

MINUTES OF THE COLLIER COUNTY
DEVELOPMENT SERVICES ADVISORY COMMITTEE MEETING
Naples, Florida,
February 1, 2023

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

Chairman: William J. Varian
Vice Chairman: Blair Foley
David Dunnavant
James E. Boughton
Clay Brooker (excused)
Chris Mitchell
Robert Mulhere
Mario Valle
Norman Gentry
Marco Espinar
Laura Spurgeon-DeJohn
Jeremy Sterk
Jeff Curl
John English
Mark McLean

ALSO PRESENT: Jaime Cook, Director, Development Review
Jamie French, Department Head, GMD
Jeff Letourneau, Supervisor, Code Enforcement
Drew Cody, Senior Project Manager, Utilities Planning
Lorraine Lantz, Planner III, Transportation Engineering
Ken Kovensky, Director, Operations & Regulation Management
Mike Bosi, Director, Zoning Division
Patricia Mill, Senior Operations Analyst/Staff Liaison

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

Chairman Varian called the meeting to order at 3 p.m. A quorum consisting of 12 members was convened; two arrived later.

2. Approval of Agenda

Mr. Curl moved to approve the agenda. It was seconded by Vice-Chairman Foley. The motion passed unanimously, 12-0.

3. Approval of Minutes

- a. **DSAC-LDR Meeting – July 27, 2022**
- b. **DSAC-LDR Meeting – August 24, 2022**

Mr. Curl made a motion to approve the July 27, 2022, and August 24, 2022, DSAC-LDR Subcommittee meeting minutes. It was seconded by Mr. McLean. The motion passed unanimously, 4-0.

c. DSAC Meeting – December 7, 2022

Vice Chairman Foley made a motion to approve the December 7, 2022, meeting minutes. It was seconded by Mr. Mulhere. The motion passed unanimously, 12-0.

4. Selection of Committee Chair and Vice Chair

Mr. Mulhere made a motion to re-elect Chairman Varian as chairman. It was seconded by Mr. Curl. The motion passed unanimously, 11-0; Chairman Varian abstained.

Mr. Mulhere made a motion to re-elect Vice Chairman Foley as vice chairman. It was seconded by Mr. Curl. The motion passed unanimously, 11-0; Vice Chairman Foley abstained.

5. Public Speakers

(None)

6. Staff Announcements/Updates

a. Development Review Division – [Jaime Cook, Director

Ms. Cook reported that:

- We hired a stormwater reviewer who will be starting on February 13. Anyone submitting stormwater plans, please feel free to reach out at any time and she'll set up a time for you to meet with him.
- We did not record any plats last month.
- Toward the end of the year, there was a push to get people COs and get buildings open. Life-safety issues must be addressed before we can issue any kind of site acceptance or TCO. If you're going through punch lists and you're wondering what's needed, reach

out and ask us. We'll be happy to narrow down what we absolutely need done prior to approval.

Vice Chairman Foley asked for the name of the new employee.

Ms. Cook said it was Jocelyn "Joss" Nageon de Lestang, who used to work for the South Florida Water Management District.

b. Code Enforcement Division – [Jeff Letourneau, Supervisor]

Mr. Letourneau submitted monthly statistics from December 22, 2022, to January 21, 2023, and reported that:

- We just had a meeting this morning. We discussed ramping up the cleanups we used to do. We have four districts in code enforcement and before COVID and Hurricane Ian hit we conducted four cleanups a year in each district. That went by the wayside due to those situations. In April, we're going to start those up again, as well as some more community outreach.
- We hired three new full-time code enforcement employees. Hopefully, they will accept the positions and will train for the next couple of months and be out in the streets within two months.
- We'd like them to help us get our proactive numbers up for the county's blight situations.
- We hired a KeyStaff temp employee as an investigator.

Chairman Varian asked if they were seeing a lot of unpermitted work.

Mr. Letourneau said yes, mostly from Contractor Licensing. If it's a homeowner or an unlicensed contractor, it gets turned over to us. We've seen quite a few since Hurricane Ian.

[Ms. Spurgeon-DeJohn joined the meeting at 3:06 p.m.]

c. Public Utilities Department [Drew Cody, Senior Project Manager, Utilities Planning]

Mr. Cody reported that:

- The team's been in place in Utility Planning for about six months now.
- We're all working toward some bigger initiatives coming up. We've just started looking at the requests we've been getting for updates to the Utility Standards Manual and design criteria, etc. If there are things you've been sitting on because they haven't been moving, now is the time to start emailing them back to Utility Planning.
- The goal is to start a six-month review cycle, so they're updated more frequently and we're not extending one-year product approval letters. If you've been holding back requests, please get them into Utility Planning.

d. GMD Transportation Engineering Division – [Lorraine Lantz, Planner III]

Ms. Lantz reported that:

- We were out in the field today. The Planning Commission asked us to do an evaluation of traffic on Oilwell Road with the schools, Palmetto Ridge and Corkscrew Elementary and Middle. Staff and our consultant met with Collier County public school principals and the district transportation group to come up with suggestions and modifications for school property and some different traffic turn-lane suggestions or modifications.

- FDOT is working on an I-75 South connector project. It's a study of all I-75 interchanges from Collier Boulevard all the way up through Lee County. They're having a public meeting on February 16 at North Collier Regional Park's exhibit hall, where they will speak about it and show some of their recommendations, including additional high-volume, high-capacity lanes, not toll lanes. There are two additional lanes, I-75 northbound and southbound.

Mr. Mulhere asked what the timing is for the MPO to revisit the ranking of roadway projects. He read a story in the newspaper about the governor funding \$7 billion for transportation projects, \$4 billion, which is excess revenue that they have, and \$3 billion they're probably going to borrow, so there might be some opportunities for Collier County to advance some roadway projects.

Ms. Lantz said she believes Pine Ridge Road; the diverging diamond interchange is one of the studies that we recommended. That's one of the projects that's targeted. There were three projects in this area and that's one.

Mr. Mulhere asked what's in ranking for the next Five-Year Plan, 2026 through 2030.

Ms. Lantz said the MPO does its long-range plan every five years on the zeros and the fives. The next one has to be updated by December 2025. They're starting that process now. they already did the RFP and there's going to be a selection committee and they'll hire their consultant.

[Mr. Gentry joined the meeting at 3:06 p.m.]

Mr. Mulhere said there's a lot of activity on the East Trail, east of Collier Boulevard. That roadway has design in 2026 and whatever is next, and construction is in seven years.

Ms. Lantz said it's usually preliminary design and then right-of-way acquisition.

Mr. Mulhere said that's a problem. That's from Greenway to Tomato Road to Six Ls?

Ms. Lantz said it's on an outer year. We are seeing a lot of development coming in right in that corridor and we're coordinating with FDOT to make sure they're aware of the development we're seeing that's coming in. We're seeing it as a Level of Service F and they're seeing it as a Level of Service B, so we're coordinating on that.

Mr. Mulhere said he guessed he'd have to get work in and lobby to expedite it.

Mr. McLean asked who they could go to for smaller projects that drag out for six months, block access to business, and hurt business.

Ms. Lantz said that typically, Traffic Operations does more of the small-scale work. They might design something in-house, such as a turn lane. They'd probably use a sub-consultant on that, but some of the work is done in-house. Jay Ahmad comes to you every other month, so that would be Jay's group, with Tony Khawaja.

e. Collier County Fire Review

None

f. North Collier Fire Review [Daniel Zunzunegui, Deputy Director]

Mr. Zunzunegui provided a January report:

- We had about a three-day turnaround time for building and planning reviews.

- We conducted 486 reviews, 444 were building and 42 were planning.
- We continue to provide communication and availability to the industry, which is helping them get through with any corrections on their plans and get plans completed and to issuance.
- We have a new team member, Dan Turner. He comes with 35 years of experience in Illinois. His last position was as deputy chief of operations with New Lenox Fire (Protection) District. We're really excited to have him. He's got a lot of experience to add to our team.
- We're conducting interviews next week for another position on our team. Jackie Delarosa is retiring from the district on February 9, and we also lost another member we farmed out to the county, so we're filling those vacancies.
- There's pending legislation similar to the fire-alarm legislation that was approved for fire-alarm system projects. This is for sprinklers and would be 20 components to a sprinkler system on an existing building. Aside from sprinkler heads, it also could be a backflow, a hydrant, PIV, or something of that nature. If it's an existing building and an existing system and it's 20 components or less, it would come through similar to those fire-alarm projects, like a fast-track self-issued permit, so there would be no formal plan review. There's a House bill and a companion Senate bill tied to that for an amendment to Florida Statute 553.79.53. Our team is monitoring that to see if it gets approved.

Mr. Boughton asked what the limit is for Zoning Review for a fire-alarm system.

Mr. Zunzunegui said that for fire alarm system projects, it must be an existing system and building. If it's a monitoring permit, it qualifies for 20 devices or notification appliances or less, such as horn strobes. As long as it meets those thresholds. The Growth Management team updated the portal for those permits, and you can apply for a fire-alarm system project and answer all the questions correctly. It's self-issued. It's like having an onsite inspection and plan review at once, all in one.

g. Operations & Regulatory Management Division – [Ken Kovensky, Director]

Mr. Kovensky reported that:

- The monthly numbers for December and January were lighter than in the past. Last month was 4,100 permits. December was about 3,700.
- For the last six months we worked on 24,428 permits compared with 30,271 permits, so we did drop from six months to the prior six months. The total for the last 12 months is 54,699, so that's still pretty healthy when we're above 50,000 permits.
- We're keeping up with the volume of permits and are working on yesterday's permits.
- We had expanded hours in the Orange Blossom and Everglades satellite offices and have gone back to regular hours. We're manning Orange Blossom Tuesdays and Thursdays and in Everglades City, Mondays, Wednesdays, and Fridays. The Marco Island Airport satellite office hours were reduced to Monday, Wednesday, Friday from 8 a.m. to noon. We're planning on shutting that office down at the end of the month. In December, we had 16 walk-ins for the month and only nine in January. Fortunately, we can do electronic permitting remotely so people working there are doing that.
- It's good to know that we can stand up an office quickly, so if we have another event in the future, we can get one up quickly.

- We filled one of our operations-support specialist positions from another department and she'll be starting in about 30 days. She replaces Jessica Bonilla, who moved over to the cashiering section as the revenue supervisor.
- We have a few positions that are still vacant. A code enforcement investigator position in Contractor Licensing is still being posted. There's one position in Management Analyst 1 position that was vacated by someone who moved to the CityView team. We have two GIS technicians we want to reclassify to higher-level GIS positions because we have not received any applications for that lower-paying job. We can justify some of the more technical aspects of the positions that we need and hopefully, we'll get that through HR.
- I've accepted a new position with the county's Corporate Business Office and will be working for the County Manager as an executive director overseeing four divisions, HR, IT, Risk Management, and Procurement. This will be the last time I appear before you in my Growth Management position, but I may come before you in my new position. I move to my new position in 1½ weeks but will be working in both places until we get up to speed.
- Trish Mill and she has accepted a job to move over with me on the same time frame and we'll both be here to ensure smooth operations continue until we get up to speed on both areas.

Mr. Curl congratulated them both. He just visited the Heritage Bay Government Services Center, which he called an outstanding complex, noting that the county did a great job with the full-service aspect. It's nice that people don't have to drive so far now to get a driver's license.

Mr. Mitchell said we didn't see a lot of building permits and we had an event. Are most in the city with Hurricane Ian? What is the mechanism for someone if they see work going on. Unless someone calls Code Enforcement, it's a non-event. If they sell the home, what is the trigger for the new home buyer? He wants to know in case someone asks. There must be a lot of unpermitted work going on.

Mr. Kovensky said there's a search on whether things have been permitted. In some cases, it may not go noticed, but generally, we respond to neighbor complaints or contractor complaints to enforce what may be unpermitted work.

Mr. Mitchell asked if its buyer beware. If someone buys a house and there was unpermitted work and they want to do some permitted work, are they on the hook for the other work?

Mr. McLean asked if these permit numbers include emergency permits.

Mr. Kovensky said they do.

Mr. French provided the answer to the question and reported that:

- Every flood insurance policy in the United States that is federally backed is backed by NFIP for the first \$250,000.
- NFIP is a division of FEMA, which pays the claims, so FEMA knows you had a claim. FEMA comes in and they audit us to see if a permit was pulled. Based on FEMA standards, the first 18 inches is considered maintenance. Chief Building Official Fred Klum made the call, so we're following the NFIP or the damage assessment module, which says it's considered maintenance and our board has adopted that for a single-family home.

- Anything above 18 inches is not maintenance and would require a permit. If you're just putting things back to what you had before Hurricane Ian to put it back to livable conditions if you keep that under 50% of the improved value, you can make the repair and the permit closes out.
- In the future, if you want to move forward to repair or to make modifications to that, that's on you. You can do 50% of that value, the improved value at the time. The 50% Rule is always in place.
- We don't track this, but we know. There were probably 200 or more homes on the Isle of Capri, for example, that took in between four and five feet of water inside the structure. We also know that there have only been about 100 permits pulled for the Isle of Capri for residential structures. Because the state of Florida has the most guarded private property rights and we don't have X-ray vision, we don't know what's going on unless your neighbor calls it in.
- The way the code enforcement law is written is that unless we have a complaint, or unless it is life-safety, we can't enforce what we don't know. They will rebuild. This isn't just Golden Gate and Immokalee. These are high-end, high-dollar homes where we are seeing activity. We're getting contractor licensing complaints against contractors and the homeowner knew that they weren't going to pull a permit and all of a sudden, they withdrew the complaint against the contractor because they never really wanted to abide by the 50% Rule.
- How FEMA addresses that is the same way they addressed it in Everglade City. There's a handful of homes that we're aware of that were impacted during Hurricane Irma that also were impacted during Hurricane Ian.
- All along our coastal fringe, most of those low-lying homes built on grade in the 1970s and '80s took on water, such as Estey Avenue. The permit activity is low, so if they filed a claim, they took FEMA dollars and they didn't repair up to code, when the next storm comes along, they'll get zero. They will get no assistance.
- It doesn't impact our insurance rate because we're not forced to go out and start busting people. But if we have a permit come forward, we apply the most generous benefit that we can toward them because it's the floodplain administrator that makes the determination on what the valuations of the properties are. And we're using a 30% numerator against the improved values because of our market condition. Even on mobile homes, we're doing the same thing. Even though we have all these tools to benefit the community, there are still many property owners out there who will not pull a permit and will hire unlicensed contractors or a licensed contractor who is willing to put their license in jeopardy to do this work. We don't see it that often because they don't often call in or withdraw a complaint against a contractor knowing that they got a heck of a deal versus tearing the house down or elevating.
- On the real estate side, he doesn't know what the impact will be. But there will be a lot of banks asking a lot of questions and even insurers that will come back before they underwrite a property insurance policy because they know this area was impacted.
- Everything is in recovery. What they're trying to do is find safe and affordable housing. Vacation rentals have put upward pressure on anything affordable, which is almost a thing of the past. We're going to have more of that, especially with mobile home parks because we know some mobile home parks took up to eight feet of water on the interiors and we're not seeing permits.

- We've already been in talks with one property owner. The county may only find out if the landowner says he has a problem because his lease documents require them to pull permits.
- Some of these mobile home parks are full of senior citizens who pay, \$50,000-\$70,000 for these mobile homes. They can't get a permit and they can't afford to elevate it and it wouldn't survive an elevation due to **wind load**. They're going to rebuild them, and then they're going to find themselves spending a lot of money, and eventually, the park owners are going to be forced to make them tear them down.
- We think there's a typhoon coming and we're just trying to not force the issue. But unless we have a complaint or we see it, we can't enforce it.

Mr. Valle said from the real estate side, what NABOR has been advocating to Realtors is to come in and do permit searches. The Code Enforcement office will attest to the number of permit searches that they do on a regular basis and people are going to go into a home now after these events to look for permits of remediation, just like they would have out in Golden Gate estates for garages that were converted and other elements, because they know they're going to buy that.

Chairman Varian thanked Ken for his work over 17 years.

Mr. Mulhere congratulated him on his new position.

Mr. Kovensky said it was a pleasure working with them.

h. Zoning Division – [Mike Bosi, Director]

Mr. Bosi reported that:

- We have three vacancies and have interviewed some promising candidates and other interviews coming up. The job market may be loosening up and we're seeing people from outside the county applying again which is encouraging. We're looking for two Planner 3 positions and a Planner 2. We've got good candidates, so we hope to get almost fully staffed.
- The BCC in January approved a controversial condo proposal in the Isles of Capri. The opposition was upset that they came in and the board made decisions related to height and intensity, but the Planning Commission said those were the two issues and the applicants gave them enough public benefit and the board approved it.
- The BCC also voted to go for two year-round meetings, meaning that no longer will they have that break in mid-July, with no meeting in August. They're going to have meetings year-round. The only time they'll have a partial schedule will be in November and December. We'll still maintain one meeting a month. On January 24th, we had a lot of petitions on the summary agenda, and most of them sailed through well. They did find a resolution to medical marijuana dispensaries. Based upon DSAC's and the Planning Commission's recommendations, they directed the County Attorney to bring back an ordinance to prohibit medical marijuana dispensaries within the county. For a long time, they didn't have enough votes to prohibit them or make them legal. Where pharmacies are, they closed that gap.
- In February, March, and April, the BCC will hear about 10 petitions. The early part of the year is usually light for Land-Use Petitions, and it gets heavier during the summer.
- The BCC has some controversial petitions in Orange Blossom Ranch by the Orange Blossom library by The Carlisle Naples and the Italian-American Club. We have a 10-

acre parcel that's seeking pretty high density that people are upset about. But in terms of consistency, it's not out of scale with some of the intensities within the surrounding areas.

Mr. Curl asked if he was pressuring DSAC to meet in July.

Mr. Bosi said the BCC is full-time. He thought the DSAC would want at least one month for a summer break.

Mr. French reported that:

- We have lost many KeyStaff temps, which wasn't in his plans when he negotiated to return to Growth Management.
- He was the one who told the County Manager to hire Ken, who has successfully fulfilled every role that he vacated. When I tried to vacate, they pulled me back. He will make sure Ken won't be pulled back here unless he wants to return.
- We're running an average of 12-15% vacancies and it's impacting your markets.
- He's made it clear that any additional funding that we bring forward, he wants them to justify their existence in front of this group. If they're going to charge us an additional \$120,000 a year for a higher level of service, sell it to you. He's been fighting and asked for DSAC's help in the past, but if we pay additional dollars to Facilities or Human Resources and others, more than the BCC-approved County Manager's allocation to heighten services, we need to have awareness and there should be measurements. What gets measured gets done.
- That is money coming out of your clients' pockets and they need to be aware of that.
- He volunteered to help with housing policy because we saw a lot of policy come out of housing with no real good idea on how it would coincide or conflict with our current Land-Development Code. Rather than having housing in the health building, it makes sense to be here in the Land-Use Policy, long-range resiliency housing side to ensure our codes coincide.
- He inherited the Affordable Housing Advisory Committee, which is passionate about what they do. They've changed over the years, and we applaud their passion but must make sure that when they're looking at lands, they understand the provisions and hurdles, including environmental issues.
- Voters approved a \$20 million trust fund for affordable housing and that was (in 2018). No policy has been written and now our housing director left because his life changed. Cormac Giblin, who doesn't want the job, agreed to take it on an interim basis to push that policy along.
- We've always heard that developers were bad, so why not put an AHAC member on the DSAC and maybe have someone from the DSAC on the AHAC? He's asking the DSAC to consider this because they need to understand the parameters if the county will be purchasing property. Perhaps we shouldn't be looking in the coastal fringe because housing-disadvantaged residents are probably going to be transportation-disadvantaged and that won't help during an evacuation. He won't be able to get that approved.
- Mike Bosi coming back has been great because we pre-negotiated costs of land that can be dedicated toward affordable housing. But we don't have facilities or infrastructure. The \$20 million set aside by taxpayers should be used for redevelopment, for buying land. The county is not looking to get into the affordable

housing market, other than purchasing land, so we're working on that policy within the AHAC subcommittee. We're trying to help them understand land-use policy. Steve Hruby, an architect who has made a living in affordable housing, is good at understanding the LDC, so we're grateful for his leadership. He knows enough of the code to understand what we discuss.

- Commissioner Hall is heavily involved. The GMP amendments we talked about include converting, by right, commercial to residential to allow for density, especially within Activity Centers. Those types of things that were shelved are what Commissioner Hall wants to revisit, so we're going to be back in front of the DSAC.
- We need to find a way for these committees to work together. We have a member of the Planning Commission on the AHAC, Paul Shea, but he's very new to our community and as an engineer, he's never designed anything in Florida.
- We're working toward a solution so we can get the developers and the affordable housing groups to be able to talk. If an affordable-housing investor can't pencil out the numbers, they're not going to invest in it. If we're talking less than 16 units per acre, if we're talking about areas where we know we've got environmental or floodplain concerns, it's probably not going to be their first investment.
- The reason there are lands still in Evacuation Zone A is because developers can't pencil out the numbers even at today's market. So, somebody may want to sell it, but if they were even considering selling, it would have been developed years ago.

Mr. Mulhere suggested they look at the LDC or Code of Laws. Enabling code language for the DSAC identifies what areas of expertise people should have to fill advisory board positions and the number of members. Nick tried at least three or four times and now he's no longer with Habitat. Or we could allow participation on an *ad hoc* basis, rather than make changes.

Mr. French said he's just asking them to consider it for the future. The DSAC is probably the best advisory committee in the county, and he commends them. We're going to advance affordable housing because it's the right thing to do. In addition to volunteering to help the AHAC, he volunteered Mike Bosi and Jaime Cook.

Mr. Mulhere said he continues to serve on the DSAC because it does a great job and appreciates staff's willingness to allow us to make constructive comments and criticisms. When he was on county staff, he didn't have the ability to understand the nuances that a practitioner has, such as Blair, Mario, or Chris. We all have different areas of expertise, but we know that when Utilities comes in to change the standards, fortunately, they now do it with DSAC's input. Or if Eric Johnson is working on an LDC amendment, he's willing to take our input. He doesn't have to agree with it, but he generally does if it makes sense. That ultimately makes for much better regulation in the long run.

Mr. French provided an update:

- We finished the interviews for our Code Enforcement director after Mike Ossorio gave notice that he's retiring in April. He wants to stay a few extra months, but he may be utilized elsewhere in the county to help the County Manager's office.

- If there's a tie during interviews, we'll break it through the County Manager's office. He expects a new Code Enforcement director in 30 to 45 days. Mike has done a great job and he's probably one of the best code enforcement directors we've ever had.
- Under Ken Kovensky's leadership, we'll see good positive change. The county needs to understand their client. He'll do a great job telling them what an employee really thinks. The further away you get from a client, the more you forget about what our mission is.
- We need to fill Chris Mason's former position since he took the job as director of Community Planning & Resiliency. His new job came with no staff, so he's working on that with the County Manager's Office.
- NABOR needs to be in on the affordable housing conversations.
- We need to realize that, according to Rob Stoneburner's office, 12,000 to 14,000 homes went to vacation rentals, so that took away a lot of housing stock from rental or low-income or workforce housing solutions. As a result, we created a rule to require rental owners to register with the county. Only about 100 registered. When an area like Naples Manor is selling homes for \$300,000-\$500,000, we've now taken the affordable housing conversation out of that area. So where do we go next? These are your employees and coworkers.

7. New Business

a. **PL20200002400 – Collier Boulevard Interstate 75 Innovation Zone Overlay [CBIIZO]**

Mr. Johnson outlined the amendment, reporting that:

- This Land Development Code amendment would establish the Collier Boulevard Interstate-75 Innovation Zone, the CBIIZO, which will serve to implement the economic development goals of the Interchange Activity Center No. 9 Innovation Zone that was adopted in 2018.
- There are three Innovation Zones throughout the county. The CBIIZO has one and the other two are in Ave Maria and Golden Gate City.
- The Innovation Zone has Tax-Increment Financing provisions in the Trust Fund. Developers and property owners can avail themselves of the opportunity to take advantage of making infrastructure improvements or trying to expand targeted industries, impact fee payments, and billing permit fee payments.
- The CBIIZO will be consistent with the new Collier Boulevard Interstate-75 Innovation Zone Overlay that will be in the Growth Management Plan and will complement the existing Interchange Activity Center No. 9 in the GMP.
- We're looking to change or modify at least four different LDC sections of the code. The existing Zoning Overlay that's in 20307, called the Activity Center No. 9 Zoning District, will be eliminated in its entirety. This was reviewed by the DSAC-LDC subcommittee in January and the subcommittee recommended approval based on six conditions. Staff implemented four. We didn't implement all six because Zoning Manager Ray Bellows opined that "maximum building coverage" means buildings only and doesn't include off-street parking areas, etc. The subcommittee discussed what that includes.
- We respectfully request to move forward without creating a definition for "maximum building coverage."

Mr. Mulhere said they didn't understand why staff wouldn't add a definition if there isn't one. Is it already defined? He wanted to make sure the definition coincides with the intent. You're telling me it isn't defined.

Mr. Johnson said it is not defined.

Mr. Mulhere said that leaves it up to interpretation and someone will create their own interpretation.

Mr. Johnson said the other one we didn't move forward with was the desire to see language about the two floors of under-building parking, which would not count toward building height. We already have that provision in the code, so that's why we didn't move forward with that.

A discussion ensued and the following points were made:

- You do have it in code, but there are some significant requirements associated with that not counting toward building height. It says 300 square feet of additional open space beyond that which is otherwise required by the LDC shall be provided.
- The waiver of the height requirements is compatible to use on adjacent property. For each off-street parking space permitted within the principal structure for which the maximum height waiver is granted, 300 square feet beyond that shall be required.
- Mr. Johnson said this will be a zoning overlay.
- You're penalizing developers; others agreed.
- This has been in the code since the 1980s and it's probably only been used a half-dozen times so there's a reason.
- Staff seemed like they were responsible and were listening and then took only four of six DSAC recommendations.
- DSAC talked about how it should be more compact, and people should be allowed to go vertical without getting penalized.
- What's most important is to balance the intent of the regulation with the incentives you're trying to create. The requirement for 300 square feet of additional open space in this fairly intense Activity Center is a disincentive rather than an incentive to put parking under a building. You'd be providing more open space by putting surface parking under a building.
- Mr. Johnson said if they want to omit No. 4, they can do that; DSAC members agreed that makes sense.
- About 20 years ago, the EDC created the same thing and called it an economic development zone, which allowed developers to use incremental tax revenues for innovation.
- There could be some opportunities for this in the future, particularly out east, a new town that might want a business park, research, and technology, or industrial park. If you're big enough, you can create significant tax revenue to build infrastructure. Look how long City Gate took to develop. This tax increment creates an opportunity for a group of investors or a landowner to put money into the infrastructure and wait for some time to attract a sufficient number of users to fill a

200-acre business park. The incentive would be good without the extra 300 square feet.

Mr. Johnson told the DSAC:

- Most of the properties in this overlay are currently zoned PUD.
- We have a provision that would allow the PUD to take advantage of the regulations. They won't be required to do it. It's on an elective basis and they could disregard it.
- It's his intention to require that if the underlying zoning district doesn't have one of the uses listed in the table, the Economic Development Uses, they're going to be obligated to comply with LDC Section 40223 E and F, which starts on page 70 in the agenda packet. E is related to pollution control and F is additional design standards for Economic Development Uses in the CBIIZO.
- If a property owner doesn't currently have these entitlements, if they want to take advantage of the entitlements (TIF), they'll be required to design their site with Sections E and F in mind.

Mr. Mulhere said the DSAC-LDR didn't have an issue with that but pointed out that in the CRA you can develop with uses allowed in the underlying zoning or CRA, whichever is more liberal/more relaxed. Either way, you're required to develop under CRA design standards, which are more favorable. The same thing is true here.

Mr. Johnson said if you're going to have an industrial use, it's important to comply with Sections E and F. He hopes to bring these amendments to the Planning Commission for an evening meeting in March, so he's asking for a recommendation.

Mr. Mitchell said he strongly agrees with Jeff and Bob on the building. He can see an instance where there's covered parking at a technical center, which may be an incentive for a developer to bring in an executive level on an innovation tech center. If there's ambiguity and the roof of the covered parking is not attached/included, you need a definition.

Mr. Mulhere said it wouldn't be hard to make a definition. He can make a motion.

Ms. Spurgeon-DeJohn said there's a definition of lot coverage in the code that says, "area of principle and accessory buildings divided by the area of the lot."

Mr. Mulhere said that was raised by the subcommittee.

Ms. Spurgeon-DeJohn said she's confused about what the issue is.

Mr. Mulhere said the subcommittee wanted to know if the intent was the same and asked staff to tell them.

A discussion ensued and the following points were made:

- If you're saying a percentage, it's the same formula, lot coverage.
- The square footage will be dictated by the amount of parking you can provide.
- The county is trying to incentivize it by allowing parking under a building, but this disincentivizes it if you have to give back 300 square feet more in green space. This would allow developers to build slightly larger buildings in an Activity Center.
- Can you change "building coverage" to "lot coverage"?
- If you have 100% of a building over parking, then it's 100% shaded.
- Staff was happy with the definition of "lot coverage" and can change it from "maximum building coverage" to "maximum lot coverage."

- A maximum of two underground parking levels should be allowed that won't count against building height.
- Allow the incentive of getting extra height, but don't punish developers by taking away the extra parking. This will allow developers to build slightly bigger buildings in an Innovation Center.
- In the chart, the proposed language should be switched from "maximum building coverage" to "maximum lot coverage."
- The levels under the building are counted as building height, not floors.
- The county measures height from the established FEMA/DEP flood elevation. Actual height is from the center line of the adjacent road. We're talking about zoned height.
- Under FEMA, you might be able to fit one parking floor but we're saying you can do two floors of parking and it won't count against your zoned height.

Mr. Mulhere made a motion to recommend approval of the Collier Boulevard Interstate 75 Innovation Zone Overlay [CBIIZO], with the following changes: page 9, line 46, revise it to say, it "shall follow the LDC width requirements for a Type-D buffer"; on p. 10, make sure there is a definition for "maximum-building coverage" to ensure the intent is clear in terms of limiting living coverage; make the following changes clearer with a footnote or a table – allow an increase in building height to allow for up to two under-building floors of parking not subject to the 50-foot building height to incentivize underground parking, increase the building height for buildings or lots abutting residential tracts or districts from 35 to 40 feet and add that the term "residential tracts" or "residential districts" does not apply to mixed-use buildings or tracts; use 30% of the sum of the heights of the buildings, but not less than the separation required by the Florida Building Code; page 7, line 1 should end with a comma followed by "unless already permitted within an existing PUD"; allow for the incentive of up to two floors of parking under a building that won't count toward the building height, without a requirement to replace 300 square feet per parking space; and use the existing definition of lot coverage rather than building coverage. Second by Mr. Curl. The motion passed unanimously, 14-0.

b. PL20220008172 – Neighborhood Information Meeting (NIM) Rules of Decorum

Mr. Johnson told the DSAC:

- The subcommittee reviewed this and had three recommendations/conditions. Staff implemented two.
- This LDC amendment would introduce the Rules of Decorum for Neighborhood Information Meetings. We're introducing a Land Development Code amendment and a companion Administrative Code amendment.
- The subcommittee recommended approval of the LDC amendments. Of the three conditions, the one staff didn't do anything with is No. 3 – "The BCC should consider some type of punitive action to those who disrupt the NIM and cause it to cancel."

A discussion ensued and the following points were made:

- Staff is probably not in a position to recommend that the BCC take punitive action.
- DSAC discussed excluding disruptive people from the process, and everything moving forward.

- The County Attorney probably can't support taking away someone's right to speak in public but Clay is an attorney and he wanted that in the motion because behavior has gotten out of control.
- There was a NIM with metal detectors and people were armed. There also were NIMS where people were extremely unruly and at another, a deputy escorted a disruptive person out of the meeting.
- We recommended an improvement to the process because it seems unfair to the applicant. If we let this behavior go without a clear process then people may resort to disrupting the process to prolong it, costing more money, and causing delays. That's the intent in some situations.
- People were threatened. Physical threats don't fall under free speech.
- If a developer feels it could be a divisive meeting, it's the applicant's responsibility to hire a security detail or deputies.
- The presence of deputies often keeps a NIM calm.

Mr. Johnson noted that the amendment change also will allow an applicant to hold a second NIM virtually and they could then mute rowdy people.

A discussion ensued and the following points were made:

- Why does an applicant have to hold a second meeting at their expense because someone is disruptive? That's punitive.
- If you're unable to hold a NIM because people are shouting, that's not the applicant's fault.
- Mr. Mulhere always holds an in-person and virtual NIM so if it's disrupted, the virtual meeting can continue. He holds a simultaneous virtual NIM as a courtesy.
- Why can't NIMs all be virtual, especially if you know it's going to be contentious? Other counties do that. It should be a viable primary option. You can mute the rowdy people.
- The county does all its pre-apps online.
- Virtual is a better option with large crowds. It's hard to predict space needs.

Mr. Johnson read the other two recommendations:

- Provide the public with notice of an impending Land-Use Petition and foster communication and collaboration between the petitioner and the public. We deleted the words "and collaboration."
- The applicant is required to record the NIM proceedings and to provide an audio or an audio/video copy. We added the word "audio" next to "video." These were minor changes recommended by the DSAC-LDR.

A discussion ensued and the following points were made:

- It doesn't say you have to hold an in-person meeting.
- There have been several NIMS held online.
- With a virtual NIM, residents can't complain that it was held while they were up north, not during season.
- A very small number of NIMs are disrupted. If someone causes the first to be canceled, we can hold a second NIM virtually.
- If it continues to be a problem, we can look at this again.
- Can you elect to do it virtually only?

- It doesn't say virtual or in-person. It says Collier County staff planner, or a designee shall attend the NIM.
- Disruptions only occurred a few times and this allows an alternative.
- Many are under the impression a NIM must be in-person. It would result in less criticism if you held an in-person NIM.
- The Administrative Code mentions that residents should get the required notice, and the facility must be of a sufficient size to accommodate the expected attendance. That implies in-person. Clarify in the language that it can be virtually or in-person or say virtual is an option.

Mr. Johnson read what the LDC says about a NIM:

- The purpose and intent of a NIM is to provide the public with notice of an impending Land-Use Petition and to foster communication between the petitioner and the public.
- The expectation is that all NIM attendees will conduct themselves in such a manner that their presence will not interfere with the orderly progress of the meeting.
- The petitioner is encouraged to provide a security detail, which will be at the petitioner's expense to ensure the safety of all attendees.
- The petitioner may request the security detail to remove a disorderly person.
- If the petitioner is unable to complete the NIM due to the disorderly conduct of the attendees, the NIM shall adjourn, and the petitioner will be required to conduct another duly advertised NIM as further described in Chapter 8 of the Administrative Code.

A discussion ensued and the following points were made:

- How hard would it be to just make a recommendation to allow it to be virtual?
- The word "ensure" should be removed in this sentence: "The petitioner is encouraged to provide a security detail, which will be at the petitioner's expense to ensure the safety of all attendees." Why should applicants be responsible for ensuring their safety? That leaves us liable if they sue. It should read: The petitioner is encouraged to provide a security detail, which will be at the petitioner's expense. Strike out "to ensure the safety of all attendees."
- If you choose to hold the NIM electronically, there is no cost for a security detail.
- In a highly populated area, there's a cost for sending notifications by certified mail. Virtual should be allowed.

Mr. French told the DSAC:

- Saying it can be virtual implies that everyone has Internet, you're not in an underserved community and you have a great WiFi signal.
- A great WiFi signal isn't the case countywide. If you're in the Eastern Lands, they may not have WiFi, or you're forcing a resident who wants to participate to subscribe to Comcast and that's something they might not be able to afford.

Mr. English disputed that, noting that he held a NIM in the Rural Lands and no one attended. Everyone watched it virtually.

Chairman Varian asked if the county would allow a virtual-only meeting.

Mr. French said there are applications throughout the code that talk about venues, that it must be available to accommodate your audience, so it's already a pattern of practice we've followed for

years. In the past, the BCC was not 100% in support of going 100% online. We can go back to the BCC and ask that question. Many people don't have online capabilities.

A discussion ensued and the following points were made:

- The BCC made that decision after a rowdy meeting.
- The decision came during COVID.
- Mr. Mulhere holds virtual and in-person meetings simultaneously and provides Zoom as a courtesy. That's written in the ad about the meeting in case there's a technical malfunction, which could be caused on the viewer's end.

Mr. Boughton asked if the county could set up a remote location for people who can't attend virtually.

Mr. French said they probably could provide a video in another location.

[A discussion ensued about sending it back to the subcommittee, but Mr. Johnson urged them to finish.]

Margaret Emblidge, director of planning for ABB (Agnoli, Barber & Brundage), said they held a NIM, and no one showed up, except for county staff and one person on Zoom. She understands the applicant has costs to pay. But the other cost that occurs is that county staff spends time coming to a meeting. All the efforts we went through for the NIM, and no one showed up. That upset her.

Mr. Mulhere made a motion to approve the changes subject to the removal of the phrase "collaboration of," removing the word "ensure" and allowing NIMs to be virtual or allowing a combination of both.

Mr. Curl seconded it.

[A discussion ensued, and Mr. Mulhere and Mr. Curl amended the motion.]

A discussion ensued and the following points were made:

- Is there a definition of "unruly."
- A recording of a meeting will prove whether there's a disruption.
- A security detail will know what to do with an unruly person.
- A security detail is reasonable and is a deterrent because some are there to obstruct the meeting.
- People feel more empowered to act out in large crowds. The crowd mentality makes it worse.

Mr. Mulhere recommended they approve amending the Land Development Code to add "Rules of Decorum for Neighborhood Information Meetings (NIMS)" and to change the language in the following ways: Allow a NIM to be held virtually, in-person, or both; Delete the words "and collaboration" so the sentence reads, "Provide the public with notice of an impending Land-Use Petition and to foster communication between the petitioner and the public."; Add the word "video" so the sentence reads, "The applicant is required to record the NIM proceedings and to provide an audio or an audio/video copy."; Strike all words after "expense" to remove the word "ensure," so the sentence reads: "The petitioner is encouraged to provide a security detail, which will be at the petitioner's expense" and to strike out, "The petitioner may request the security detail

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to remove a disorderly person." It was seconded by Mr. Curl. The motion passed unanimously, 14-0.

8. **Old Business**
None
9. **Committee Member Comments**
None
10. **Adjourn**
Future Meeting Dates:
March 1, 2023, 3 p.m.
April 5, 2023, 3 p.m.
May 3, 2023, 3 p.m.

Mr. Valle made a motion to adjourn the meeting. It was seconded by Vice-Chairman Foley. The motion passed unanimously, 14-0.

There being no further business for the good of the County, the meeting was adjourned by the order of the chairman at 4:43 p.m.

**COLLIER COUNTY DEVELOPMENT
SERVICES ADVISORY COMMITTEE**



William Varian, Chairman

These minutes were approved by the Committee/Chairman on 3/1/23, as presented

(choose one) _____, or as amended _____.