs, certain overlay districts, in particular the Golden Gate Parkway Overlay District and Santa Barbara Commercial Overlay District and where the list of permitted uses includes Standard Industrial Classification (SIC) 5912, a drug store or pharmacy.

Staff also was directed by the BCC to evaluate police reports for dispensaries in Bonita Springs, particularly those along Bonita Beach Road. Staff met with Collier County Sheriff's Office Capt. Scott Forth of Homeland Security, who is here today, and Lt. Gary Gambino of the Vice and Narcotics Bureau, to coordinate a law enforcement-issued report that could identify issues such as trespassing, burglary, theft, robbery, diversion of products, outside parking and loitering, breach of security system

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(indoor or outdoor), and crime involving any violation of Florida Statute 381.986 Medical Marijuana Use, which could be associated with existing medical marijuana treatment center dispensaries.

The initial law enforcement report date is shown on page 12, Exhibit A of the LDC, which shows the number of dispensaries currently operating in Lee and Collier counties. As of May 6, 2022, there are 28, with 10 in Bonita Springs and one on Marco Island that just opened about a month ago. When we contacted law enforcement agencies, we received a report on the question of whether there was any increase in crime associated with existing marijuana dispensaries and this was the initial response.

Staff had a follow up to the initial report through emails with the Collier County Sheriff's Office, which provided assistance in contacting the Lee County Sheriff's Office. Lee County Sheriff's Office later provided in greater detail, the actual nature of calls for service and incidents, for the period from 2014 to July 6, 2022, originating from each of the Bonita Springs dispensary locations. Staff condensed and rearranged this information into a list by nature of call and number of incidents for each dispensary.

The Collier County Sheriff's Office also provided an incident report on seven qualified physicians certification locations where a qualified physician may issue a physician certification before the Florida Department of Health can issue a qualified patient Medical Marijuana Use Registry Identification Card. *[He provided a handout with the summaries of those reports.]*

You will hear later from Ms. Veora Little, who will speak during the public comments portion of this agenda. She made a public records request and obtained a similar report for eight dispensaries in the City of Cape Coral that provided the incidents and nature of those calls. Staff took that information and put it in summary form and will cover that during public comment.

The calls for service and incident reports do not fully evaluate or constitute a complete police report, which is what the BCC was looking for. A more in-depth look at each incident and every record we need to be conducted to determine if, in fact, there is a link to the specific dispensary business or merely an incident that occurred in the vicinity of the dispensary's address.

A July 13 email received from Lee County Sheriff's Sgt. Quinton states the following: *"Our agency does not collect data pertaining to crime rates specific to certain businesses or addresses."*

He noted, the Florida Statute stipulates that local governments may not enact an ordinance for determining the location of dispensing facilities that is more restrictive than its ordinance for determining pharmacy locations. However, the statute does stipulate that a medical marijuana dispensing facility shall not be located within 500 feet of a public or private elementary, middle, or secondary school. A more restricted distance restriction would be inconsistent with the County's location requirement for pharmacies.

Under the statute, a County that does not ban facilities may not place specific limits by ordinance on the number of dispensing facilities that may locate within the County.

During a previous review, four subcommittee suggestions on the Land Development Code were made on April 18, 2018. The first clarifies standards related to statutory law from standards recommended by local governments. After a review of other community codes, experiences, practices and interviews, it was appropriate to provide standards at the local level as an additional level of protection for the BCC.

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A summary list of those changes are clarified in Exhibit B. Security measures was one of the more comprehensive elements that was increased. We were asked by the subcommittee to address the type of lighting lenses, such as full cut-off or semi cut-off. On Page 10, line 20 shows full cut-off with flat lenses are required. No. 3 was to include a cross reference to the County sign code. On page 10, line 9, there's a cross reference to LDC Section 5.06.00 that deals with all the sign code requirements.

The fourth and last item discussed was a requirement that a transport delivery vehicle be parked in a garage or a fully enclosed structure and there was no consensus. This provision remains unchanged. It's an added security measure to deter potential crime activity during night-time deliveries. Are there any questions or do you want us to go page by page?

**Mr. Mulhere** had questions. He said, to summarize, the statute preempts local governments from prohibiting any greater restrictions on medical marijuana dispensaries than would be applied to a pharmacy or drug store. There was a reference that unless a county bans them, but this was directed by the BCC. Obviously, they have the option to ban them, but if they don't ban them, then we have ...

**Mr. Henderlong** said we have to treat them no differently than pharmacies.

**Acting Chairman Foley** said it may be helpful for us and the audience to give a little history about when this came before the BCC and what their decisions and directions have been because they just put it on hold initially. But Bob is right. The statute is clear that if they do not ban them, they cannot put additional restrictions on locations and the number. Perhaps you could go over the history.

**Mr. Henderlong** said it was vetted by the Board in May of 2018 after it went through the committees and the Planning Commission. The recommendation was to allow marijuana dispensaries, no differently than a pharmacy. The Board decided to take a vote to decide to not ban or to allow. They took a vote to not ban dispensaries. It was a 3-2 vote and Collier County requires a four-fifths vote, a supermajority vote. Under our Land Development Code, when a specific use is not allowed, it is deemed to be a prohibited use. As a result of the Board's action, it failed to allow medical marijuana dispensaries due to the lack of a supermajority. That technically means it's a prohibited use. The reason the BCC decided on May 10 to bring it back is because they wanted a full vetting on the issue to ban or allow the use.

**Mr. Mulhere** said it's important because it should be clear that the Board hasn't made a decision which way they're going to go. They failed due to a lack of a super-majority vote to amend the LDC. They are going to hear this again and it will go to the Planning Commission again. The first threshold is if they decide to allow medical marijuana dispensaries consistent with the significantly approved amendment to the Florida Constitution by citizenry of the State. If they decide to allow that, then this becomes an issue. If they don't, then throw it away.

**Mr. Henderlong** said that's correct. This time, the motion will be either to ban or to allow it. What's before you is their request to consider allowing it. The County Attorney's instructions were that staff is not to take a position on this. Commissioner LoCastro wanted to hear both sides of it. The vote was 5-0 to bring it back, just so everybody's clear.

**Mr. Curl** asked when it was adopted. Was it 2018 or 2020? We heard it in May of 2018, but the BCC would have heard it in November 2018?



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**Mr. Henderlong** said that was correct. Some governments back then put some restrictions in place, and other criteria, before the new Statute became effective in 2018. Under the 2018 statute, they were preempted and accepted.

**Mr. Curl** said that in 2018, when we looked at it, the statute wasn't in effect.

**Mr. Mulhere** said the way it works is if there's a constitutional amendment, you still have the process of deliberating and creating a law by the legislature – and that hadn't yet occurred.

**Mr. Henderlong** said the constitutional amendment for the compassionate-use law pre-existed by several years. What we're talking about is that the Legislature in 2018, which this LDC amendment was consistent with, isn't the same thing we have here today. Governments either have to allow it or vote to ban. Collier County did not vote to ban, they voted to continue to talk because they didn't get a super-majority. They got a 3-2 vote, so that option was left open because it failed and was not fully vetted, in the BCC's opinion. So that's why it's back.

**Mr. Mulhere** said he didn't see anything of significant concern, except one thing on page 10, paragraph 2. Why would we treat an approved and operating medical marijuana dispensary facility that was approved and operating before a public or private elementary school, middle school, secondary school within 500 feet came in any differently? If something comes in later, we don't do that with an alcohol waiver. We don't make those uses nonconforming if something comes in later. If there's a medical marijuana dispensary there, it shouldn't constitute a non-conforming use if a school comes in later.

**Mr. Henderlong** said they're not, they're a legal nonconforming use.

**Mr. Mulhere** said we should check with the County Attorney's Office.

**Mr. Henderlong** said he did.

**Mr. Mulhere** said when he did alcohol waivers, they are not deemed to be legal, non-conforming when a school or childcare center opens up after they've opened.

**Mr. Henderlong** said he worked with assistant County attorney Derek Perry and Ray Bellows directly on the language which are their recommendation.

**Mr. Mulhere** said his position is that the non-conforming use is inappropriate.

**Mr. Curl** noted he's doing two projects for one of the companies listed in the packet. One project is in Jacksonville and the other is in Port Richey, so he's already alerted staff. He potentially would benefit should this come through since he's already under contract for one of the companies. He was advised that he doesn't need to recuse himself, but he wanted to put that on the record before the discussion begins.

**Mr. Henderlong** noted that Mr. Curl was referring to MÜV, which opened on about a month ago on Marco Island. He's doing consulting work in Jacksonville, but there isn't anything here since we do not have any dispensaries. He disclosed that and wanted that to be on the record.

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**Mr. McLean** said he did Curaleaf consulting work in Fort Myers and Venice, but he hadn't had communications with them in over two years.

**Mr. Henderlong** asked if he had anything under contract or further discussions, whether they've been in contact with him regarding future locations?

**Mr. McLean** said he has not.

**Mr. Curl** asked, on page 4, line 6, in the Florida Statute, if vaping is a different discussion than smoking.

**Mr. Henderlong** said it's different.

**Mr. Curl** asked about signage language referring to images associated with marketing toward children. He asked if "Joe Camel," which comes to mind from 20 years ago, is what we're talking about.

**Mr. Henderlong** said yes, he could read from the statute the language, if he'd like.

**Mr. Curl** asked about drive throughs having worked on two of them. He said both locations he worked on were doing drive-throughs.

**Mr. Henderlong** said that was correct, as it varies from local community to community. Some had drive-throughs and some didn't when we vetted this in 2017. There were 11 or 12 communities that had them. The County Attorney, Eric Johnson and himself toured Truelieve in north Fort Myers and there was a discussion and from the experiences of other communities recommended there not be any drive-throughs.

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**Mr. Curl** asked if it was because of higher crime.

**Mr. Henderlong** said it was for security reasons. The other part is the law requires that once you get your ID card, you have to go into the facility to talk to the employees. You get into a controlled waiting room area and once the ID card was certified by the State Department of Health, it allows the cardholder to go into the dispensary.

The report discussed earlier with the Sheriff's Office provided physician-certification facilities. What happens there is a physician is basically going over their medical records to determine whether they're a patient qualified to receive medical marijuana. The physician sends it to the Florida Department of Health and within 14 days, the DOH issues an ID card with their picture and information by State statute. Then they take the ID card and go to a dispensary, where they figure out what their doses are going to be, or what types of medical marijuana and whether the form is by smoking, ingesting edibles, etc.

**Mr. Curl** asked about the Sheriff's Reports for Lee County, saying he didn't recall many of them being stand-a-lone operations, meaning they're at a dedicated location. This could be onerous on the locations if they share a parking lot, and an out-parcel of a major shopping center. Who's to say that a guy parked in this place and that's where he was attacked, but he was targeted somewhere else in the shopping center? The incident reports may not directly reflect activity at the dispensaries.

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**Mr. Henderlong** said he mentioned that earlier.

**Mr. Curl** said he'd rather have that in writing to present to County Commissioners.

**Mr. Henderlong** said you can make that part of your recommendation.

**Mr. McLean** asked that they go to "security measures," on page 10, section D, subcategory 1a, line 17. Each one of our designated zoning districts are allowing for dispensaries, but Collier County, as a whole, is not a Dark-Sky county, so why would we overlay dark-sky compliant on a dispensary that may want to better light their parking lot than what dark-sky compliant allows for? That's an additional layer of insecurity we don't need.

**Mr. Henderlong** said when first discussed, the intent was to make sure it would minimize light trespass and glare and that the illumination of the light itself allows them to identify persons in the vehicles on the premises. A few years ago, the County adopted the Outdoor Lighting Standard Guideline book, which talks in detail about dark-sky-compliant fixtures and their differences. It isn't staff's position to decide what they are. They're going to look at the dark-sky-compliant fixtures that are recognized by the Dark Sky Society in the Electrical Engineering Society as to whether they accomplish that. It's a measure that's left there to be equipped in the event that there's a problem relating to trespassing glare or cutoff.

**Mr. Curl** said he wasn't suggesting eliminating that. They should enhance it.

***A discussion ensued and the following points were made:***

- People often have a problem leaving a building at night because it's too dark. That's where photometrically compliant versus dark sky compliant comes in. Dark sky compliant makes parking lots too dark.
- Collier County is much brighter than dark-sky compliant.
- That code is intended to identify people in parking lots. Dark-sky compliant is going to make those parking lots darker.
- Use the words "photometrically compliant."
- When they do dark-sky compliant photometrics in the Village of Estero, it meets their criteria for dark sky. But when we're doing photometrics in Collier County, we're much brighter than dark-sky compliant and we still can't have light bleed onto adjacent properties.
- Check with Norm Trebilcock, who does the majority of lighting plans in Collier County. He has some language that's been accepted. It gets what you want without being tied to dark sky.
- Dark sky is not capitalized here because that is a regulated code. The Dark Sky Society promotes a certain type of lighting, but you can achieve the same outcome without having to pay the Dark Sky Society to do it.
- SESCO Lighting also is good. They do a lot of photometrics.
- Strip centers may not be able to comply with that lighting. The way a lot of these codes are applied, especially in parking lots and commercial uses, it's at the access point of the right-of-way. That's what's required, the foot candle.
- Lighting is left up to the individual property owner, so if we're trying to do something different, this needs to be changed.
- Lighting needs to be promoted to have a brighter condition, photometrically compliant.

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- It's in the County site plan process and they have different levels. It's in the electrical code, but full cut-off, part of that language, is already in that ordinance. But it should cross-reference to the existing LDC.
- Outside shields help but it is not in the code.
- The subcommittee agreed to strike "dark-sky compliant" and instead specify an outdoor lighting system that's intended to be designed sufficient to clearly identify person vehicles on the premises.

**Mr. Mclean**, who was not part of the subcommittee in 2018, said they are objectively reviewing the code, in case it is adopted. Is the vote to move the amendment forward or kill it in the subcommittee?

**Mr. Henderlong** clarified the subcommittee is making a recommendation to allow or not to allow medical marijuana dispensaries

**Mr. Mulhere** moved that should the BCC determine to approve medical marijuana dispensaries as opposed to banning it, this would be their regulation/recommendation.

**Mr. Foley** said it was helpful and pleased to see the items vetted back in 2018 were addressed, including the updating of the statute, type of lighting, sign code, and transport vehicle issue. He understood the need to get feedback to the Board, however there wasn't enough stakeholder meetings and the time is curious. He is concern it was brought back in May when many residents are not here. Further, there should be more input, perhaps, from organizations like the medical community, who have a vetted interest in this topic.

**Mr. Henderlong** said that is a good point. He stated that when it was vetted in 2017, there was a medical marijuana stakeholder community e-mail list that was put together. Staff reached out to them before this meeting and before starting the process. Mrs. Little, who you will hear from today, has been helpful in updating the list. Staff recently updated the Presidents Council list, which was expanded significantly then in the past. Staff did their best effort through news releases and other information to get it out there. The amendment is processed no differently than what staff would normally do.

To the extent that it would require additional stakeholder meetings is really a decision to be made by the Planning Commission, if they feel they didn't have adequate or enough input. The BCC is open to both sides of the issue and wants to hear that. In fact, the subcommittee can go a step further to say they don't support it and if they do, some of these issues need to be addressed.

Seasonal residents are not here and the subcommittee can cite its concerns in its recommendation to the full DSAC. The schedule was noted with the Planning Commission meeting on September 1 at 5:05 p.m. and the BCC's first hearing of two on October 11. There's a request before the BCC to waive the nighttime hearing for the second hearing on October 25.

**Mr. Johnson** noted that the DSAC-LDR serves as an advisory committee for DSAC and can make any recommendation it wants. Just because the BCC is asking you to approve or not approve it, it does not compel you to approve or not approve and you can still make a recommendation.

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### **Public Speakers**

**Mrs. Veora Little**, a certified nurse anesthetist who lives at 7442 Little Lane in Moorings Park Grand Lake and has been a County resident for the last 32 years. She is a CRNA (Certified Registered Nurse Anesthetist) by profession. She said that on December 2006, the Naples Daily News headlines read that six 10-year-old children at Cypress Palm Elementary School were taken to North Collier Hospital because they had overdosed on drugs. They were taken there after a child took his grandmother's medication to school. Because her grandchildren were in that class, it started her as an advocate for children, and for their health and wellness. After she retired from anesthesia, this began her working with the Collier County Sheriff's Office and Drug-Free Collier. She noted that:

- She was shocked there was a bad side of medicine. The precious drugs used and prepared in her career had begun to be a nightmare. Florida became the pill mill state.
- Today, her grave concerns are for the community because drugs have not stopped flowing.
- Changing the LDC to allow the sale of marijuana in established dispensaries would change the unique beauty of the community. It would invite an increase in incidents of crime and petty theft.
- She and her husband had a neurosurgical practice and pain clinic and never had a call for service, except when someone needed surgery on their back.
- "It is the responsibility of the Board of County Commissioners to provide service to promote the health, safety, and welfare, along with the quality of life, for its citizens. For the commission to allow dispensaries without the ability for the County to determine for itself what kinds of restrictions would be appropriate for our County would be irresponsible. Counties cannot determine for themselves where the dispensaries can or cannot be zoned. It is all or nothing."
- Marijuana can contain high levels of THC, the hallucinogenic component of marijuana. "The Department of Health is the regulating body of marijuana. The Bureau of Tobacco and Firearms has no jurisdiction. Marijuana is a harmful, addictive drug. It's illegal at the federal level. It can change and damage a child's developing brain and create a generation of individuals that will measurably contribute less to society and have associated psychiatric disease."
- Definitions are important, there is a difference between marijuana and medicine. There's no such thing as medical marijuana. "There is marijuana being used for medicine because it's the entire plant. It is not medicine. About 90% of our medicines come from the plant, but they've extracted the dose, purified and approved by the FDA. Marijuana remains federally illegal. It's a Schedule 1 drug because of its high potential for abuse with no currently accepted medical use."
- "There are several drugs (3) from marijuana that are FDA approved. Marinol is a synthetic version of THC used for nausea and vomiting from chemotherapy patients. Syndros is an oral THC solution for the treatment of anorexia. Epidiolex, the most current one, is used mainly for seizures in children or people with Tourette's syndrome."
- There is a difference between a physician's recommendation and a prescription.
- 12% of Florida physicians give out 100% of the medical recommendation cards and the rest don't. They make \$199-per-person for a medical marijuana ID card, which must be reviewed and renewed every seven months. It's cheaper the second time, but you also have to pay \$77 a year to be signed up with the Florida Health Department. Doctors have to have a two-hour course of training. No prescription because it is not FDA approved. It's illegal for them to write a prescription, so they must write a recommendation that covers the made-up policy.
- The difference between a dispensary and a pharmacy is, a dispensary is a place where medical marijuana products are sold. You choose your own, there's no prescription. Nothing to be picked out for you. You go into the dispensary and you talk to a "bud tender," who gives you options. There's no training or certifications for bud tenders. They only need a background check with no felonies. A pharmacy has a registered and trained pharmacist who is schooled for

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six years. A pharmacy tech has two years of schooling and is trained to handle medications and receiving your prescription, the legal document for medication.

- In Florida, there are over 50 cities, Naples being one of them, and nine counties, Collier being one of them, have spoken out and have chosen this option. People can get medical marijuana delivered free. It's readily available. There are 37 dispensaries in Lee County, so we should maintain Naples' beauty and safety.

**Diane Van Parys**, of Tarpon Bay Drive South, said she represents herself and is on St. Vincent DePaul's board, which serves the poor in Collier County. Her focus is on the effects of approving the dispensaries in the LDC. She noted that:

- The number of Florida patients as of May 23, 2021, with medical marijuana cards was only 2.61% of the population. If you take into account that only those 18 years or older are eligible for ID cards, it's a very small percentage of the population. The percentage has grown since then, but it's still a significant minority.
- The most overwhelming fact is that there are 54 doctors authorized to issue medical marijuana ID cards in Collier County. That process has been in effect since 2018. Once a person receives the card, they're able to get medical marijuana delivered within 24 hours.
- When it started out, Collier County residents had to drive to Fort Myers, but now there are 10 medical marijuana dispensaries in Bonita Springs and one on Marco Island.
- There are easy ways to get the card and to get medical marijuana. For example, there are ads that come in the mail that say "Medical marijuana, no medical records, no problem. Free gift today. Recertifications only \$150. Same-day dispensary service, no 14-day waiting period." That's in the statute, but it's not even being followed by the advertisement. It's not truth-in-advertising.
- She gave a hand-out of the ad to staff for the public record.
- She has compassion for people who need medical marijuana. Many have long-term diseases and illnesses and it's helping them, especially the older population.
- That fact that delivery is available, it is better and no one has to go to dispensaries.
- The law does not allow you to control the number of dispensaries once the ban is lifted. In fact, when Bonita Springs City Council approved lifting the ban, the City attorney said he only anticipated having one to two dispensaries there. But there's no limit and there are already 10 and at least three on the way now, so you need to take that into account.
- St. Vincent DePaul was working on a site for a thrift store nearby, on Horseshoe Drive in the River Reach Plaza. They leased the property and went through three months of the process and the 1984 PUD didn't allow a thrift store or second-hand store, so they were denied the property. They located elsewhere and two months later, there's was a CBD store in River Reach Plaza. She called a County employee to ask how a CBD store got in there when CBD was only invented in the last three years. He said of the hundreds of codes that are put in plazas, it was considered a health store. So this leads us down the path of approving dispensaries with no limit.
- Collier County Schools has a problem. There are eight alternative schools. The Phoenix Program for Immokalee and Naples is where students who were caught vaping more than once go. Many there are vaping marijuana. This year alone, Naples went from 107 to 187 students in the Phoenix Program, a 75% increase in one year. In Immokalee, it increased from 59 to 113 students, 92%, the majority of students being sent to the alternative school are vaping. These are students under the age of 18 and vaping is not supposed to be allowed until you're 21, so it's readily available to the students. By having medical marijuana dispensaries, you are

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opening yourself up to even more problems, and we need to prevent our youth from having that available.

- At NCH emergency rooms, from 2021 until now, 96 patients were seen with an average age of 39.9 for the cannabis-dependent problem or issue.
- CBD stores are already allowed to use a Delta 8 hemp loophole and there are abuses at these CBD stores. We don't need to lift the ban for medical marijuana dispensaries in unincorporated Collier County.
- The Florida Health Department is controlling this, not the FDA. The DOH Office of Medical Marijuana Use publishes a weekly report of marijuana use given out by all vendors. Trulieve has 118 dispensaries in the State and their total is 247,051,200 milligrams of THC were given out during the week of July 8-14. That's medical marijuana.
- The low THC, which is the CBD, provided 2,522,582 milligrams in just one week around the state.
- There have been findings that the state DOH Office of Medical Marijuana Use has many problems in their reporting. Another study showed all the errors they make in terms of not reporting in a timely, efficient manner all of the information.

**Mr. Mulhere** asked if the free delivery is coming from Bonita or Marco and who is making the deliveries. Are they the existing dispensaries?

**Mrs. Van Parys** said there are delivery options that are available. It does not have to come from the Bonita location. One can apply for a delivery service, as it is a different operation.

**Guy Blanchette**, CEO of Drug-Free Collier, whose duty is to provide prevention programming to students. He's the one who initially went to the BCC to tell them what the statute allows them to do, which is essentially ban dispensaries or allow them wherever a pharmacy is zoned.

- Voting for Amendment 2 in Florida happened so quickly that there was no structure or policies in place, so they rushed to a statute and gave oversight to the state Department of Health, which has no idea how to do compliance. They have no authority to do anything, except levy fines. They can't do raids and neither can the Sheriff's Office.
- We need the Health Department to catch up. If you go to their website, you cannot tell how many work in that department. There's not a single name on their website. From his understanding, there are eight people in that department. With the millions of doses being distributed, we need the DOH to catch up to that.
- It's noticed because it's illegal under federal law. That's why the federal government decided to allow states to make decisions on medical marijuana and allow them to vote yea or nay. So that takes away the FDA and federal Alcohol, Tobacco and Firearms, oversight and compliance.
- What's in front of you is the latest audit of the Health Department, which shows where Florida stands on compliance. In giving your recommendation to the commission, looking at this audit on where we stand on compliance, process and policy shows it's a complete failure. He ran a public company and if he had an audit like this, he would have been fired and there would have been a criminal investigation. We can't do that with the DOP and it's not their fault. It's a process and DOH needs to build out staff and hire people to control the number of dispensaries. Onboarding and training people are long processes. Look at the State audit, they have failed.

**John Maines**, a 33-year County resident and retired law enforcement officer (address protected by statute). He's a retired Naples police lieutenant with over 20 years' experience. He's been a real estate

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investor for 30 years and an active licensed real estate agent in Collier County for 12 years. He wants to offer what might be considered a unique perspective on consequences and said:

- If the County amends the Land Development Code to allow medical marijuana dispensaries, it will start with dispensaries, but if recreational marijuana gets passed in Florida due to the big money behind it, dispensaries will quickly be converted into full-blown marijuana stores, just like they were in Colorado, Oregon and Washington.
- His three perspectives on marijuana are from personal, law enforcement and real estate.
- He grew up in northern Wisconsin in the 70s and 80s in a small town called Saynor, with about 400 residents and was one of five siblings. The time he will discuss is within a six-year period
- The number of kids who grew up during this period was about 43.
- The culture there was that when kids reach 8th grade or freshman year, they turned to underage drinking and smoking pot. Most of them hung out at his parent's house. He witnessed the majority of kids smoking marijuana and drinking. He didn't smoke because he aspired to be a football star.
- In the last five years, six people he grew up with between 54 and 61 died because they were addicted to harder drugs. He witnessed two brothers who started their drug abuse with marijuana. His law enforcement perspective is every drug user he ever met always started their addiction with marijuana and alcohol.
- This does not mean every marijuana user will end up a hardcore drug user who dies young. From his personal perspective, many do and it affects everyone in the family and their friends, and causes negative societal impacts, such as car crashes, burglaries, car thefts, robberies, sex trafficking and thefts. These addicts drain local resources, such as counseling centers, jails, law enforcement, EMS and fire departments.
- From a real estate perspective, when he shows properties to prospective buyers and they see a homeless person sleeping inside or near a community they're considering purchasing in, they won't buy there.
- If a medical marijuana dispensary opens in a shopping center adjacent to a community, and if it looks like homeless people are hanging in front, buyers will ask to look at different communities.
- He believes Florida will legalize recreational use of marijuana and follow the same patterns as Colorado, Washington and Oregon, causing homelessness and increased crime. Residents who find themselves living next to dispensaries will stand to lose a lot of money when they sell their homes.
- Don't amend the Land Development Code. People can get medical marijuana now, so there's no justifiable reason to change the code. Politicians look to potential tax revenue from sales and that's what politicians in Colorado, Washington and Oregon did and look at the price their citizens are paying.

**Jerry Taricska**, a retired engineer who worked with Hole Montes for many years, said:

- It was always his duty to do what's best for the community. No decision has been made yet to ban. He wears a ring, the Order Of Engineers, that was taken from a bridge collapse and it's to remind engineers that we're supposed to be doing what's right for the community.
- There's nothing that Collier County can gain by putting marijuana dispensaries in our community.
- You need to look at more than the code, how it should be written to make it useful, and look at what's morally right.



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**Cathy Lowers**, of 42nd St. SE, Naples, a 15-year County resident who lived in southern California before moving here, said that as a result, she's very much against this and hopes the subcommittee recommends against this for three reasons:

- One, the impact on youth. You cannot control the number of shops that go in. She has six kids in her home, four are teens and two young adults in their early twenties.
- High THC is wiping out their generation. A U.K. report just came out that says high THC is wiping out people worldwide.
- Her knowledge of cannabis began when she was 18-19 years old, she worked on farms that grew and sold cannabis and that was before legalization. A loved one of her own is a pot addict.
- What the voters voted in overwhelmingly was medical marijuana, but it was a bait and switch, just like they did in California.
- If you ask anybody on the street what is medical marijuana, they think it's low dose and prescription, which is what attorney John Morgan and George Soros sold to them in Florida Amendment 2. They said it would always be regulated. It's not low dose, it's up to 100% THC. They can synthesize it up to that, and it's sold in all Lee County dispensaries and the one on Marco Island.
- She called the Marco Island dispensary this morning and the employee tried to sell her 80% vape oil.
- She knows all about the ID cards, what a joke they are. It's totally recreational right now in Florida, and that's why you should not recommend this.
- Areas are allowed to opt out of this. The very first medical marijuana law in the world was in 1996 in Southern California. She was living there. It was funded by George Soros who also funded 80% of Amendment 2 in 2016.
- People don't realize what the agenda was when Amendment 2 was passed in 2016. Outside interests came in. The way it worked in California is there was a honeymoon period. That's what we're in right now, where investors come in and all these slick-looking shops come in. They will make a big profit, a billion dollars this year in Florida. That's how it was in California. Then what happens? At first, it's medical, then it's a joke. Our medical marijuana law was a total joke, just like California. You got your card and you can get Dab, Shatter Crumble, all high THC products. None of it was medical.
- There is no study that shows anything over 10% is medical. There's no credible worldwide study that shows that. Everybody started getting addicted because the business model is you get everybody using high THC. It's very addicting, just like Big Tobacco. This is Big Tobacco 2.0. The business model is lifelong users.
- A lady in her church two years ago underwent surgery and she's still on it. Her husband asked me what to do. We tried to get her into rehab. So many people go into rehab because it's supposed to be temporary, and these doctors just keep giving it over and over again.
- They give you an endless amount, even in Florida, when they're not supposed to. She called a Naples dispensary today and wanted big numbers above the legal amounts and was told just come in before the 7-month time and they will recertify you for another amount. You have to do the research.
- Don't just get a tour of these places, get your medical marijuana card and go into Lee County. You will see joints, Dab, Shatter, Crumb, high vape and everything is a total, absolute joke.
- Why are we here? Why are we doing this now? The only thing that changed from 2018 is that the pot industry has gotten richer. After the honeymoon period was over, what happened in California was a massive collapse of the legal industry. Look it up.

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- Just this month, California Governor Newsome drastically cut the tax on the cannabis industry. They'd promised that when they brought in recreational, they'd fund education and other things with it. He just moved \$150 million from the general fund to fund the projects that cannabis was funding.
- Can anyone say what happened to the legal industry? There was massive movement of the cartels. 80 to 90% of all cannabis is sold in California, right now is by drug cartels. Look it up.
- What is being done about the problem? Spencer Roach, a state representative from Lee County, Andrew Learned from another county and state Sen. Ray Rodrigues have over the last two years, desperately tried at the legislative level to fix this. For example, THC levels. A lot of states have THC levels. Florida cannabis program is one of the worst, as far as being abusive and having no regulation of any state.
- They said you can get 75% THC. Call them up as part of your report, go in, they do not ask about your condition, it's about using high THC for recreational.
- Another problem is Delta 8, which is happening here, but not in California. She had a personal experience with it because of the hemp loophole. When the federal government legalized hemp in 2018, they said hemp usually is used for clothes and rope and for making CBD, which is the non-hallucinogenic part of cannabis, so there was no problem. Our founding fathers used to do hemp. But the pot industry found a way to get around it to make a high-THC, very addictive product called Delta 8. When you grow hemp legally, it can't be more than 0.3% Delta 9, which is what you usually find in these marijuana shops and high vapes. What they did is synthesize it after harvesting it to create high delta THC that you can definitely get high on and addicted to.
- Delta 8 addiction is such a big problem that Colorado and New York, which are legalization states, have outlawed Delta 8 products, but they're sold here and everywhere in these dispensaries now. About half the dispensaries she called didn't have Delta 8 yet, but they're selling them for about half the price of places that are actually selling them.
- At Compassionate Healthcare Florida, they say come right in and no medical marijuana ID card is needed.
- Two weeks ago, she was at a festival in Cambier Park and someone filed a police report after two kids left the festival high. She found out there was a registered medical marijuana dispensary there selling Delta 8 products without a medical marijuana card in Cambier Park two weeks ago. There was an 8-foot table operated by college students who had a sign. She also filed a police report about it. Kids were getting high. They were just buying it with a credit card. Hard-core recreational marijuana is already here.
- She talked to Commissioner Taylor, the mayor and City Council and they said there is absolutely no way they can stop the vending of high-THC Delta 8 by dispensaries in Collier County until the State enacts a ban.
- She recommended that the County bring in Spencer Roach because he is the leader of trying to rein in the pot industry. It's not fair to the voters that they voted in medical and the industry blatantly turned it in two ways: to high Delta 9 and Delta 8. The common person has no idea and she doesn't want this in her home with young people.
- NBC-2 did an interview about what's happening here and a cannabis employee said, "We're licking our chops to get into Collier because of all the money we can make." When they put one in every retail outlet, which is happening in Bonita, what do you think young people see when it's called Miracle Cure, Wellness Center? They think it's harmless. For the rest of her life, she'll be caring for a loved one who is unable to get off high-THC pot. It is not harmless.

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**Dr. Lenard Rutkowski**, a retired neurosurgeon of about 40 years who lives in Quail Creek, said he's never taken any illegal medications, such as marijuana. He's lectured to Ave Maria law students about marijuana issues and medical issues involved with it. He noted that:

- He hopes DSAC will make decisions based on property and compassion. Compassion is going to be an issue here, poor people with pain. That's a bunch of baloney.
- He and a neurosurgeon colleague took care of pain patients for decades. There are many other pain medication options available. He has no objection to CBD. It's the THC he objects to in any way, shape, or form and its effect on children and adults.
- There is no control over the percentage of THC given to people.
- The University of Mississippi is government sanctioned to do research on THC marijuana. It's the only place that is sanctioned in the U.S., as far as he knows. They deal with 10% marijuana. In the marketplace, it's now legally up to a 50% THC percentage, which is quite dangerous.
- These clinics are not run by doctors, for the most part. They're run by entrepreneurs who put loads of money into marketing and coming up with false claims about cures.
- Out of 100 people, you'll find two or three who have a good experience with it and a miracle response. That's not scientific data. He stated he can defend everything he says with scientific literature.
- This is a gateway drug and it has been proven to be a gateway drug. Coming from south side of Chicago, his generation was addicted to alcohol. The experience of alcohol and marijuana -by the Wisconsin speaker says something. That combination is not good. There are prudent people, no matter what's been proven genetically, who are predisposed to addiction.
- He's available to provide an open conference and scientific literature to the staff, not hearsay information.

**Acting Chairman Foley** thanked the speakers for their comments, noting that the subcommittee is hearing a common theme from many different perspectives. Thank you for taking the time to share your concerns over this important issue.

*[He closed the public hearing.]*

**Mr. Henderlong** said he'd like to get the recommendation of the committee on the amendment and entertain a motion.

**Acting Chairman Foley** made a motion, saying he can't support this in any way. It's not right for the community. We were tasked to be reviewing the Land Development Code components, but this isn't right for Collier County. There are other options, as speakers said. We could possibly get more feedback from the community. It's not right for the BCC to be considering approval at this time of year. It might be better later in the year, when there are more residents here.

**Mr. Johnson** said he wanted to speak about him making a motion. He knew that Mr. Curl had provided information at the earlier meeting. He and Rich have tried to do their best to figure out what's good and what's bad with respect to voting, but we're not attorneys. He wants to make sure subcommittee members aren't taking legal advice from us.

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**Acting Chairman Foley** said we do have some committee members here that have had some experience with some of these companies. He'll leave it up to them to make a decision on whether they can vote.

**Mr. Curl** said there are two of us [himself and Mario Valle, a DSAC member].

**Mr. McLean** said if we make a motion today to approve a potential ordinance and it's denied and fails, or if we make a motion to not move this forward to DSAC, what happens?

**Acting Chairman Foley** said it goes to DSAC in its form and the subcommittee failed to make a motion.

**Mr. Henderlong** said earlier you said if the BCC proceeds, these are the changes you would make. If you choose not to approve, the subcommittee's recommendation is not to go forward.

**Mr. Mulhere** said this motion would be to not support the ordinance that allows medical marijuana dispensaries, but to ban them. The second recommendation would be in the event the BCC does vote to support medical marijuana dispensaries; we recommend the following changes ... That's the way he'd do it, two motions.

**Mr. McLean** said he wanted to hear the motions.

**Mr. Mulhere** said he'd second Blair's motion not to adopt this ordinance, that they ban medical marijuana dispensaries. They only have two options.

**Acting Chairman Foley** said that's right.

**Mr. Henderlong** said the motion is to recommend that medical marijuana dispensaries be banned as a permitted use, correct? That would be your motion?

**Mr. Mulhere** said yes, he'd second it just because it's on the floor.

**Mr. Mclean** asked if they could make multiple motions.

*A discussion ensued over whether they needed legal advice on making two motions.*

**Mr. Henderlong** said the DSAC will meet next Wednesday and we will talk to the County attorneys about that, to give you the degree of comfort you're looking for.

**Mr. Mulhere** said the alternative is to make one motion, but it's cleaner to make two.

**Mr. Foley** said the subcommittee has made multiple motions before.

**Mr. Henderlong** reiterated the motion that the Board ban medical marijuana dispensaries as a permitted land use.

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***Acting Chairman Foley made a motion to recommend not permitting medical marijuana dispensaries in Collier County. Mr. Mulhere seconded the motion. It passed 2-1; Mr. McLean voted nay. [Mr. Curl recused himself.]***

**Mr. Mulhere** made a motion to recommend to DSAC that in the event the BCC approved allowing medical marijuana dispensaries, the DSAC-LDR subcommittee would make changes to the LDC to remove the reference to dark sky lighting, but to achieve the same effect and seek counsel from Norm Trebilcock or another lighting design expert, and eliminate the language that creates a non-conforming use for the medical marijuana dispensary that was legally approved and is subsequently disqualified after a school or other use moves in.

***A discussion ensued over the definition of a non-conforming use and legal non-conforming use, its effects on selling or transferring a business, expansion, eviction and obtaining insurance.***

**Mr. Mulhere** said they were legal when they went in there. Why should they be made legal non-conforming by a subsequent action?

**Mr. Henderlong** said this is how was explained to him: There are new schools being built and a dispensary goes in. What happens to that dispensary if a new school comes in and it's closer than 500 feet because the school is allowed to get its permits without having to comply with those local requirements?

**Mr. Mulhere** said that doesn't have anything to do with the fact that the dispensary went in there legally. If the school board wants to object to it, let them show up at a public hearing and object to it.

**Mr. McLean** said he's just trying to clarify the language. He doesn't want to move something forward to the BCC. The political pressure is on the BCC, not us. If this goes to the BCC and gets approved, he wants something enforceable that we've put in place. He doesn't want to overwhelm the BCC with our intended categories.

**Acting Chairman Foley** said even if it dies here, they're still moving it forward without our recommendation. It doesn't go away.

**Mr. McLean** said he doesn't want it to die here. He wants it to be ironclad. If a force beyond us approves it, our document should be strong.

**Mr. Mulhere** explained separation distances on page 9, paragraph 1. Paragraph 2 does not exist in any other place where you have a separation requirement. We do not have that language anywhere else in our code where there already is a separation requirement. We do not declare that a subsequent action makes that use non-conforming anywhere else in our code. We shouldn't do it here. That's his position.

**Mr. Johnson** said it sounds like what you are recommending is that you would strike out 5.05.16(b)2.

**Acting Chairman Foley** said there's a motion on the floor and a second. Is there any further discussion?

***Mr. Mulhere made a motion to recommend that in the event the Board of County Commissioners approved allowing medical marijuana dispensaries, the DSAC-LDR subcommittee would make***

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*changes to the Land Development Code to remove the reference to dark-sky-compliant lighting and seek counsel from Norm Trebilcock or another lighting design expert, and eliminate the language that creates a non-conforming use for a medical marijuana dispensary that was already legally approved. Mr. McLean seconded the motion. The motion passed 3-1; Acting Chairman Foley voted nay. [Mr. Curl said he did not recuse himself because it involved the LDC.]*

**b. PL20220004350 – Golden Gate Estates Variance Distance Notification**

**Mr. Johnson** said this is a proposal to modify LDC Section 10.03.05 Required Methods of Providing Public Notice. It's accompanied by a companion Administrative Code amendment, Chapter 8, Public Notice. On June 14, 2022, the Board of County Commissioners unanimously directed staff to bring back an LDC amendment for variance petitions and reinstate the mail notification distance of 1,000 feet for the Urban Golden Gate Estates Sub-Element of the Golden Gate Area Master Plan GGAMP), as well as the Rural Sub-Element of the GGAMP.

The proposal would be to modify 10.03.05, B1.c, to change it from one mile to 1,000 feet for variance applications only. That's at the direction of the Board of County Commissioners. By the time this goes to DSAC, he will populate the GMP consistency portion of the narrative to indicate that it's consistent with the GMP.

**Mr. Mulhere** asked if the logic was that a variance isn't a land-use change, whereas the conditional-use or rezone or small-scale amendment is a land-use change, so they would want to notify more people? A variance only affects the people closer to it, so that would be the basis for that?

**Mr. Johnson** said the variance was because it affects one property and doesn't affect everyone along the street in the Golden Gate area. That's the reason for that logic.

**Mr. Curl** said he's not on board.

**Mr. Mulhere** said 1,000 feet is a pretty substantial notification.

**Mr. Curl** said not in Golden Gate Estates. If it's a 660-foot lot, you're notifying two people.

**Mr. Henderlong** said he understands, but when it comes to a variance, it's usually a side setback in the majority of the ones John Kelly has vetted on this and was supporting this back when it was one mile.

**Mr. Curl** said that's how the one-mile notice occurred two years ago. He remembers Clay saying that was a good thing.

**Mr. Henderlong** said Bob also did and it's really the land-use that's the issue for the one-mile notification. Apparently, it came to the attention of the BCC.

***A discussion ensued.***

*[Mr. Johnson offered to show a graphic to illustrate and clarify.]*

**Mr. Mulhere** noted that it's a bit different in the urban area because if you go out of the one-mile area now for a variance, you're going to be notifying all these gated communities that happen to be next to urban estates. That's going to create a lot of problems for, in most cases, someone with a 2-foot pool.

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**Mr. Johnson** said right now the public notification for the Estates in the Golden Gate Area Master Plan is one mile. This would reduce it to 1,000 feet for variances only.

*A discussion ensued over language that referred to 500 feet; Mr. Johnson said he'd revise a sentence to show that reference should be in the past tense.*

*Mr. Mulhere made a motion to modify Land Development Code Section 10.03.05, Required Methods of Providing Public Notice, to reinstate the 1,000-foot mail notification distance for variance applications in the Urban Golden Gate Estates Sub-Element of the Golden Gate Area Master Plan and the Rural Sub-Element of the GGAMP. Second by Mr. McLean. The motion passed 3-1; Mr. Curl voted nay.*

**5. Public Comments**

None

**6. 2022 DSAC-LDR Subcommittee schedule reminder:**

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**7. Adjourn**

*Acting Chairman Foley made a motion to adjourn the meeting. Second by Mr. Curl. The motion passed unanimously, 4-0.*

There being no further business for the good of the County, the meeting was adjourned by the order of the acting chairman at 5 p.m.

COLLIER COUNTY DEVELOPMENT SERVICES  
ADVISORY COMMITTEE  
LAND DEVELOPMENT REVIEW SUBCOMMITTEE

\_\_\_\_\_  
Acting Chairman: Blair Foley

These minutes were approved by the subcommittee/chairman on \_\_\_\_\_, (check one) as presented \_\_\_\_\_, or as amended ☒.