

LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20220000207

ORIGIN

Board of County
Commissioners (Board)

HEARING DATES

BCC	02/28/2023
	01/24/2023
	12/13/2022
	11/08/2022
CCPC	08/18/2022
DSAC	05/04/2022
DSAC-LDR	03/09/2022

SUMMARY OF AMENDMENT

This Land Development Code (LDC) amendment is intended to revise and clarify the procedures and approval process for Comparable Use Determinations.

LDC SECTIONS TO BE AMENDED

10.02.06	Requirements for Permits
10.03.06	Public Notice and Required Hearings for Land Use Petitions

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR	DSAC	CCPC
Approval with recommendations	Approval	Approval

BACKGROUND: The Comparable Use Determination (CUD) process is currently connected to the list of permitted uses in the Commercial Zoning Districts (C-1 through C-5), Business Park (BP), Public Use (P), Golden Gate Parkway Overlay District (GGPOD), and the Planned Unit Development district (PUD), when such PUD contains specific provisions within its respective ordinance. The Bayshore Zoning Overlay District (BZO) and the Gateway Triangle Zoning Overlay District (GTZO) also contain provisions allowing the County Manager to make a final determination as to whether a particular use, which is unlisted in the Table of Uses, is within the same class of uses as a listed use.

On October 12, 2021, the Board directed staff to bring back an LDC amendment emphasizing the need for having the conditional use process be applied to Comparable Use Determinations ("CUDs"). It was the Board's concern that comparable uses should be examined for comparability on a site-specific basis only and not applied uniformly to all areas within the County sharing the same zoning district or to other zoning classifications having higher intensities. As such, this LDC amendment and companion Administrative Code amendment shall clear any confusion or the misapplication of the scope of a CUD, so that each request is restricted to a site-specific location (e.g., lot, parcel, tract of land, etc.) and correct any unintended consequence of expanding the CUD process beyond for which the Board intends.

When the LDC amendment was scheduled for the Collier County Planning Commission (CCPC), it contained text changes that were proposed in each of the aforementioned zoning districts. As such, the CCPC held a nighttime hearing on August 18, 2022, to comply with LDC section 10.03.06 K. On October 11, 2022, the Board voted to waive the nighttime hearing requirement and to instead, advertise the LDC amendment at two regularly scheduled daytime hearings (November 8, 2022, and December 13, 2022, respectively). However, due to internal concerns, the LDC amendment has since been revised, in part, by eliminating the text changes that were proposed within each of the zoning districts. This change was made to ensure that the CUD process is not inadvertently expanded to all zoning districts,

which is beyond the scope of the Board's direction to staff on October 12, 2021.

On January 24, 2023, the Board discussed the amendment and directed staff to eliminate the Conditional Use component to it. The Board also wanted to make it clear that the approval of a CUD in one location does not mean that the use is entitled at a different location, even within the same zoning district. The CUD should be site-specific and ensure compatibility with the neighborhood.

This LDC amendment requires a companion amendment to the Collier County Administrative Code for Land Development. This resolution will be scheduled for Board consideration on February 28, 2023, to coincide with the hearing of this proposed ordinance.

Collier County Planning Commission (CCPC) Recommendation: The CCPC heard this petition at their August 18, 2022, meeting. The Planning Commission voted unanimously to forward the subject petition to the Board with a recommendation of approval.

Development Services Advisory Committee (DSAC) Recommendations:

The DSAC recommended approval on May 4, 2022. The DSAC Land Development Review Subcommittee recommended approval on March 9, 2022, with two caveats: that staff will look at all the overlay districts and see if any others need to be changed in accordance with these measures and to clarify the narrative's background section in terms of how the system of allowed comparable uses in zoning districts is described. The narrative has been revised and all overlay zoning districts are included in the amendment.

FISCAL & OPERATIONAL IMPACTS

No fiscal or operational impacts are anticipated. The current fee for a CUD application remains the same at \$1,000 and \$100 per hour as needed upon completion of staff's review and research.

GMP CONSISTENCY

The proposed LDC amendment has been reviewed by Comprehensive Planning staff and may be deemed consistent with the GMP.

EXHIBITS: A) Administrative Code Chapters 3 C.4. and 3 L.

Attachment A - Administrative Code

DRAFT

Text underlined is new text to be added
~~Text strikethrough is current text to be deleted~~

Collier County Land Development Code | *Administrative Procedures Manual*

Chapter 3 | *Quasi-Judicial Procedures with a Public Hearing*

Amend the LDC as follows:

1
2 **2.03.00 – ZONING DISTRICTS; PERMITTED USES, ACCESSORY USES, AND CONDITIONAL**
3 **USES**

4
5 In order to carry out and implement the Collier County GMP and the purposes of this LDC, the
6 following zoning districts, district purposes, and applicable symbols are hereby established:

- 7
8 A. Rules for Interpretation of Uses. In any zoning district where the list of permitted uses
9 contains the phrase "any other use which is comparable in nature with the foregoing
10 uses and is consistent with the permitted uses and purpose and intent statement of
11 the district" or any similar phrase which provides for a use which is not clearly defined
12 or described in the list of permitted uses, which requires the discretion of the County
13 Manager or designee as to whether or not it is permitted in the district, then the
14 determination of whether or not that use is permitted at a site-specific location in the
15 district shall be made through the process outlined in LDC section 10.02.06 K.

16
17 * * * * *
18 # # # # #

19
20 **10.02.06 – Requirements for Permits**

- 21
22 K. Comparable Use Determination.

23
24 1. The following Comparable Use Determination (CUD) shall be used to determine
25 whether a use at a site-specific location is comparable in nature with the list of
26 permitted uses and the purpose and intent statement of the zoning district, overlay,
27 or PUD. Approval of a CUD made at one location shall not be construed to mean
28 that the use is entitled at a different location.

29
30 2. To be effective, the Comparable Use Determination shall be approved by the
31 Hearing Examiner by decision, or Board of Zoning Appeals by resolution after
32 CCPC recommendation to the BZA, at an advertised public hearing based on the
33 following standards, as applicable:

- 34
35 a. The proposed use possesses similar characteristics to other permitted
36 uses in the zoning district, overlay, or PUD, including but not limited to the
37 following:
38 i. Operating hours;
39 ii. Traffic volume generated/attracted;
40 iii. Type of vehicles associated with the use;
41 iv. Number and type of required parking spaces; and
42 v. Business practices and activities.
43

Attachment A - Administrative Code

DRAFT

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Collier County Land Development Code | *Administrative Procedures Manual*

Chapter 3 | *Quasi-Judicial Procedures with a Public Hearing*

- 1 b. The effect ~~of~~ the proposed use would have on neighboring properties in
- 2 relation to the noise, glare, or odor effects shall be no greater than that of
- 3 other permitted uses in the zoning district, overlay, or PUD.
- 4
- 5 c. The proposed use is consistent with the GMP, meaning the applicable
- 6 future land use designation does not specifically prohibit the proposed use,
- 7 and, where the future land use designation contains a specific list of
- 8 allowable uses, the proposed use is not omitted.
- 9
- 10 d. The proposed use shall be compatible and consistent with the other
- 11 permitted uses in the zoning district, overlay, or PUD.
- 12
- 13 e. The proposed use shall be compatible with the surrounding neighborhood.
- 14
- 15 f. Any additional relevant information as may be required by County Manager
- 16 or Designee.
- 17
- 18 3. The Administrative Code shall establish the process and application submittal
- 19 requirements to obtain a Comparable Use Determination.

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10.03.06 – Public Notice and Required Hearings for Land use Petitions

25 This section shall establish the requirements for public hearings and public notices. This

26 section shall be read in conjunction with LDC section 10.03.05 and Chapter 8 of the Administrative

27 Code, which further establishes the public notice procedures for land use petitions.

28 * * * * * * * * * * * * *

- 31 O. Approval of a Comparable Use Determination pursuant to LDC section 10.02.06 K.
- 32
- 33 1. The following advertised public hearings are required:
- 34
- 35 a. One CCPC or Hearing Examiner hearing.
- 36
- 37 a. If heard by the Planning Commission, one BZA hearing.
- 38
- 39 2. The following notice procedures are required:
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- 41 a. Newspaper Advertisement prior to the advertised public hearing in
- 42 accordance with F.S. § 125.66.

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