

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

Naples, Florida, April 18, 2023

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 2 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
Robert Mulhere (excused)
Mark McLean
Jeff Curl (excused)
Blair Foley (excused)
William J. Varian
James E. Boughton
Mario Valle

ALSO PRESENT: Eric Johnson, LDC Planning Manager
Richard Henderlong, Planner III
Michele Mosca, Planner III
Mark Templeton, Development Review
Christine Fisher, Johnson Engineering
Laura DeJohn, Johnson Engineering

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 Brooker called the meeting to order at 2 p.m.; a quorum of five members was present.

2. Approve Agenda

(No changes)

Mr. Valle made a motion to approve the agenda. Second by Mr. Varian. The motion passed unanimously, 5-0.

3. Old Business

**a. PL20220008725 U.S. 41 East Zoning Overlay (US 41 EZO)
[PowerPoint Presentation]**

Chairman Brooker said this is a continuation of the March 21, 2023, meeting. As we discussed last time, there are several of us on DSAC and on this subcommittee who have conflicts of interest with respect to this text amendment for the LDC. He's one and is declaring a conflict. He filled out the form again, just in case. If anyone else has a conflict, speak up now. My understanding is you can participate in the discussion, but you cannot vote. That's what he intends to do. Anyone else have a conflict on the subcommittee?

Mr. McLean said he has a similar conflict and conflicted out during the last meeting. Is that paperwork still valid?

Mr. Johnson advised that he fill out new paperwork because it's a different meeting.

Mr. McLean said he'll fill out a new Form 8B.

Chairman Brooker said as long as you declare it now, you just have to fill it out and turn it in by the next meeting, the full DSAC meeting.

Ms. DeJohn said she's a DSAC member but is at this subcommittee meeting assisting the county under contract to write this code language, so she's not participating as a member, just on behalf of the county.

Chairman Brooker asked staff to provide a recap of the last subcommittee meeting.

Ms. Mosca summarized the last subcommittee meeting:

- Instead of the three handouts from the last meeting, there are now four.
- The subcommittee asked for a revised front-yard streetscape plan.
- We had a discussion about structural soil cells. The picture is provided and the definition that you would ask to be incorporated into the zoning overlay.
- Also included is the resolution, 2023-TBD, Exhibit A. That's the Growth Management Plan amendment that identifies the economic development uses, the addition of the density and height bonus provisions for those nodes along the corridor, which are the Community Center Subdistricts and Regional Center Subdistricts that would allow for the additional density and height through bonuses throughout the corridor.
- We will allow for economic development uses. That's why we have that Growth Management Plan.

- The Board of County Commissioners will hear the transmittal of the GMP amendment on April 25 and once it's transmitted by the BCC, it goes to the state and then we'll have to come back around again in 30 days-plus for adoption.

Chairman Brooker noted that the Growth Management Plan is for transmittal later. With the exception of the items you just mentioned, it's fairly bare boned.

Ms. Mosca said at the time of adoption, both the County Planning Commission (CPC) and BCC will review the Growth Management Plan amendment for adoption, and they'll also be looking at all the details within the Zoning Overlay at the same time. They will be married up at adoption. So 30 days from now, the state will provide us with comments on the Growth Management Plan Amendment. The full DSAC is going to meet on May 3 and provide a recommendation. She'll go through the slides. We're looking at July 6 for the Planning Commission. Hopefully, by that time we'll have comments back from the state. What she'd like to do is present the Zoning Overlay to the CPC, as well as the adoption of the Growth Management Plan Amendment. They go hand in hand. Is that too soon, too quick?

Chairman Brooker said it wasn't. He has received public comment slips, so he'd like to hear public comments earlier rather than later because we have to end by 4 p.m. because Mario, a voting member, must leave.

Mr. Johnson recommended that when they vote, the chairman should designate someone else to lead the motion and the roll call on the vote, and recommended considering public comments earlier rather than later. We don't have a hard and fast rule of how long the public can speak, but generally, it's three or five minutes and is up to the subcommittee.

Chairman Brooker said he'd be a bit more flexible. For the public, please be mindful of your time. We're going to allow you to speak.

Public Speakers

Robert Drew Vigorito told the subcommittee:

- He's here representing the Board of Directors for the Naples Pathway Coalition and our executive director, Michelle Avola-Brown.
- One of our major concerns with the East Naples Overlay's addition of bike lanes is the idea of shade trees versus palm trees versus no trees. Adding trees not only creates a more natural landscape, but also helps with stormwater runoff. If you're into climate, you know that tree leaves absorb CO2 from out of the atmosphere, which is a nice thing. Also, birds like trees.
- Two main roads in Naples that our cycling groups ride on all the time are Vanderbilt Beach Road all the way down to Pelican Bay Boulevard, which is beautifully lined with trees. Even nicer than that in the East Naples area, where we ride every week, is Vineyards Boulevard, the Vineyards Country Club and Vineyards area. That's the prettiest street in Naples and is about 2½ miles from Vanderbilt Beach Road to Pine Ridge Road. We probably ride there two to three times a week on our long rides. It's a beautiful road and there are now bike lanes, but there are sidewalks on both sides, people are walking their dogs and jogging. Bike clubs use that all the time because it's very safe and is basically a country road.
- It's beautiful with oaks that provide shade and attract birds, which we dodge. It creates a natural habitat.
- For cyclists, a roadway protected from the heat and the sun is nice. Having a path through nothing, an open area of space bereft of trees, is dull. To add trees, shade trees in particular, along any pathways that you're going to create is a huge benefit not only for the community but also cyclists, walkers, and any pedestrian traffic.

Gordon Brunwell, an East Naples resident, told the subcommittee:

- He's representing the Lely Country Club POA.
- The EZO draft is a great draft that aims to preserve our natural look, reduce environmental impact and induce people to get outside. For instance, the working poor who bike to work. It will make it less onerous for them.
- Why are these even goals? Loss of our semi-rural look, green slime, dead manatees, people are starting to get this and we want change now.
- It's not just him saying this. Parks & Recreation has a survey out that shows we prioritize green space and 77% of Collier voters voted for a land-acquisition tax because they realized these things. When a forest goes down, to build a project edge-to-edge, social media blows up and nobody ever writes how great it is.
- We're going to have more traffic and less shade and fewer birds. Many of us share these views, in the audience at least. The Lely Country Club POA can't be here, but they represent 709 residences in East Naples and he's summarizing them.
- They support him pushing for environmental sustainability in construction and shade trees for shading paths, sidewalks and parking areas. The East Naples Community Development plan ENCDP mirrors this groundswell of public sentiment.
- The 41 EZO should mirror the ENCDP's vision elements and its spirit does, but there are concerns the public has. We can't solve these right now, but he wants to enumerate them to make you aware of what we're thinking.
- If some builders opt in to the bonus program and others don't, our interpretation is that multi-use paths in the centers will stop and start. Paths that start and stop or are not shaded do not fulfill the ENCDP's vision of increasing non-motorized options.
- The green stormwater infrastructure item and the bonus list need some minimums. Rain gardens that are too small to make a difference will not reflect the vision for the ENCDP's intent to ensure new development does not overwhelm natural spaces. Rain gardens, etc., are maybe an extra layer of stormwater management that we can see from our statewide failure to clean our estuary waters. We need something and this is our push to get something in there.
- Vision should be community wide. For instance, emphasizing non-palms will result in people on the road seeing treed vistas. They'll also benefit the people in those projects.
- Many of us think the bonus system might have a problem. For instance, a builder can attain 100% of the possible density increase in a Community Center without one eco-service option that benefits greater East Naples. He's hoping somebody proves him wrong, but he doesn't think they can. The points that they get, such as for a gazebo over the water and a pond in their project, are great for those people and they should get some points, but they should not be able to get enough points that it allows them to circumvent the EZO's intent to benefit greater Naples.
- Eight-foot planting zones would seem to cause buckled hardscape, unless those planting boxes are magic.
- He's not familiar with the EZO's aesthetic requirements for buildings. We're requiring certain looks just for looks. It seems reasonable that we should require overhangs, external shutters and things like that for climate resiliency and CO2 reduction. Shade tree emphasis should be expanded.
- The only public comment receiving applause during the early EZO public meetings was someone explaining palm trees' lack of function. She got applause. All this makes me wonder if eco-infrastructure is too important to rely on a volunteer group.
- How do pine trees fit in? There's a lot of talk about palms and shade trees. Pine trees are part of our natural ecosystem and he wonders how they fit in.

Mr. Johnson told him if he wanted to give his list to staff, staff can give it to the County Clerk's Office. It's up to him. *Note: The list was provided later.]*

Suzette Johnson, an East Naples resident, told the subcommittee:

- She's seen Naples change from a small town to a sprawling city with lots of condos. Green space is a postage stamp.
- There wasn't a thought about our environment and how all the building is going to affect the rains and the hurricanes. Two nights ago, we had a severe thunderstorm and lots of rain. Where did all that runoff go? It went out into the bay and into our gulf. The city is spreading now into the East Naples area, adding to the pollution of the Gulf and Rookery Bay.
- We need to think about how we're going to affect our environment by approaching building differently. It's good to see Collier County is taking a proactive step to help our environment and engaging the citizens in accomplishing the new vision of the 41 East corridor. Leaders of our community are thinking of the future and proposing ideas that are making a difference.
- These proposals aren't new. They've been tested in other communities – rain gardens, planted depressions in landscapes, bio swells to capture and filter pollution runoff for parking and driveways. All would help with runoff. Non-palm trees over parking lots will help manage storm water. Multi-use paths shaded with native trees will connect communities, enabling bikers, walkers and golf carts to travel safely for daily activities. These changes are possible.
- We, the citizens and leaders of our community, can make a positive difference. We're talking about only a five-mile stretch, but it's a start with establishing multi-use paths, stormwater management and total communities. We would help the environment and the people who live in it. If we are going to build, we can build differently and incorporate some of these ideas.

Former County Commissioner Donna Fiala, of Lakewood, told the subcommittee:

- Lakewood has a wonderful golf course that's constantly in use. The good thing is it's not very expensive, so a lot of people can use it. The kids can use it during school when they have golfing practice and that's a great thing.
- We don't want to lose our golf course. When she bought her home there 49 years ago, the golf course was there and we didn't know that somebody owned it and could take it away from us. We had no idea there were people that bought into that.
- To find out years and years later that somebody owns it and they want to take it away, we're very upset because it's been our lifeline.
- Please reconsider because you haven't made a decision on golf courses, which seem to be drying up. More and more people want to sell them and buy and build because they get a lot more money. Then a lot of people can't use them at all.

Dr. Lisa McGarity, of Lely Golf Estates, told the subcommittee:

- She's the palm tree lady (mentioned earlier). She's an environmental chemist and said earlier not to plant palm trees. If you drive into a parking lot at 2 p.m., where do you park your car? Under a shade tree. We all do and when you look around, all of the cars are clustered under the trees. There's a reason for that.
- She lives in the next development over from Dr. Brumwell. We echo the same words that he has said. We believe in green space. We have enough concrete in East Naples. We have plenty of self-storage units, gas stations and car washes. We're done. We need living, breathing parts for our East Naples corridor. We need life. We need trees. We need people strolling.
- Even Commissioner Fiala's (Eagle Lakes) Park has beautiful paths going through it, but they didn't plant enough trees along that pathway. She's a marathon runner and runs through that park all the time. Not enough trees. There are very few trees and some of them had to be cut down. It's just a wide-open space, no shade, but what you're hearing repeatedly is green space, green space, green space.
- She hopes you're hearing what we're saying because that's what we need. That's what our homeowners are telling us. That's what we feel is the most important thing.

Chairman Brooker thanked the speakers and told Ms. Fiala they weren't discussing golf courses today.

Ms. Mosca agreed, but believed Ms. Fiala was mentioning that because it deals with keeping the green space in the area.

Chairman Brooker said one of the speakers mentioned a five-mile stretch. This is 17 miles and goes from the Airport Pulling Road area down to Port of the Islands.

Ms. Mosca said when they refer to five miles, they're probably referring to the nodes and that's in Gordon's notes, the location of those nodes, the Community Center and the Regional Center. Those are the areas where we see more development activity and the bonuses, etc. She noted that Gordon is nodding in agreement.

Chairman Brooker told the audience:

- This is a subcommittee of the full Development Services Advisory Committee. We simply offer a recommendation to the full DSAC, which meets on May 3.
- DSAC is an advisory committee to the Board of County Commissioners, so this is the first of at least four future public hearings.
- We don't have final say, not even close. He encouraged them to continue keeping abreast of public hearings. The Planning Commission will be July 6 and they will make a recommendation to the Board of County Commissioners, who will ultimately decide what's adopted.
- It's a months-long public hearing process. He encouraged them to speak to all the boards that are this Land Development Code Amendment.

Mr. Johnson said if there are any members of the public who want to put their name and e-mail address on our sign-in sheets, we'll be happy to keep you informed of the Land Development Code Amendment as we go through the process. Rich Henderlong is here and can talk to you so you can write down your e-mail address on the sheet.

Ms. Mosca said the county also has a webpage for the US 41 EZO. Most of you are aware of that webpage and you also can access the current drafts of the Land Development Code, as well as the Growth Management Plan there.

Ms. Fiala said when she left her home in Lakewood, we all have signs out that say "Do not rezone the golf courses," so she thought that's what was being discussed. She's sorry she spoke about the wrong subject.

Chairman Brooker told her there is a hearing coming up on conversions of golf courses, but not with the subcommittee today.

Mr. Boughton said he heard some comments about water retention and stormwater management. These properties have the same water-retention requirements that any property in Collier County has, right? They have to maintain water on their site for a certain amount of time before it's released to the community system.

Ms. Mosca told the subcommittee:

- We've addressed the comments you had requested. There was one additional comment about defining a roll-up shutter, so it's in the code. We'll see how we deal with that moving forward.
- Chris Shucart asked a question regarding his property. We've had multiple conversations with Chris and it seems reasonable that we'd add his property into the overlay. He's excited about doing something special for the community consistent with the Zoning Overlay.

Chairman Brooker said he believed Mr. Shucart wanted his property to be included in one of the Community Centers.

Ms. Mosca said he does and *clarified that for the subcommittee:*

- That would be a Community Center Subdistrict, rather than the Corridor Subdistrict, which it is now.
- Staff is proposing that we address that in the Comprehensive Plan Amendment. When it comes back for adoption, we'll also include it in the Zoning Overlay.
- Dr McGarity's comments segue into something we specifically wanted to talk about. Mark Templeton, a landscape architect for the county, will talk briefly the structural soil cells. There were many questions at the last meeting, so we thought it appropriate to bring him in.
- You all have a picture of the structural cell and she will show that on the overhead projector.

Chairman Brooker said we've heard the public comment and there's clearly a desire for shade trees, especially in contrast to palms. There was a comment about pines, so maybe you can comment on that. His recollection is there was concern, not an objection, about shade trees, that their root system is more problematic, so there will be more sidewalks and multi-use pathways buckling because of the root system. He has two oak trees in his front yard and has to deal with roots. They're digging up his driveway.

Mr. Templeton reported that:

- There was going to be an allowance for narrow planting strips, 8 feet, possibly 5 feet in some areas. That's why staff suggested bringing in a requirement for structural soil cells to help alleviate that and give trees a better chance to be viable and sustainable, instead of having to rip them down every 10-20 years to put in another 10-foot tree.
- The other question he had was when that eventually gets to the SDP level and, eventually, inspections, how is county staff going to inspect structural soil cells? He spoke to (County Engineer) Jack McKenna about it and he said it could be included in the landscape architect's certificate of completion. That would put the onus on them.
- But (Site Inspection Supervisor) Joe Bianchi had a different idea. His staff could inspect to ensure that the right quantity of structural soil or the right quantity of individual cells were brought and installed.
- He's unsure how we ensure inspections, but there are studies that show there are good benefits to soil cells and trees do better. They've done tests and it's proven. There's a cost to it, obviously.
- Handling inspections is what got him stuck.

Chairman Brooker asked if soil cells do prevent the roots from buckling nearby sidewalks.

Mr. Templeton said he has no personal experience, but from what he's read they do. The City of Naples doesn't use them. On the East Coast, municipalities have incorporated requirements for this. But he hasn't had time to dive deep into it. He's seen videos and read literature that shows trees in areas grown with cells versus one that wasn't, and the root system is like night and day. There's no question.

Mr. Varian asked if there's a specific size, area-wise, per tree that this would cover.

Mr. Templeton said there's an industry standard. One of the manufacturers, DeepRoot, created Silva Cell. They have staff members and experts who designed them who will go to different regions to check them out locally and sign off on that. He doesn't know if other manufacturers offer that. There are four or five soil cell manufacturers out there.

Mr. Varian said if there's a parking lot with a narrow island, we talked about how some of the rights-of-way might be narrow and how much space that needs. How does that work if you have an average tree and you need 50 square feet or 100 square feet?

Mr. Templeton said he believes it's based on the ultimate spread of the canopy. That's how they determine how many cells and the volume of structural soil that's needed.

Mr. Valle asked how that compares to the 8-foot buffer. Having lived in Windermere, where there's a wonderful shade road on the perimeter, what those trees do to the sidewalk becomes cumbersome. The roadway must get cut out for repair and that puts the tree at risk. It's an expense because somebody must pay for it. How do we ensure the viability of it all and manage the cost of that process? He wants to understand that for existing roadways and for the planting zone.

Mr. Templeton asked if he meant what damage might occur during the installation of the cells to the existing infrastructure.

Mr. Valle said if you have a building with front-yard streetscape. You've got a 25-foot max, 18-foot minimum for the building location. Then you've got the multi-use pathway and planting zone. What is alongside that becomes the right-of-way line, which typically is somewhere in the 15-foot range or less. How does that installation of shade trees affect that area if you've got to put in a huge number of structural soil cells? How does that impact gas lines and different infrastructure that we have in those rights-of-way areas?

Mr. Templeton said there are obviously some limitations with what you can do extent-wise with the right-of-way there. You can't compromise that. He'd defer to the experts at DeepRoot who designed it. He has no personal experience.

Mr. Valle asked if he could email that information to the full DSAC so they can review it and understand it because it's a very big need for the community. We want to make sure we understand what we're looking at, so we don't have any unintended consequences.

Mr. Templeton said it won't be installed and designed to the point where it's going to negatively impact the existing infrastructure. It's a case-by-case thing. They look at it site-by-site and design it given the constraints that are there.

Mr. Valle said if we have some information then we can draw some inferences as to how that goes through. He noted that the parking lot at the Target shopping plaza had a huge number of shade trees and all of them were removed. It was a big impact, not just to the community, but to the folks that love those trees. That was a smaller approach. If we were to do something along this corridor and have to do the same thing retroactively, he wants to make sure we do it right and plan for it as we move forward.

Mr. Varian said he and Mario are the ones who do the building. If it works great, we need to be cognizant of that when moving forward.

Mr. Templeton agreed and said we may need inspectors in this discussion.

A discussion ensued and the following points were made:

- The 8-foot minimum is what triggers the new mandate for the soil cells to be added. If developed with a 9- or 10-foot-wide planting strip, this mandate is not applicable, so there's choice to be made when designing the site.
- A shade tree is defined as a canopy tree in the EZO. It's defined as any species that gets at least a 15-foot height and 20-foot spread at maturity.

- They want native trees.
- The trees at Target did not have structural soil cells.

Ms. Johnson (prior public speaker) asked if the perfect example is the oak trees across Horseshoe Drive, where there's a walkway between the trees.

Chairman Brooker said that's the concept, but the road is buckling and the whole idea of this structural soil cell is to try to stop that from occurring or minimize it to the best of our ability.

Mr. Templeton said from an inspection standpoint, there's a way to do it. Jack McKenna and Joe Bianchi both had ideas and no one on the inspection side is averse to finding a way to do it. The other issue is FPL lines. There are overhead power lines along 41. FPL has recommended smaller trees for overhead power lines.

A discussion ensued over timing and what page they left off on at the last meeting.

Mr. Henderlong asked Ms. Mosca to reiterate what's on page 20.

Ms. Mosca started at page 20 and noted that:

- We're talking about specific uses the community identified to limit the number of these uses.
- All will have the element of the enhanced buffering screening requirement of a 25-foot perimeter buffer, as well as spacing requirement of one-quarter mile if these are self-storage facilities with fuel pumps, car washes, eating establishment and outdoor display.
- The difference with gas stations is that the additional standards require that pumps and canopies be located to the side of the principal side or rear of the principal structure.
- For car washes, the stacking and drive-through lanes are to be no closer to U.S. 41 than the principal building structure and they're not allowed in the front yard on corner lots. They also require a 25-foot landscape buffer.
- For self-storage, the bottom floor is potentially commercial, and you have a mixed-use element and a 25-foot landscape buffer.
- For eating establishments with drive-throughs, the vehicle-stacking and drive-through lanes will be no closer to U.S. 41 than the principal structure.
- For outdoor display and storage, the maximum is 35% of the linear street frontage. The maximum height for outdoor storage would be 17 feet and if it's adjacent to residential and over 6 feet in height, there's a 50-foot setback.

Chairman Brooker said if it's a maximum of an item, like a boat, it can't be higher than 17 feet?

Ms. Mosca said yes. On page 22, it identifies the economic uses, the loading area. That would have to be oriented away from residential. It also addresses storage and display. None would be allowed except through a special-use permit. It talks about the operation of the economic uses. Everything must be in an enclosed building. Then it addresses standard noise, odor and vibrations, etc.

Chairman Brooker asked if this applies only to the economic development uses because we're adding those uses as new uses, which means they are currently not permitted. If we're going to give you that, there's a bit more restriction on how they function.

Ms. Mosca said yes. A lot of those uses are found in a business park-type area, so we do have additional restrictions on those. Economic development uses would be permitted in all subdistricts, including the Corridor Subdistrict.

Mr. Johnson noted that the economic development names are listed on page 6.

Ms. Mosca said page 23 brings you into the criteria for bonus, maximum height and bonus maximum density.

Chairman Brooker said there was a question raised by the public on the bonus provisions. Can you spend a couple of minutes to explain to us how that's all supposed to work?

Ms. Mosca told the subcommittee:

- That was based on working with the community, what they desire and are looking for.
- The community was presented with a large list of features, including green space-related, green building, nature trails, vertical mixed-use, etc. Based on that communication with the community and the stakeholder group, they were assigned a value based on what the community wanted more of.
- She agrees with Gordon Brumwell, that there are additional items that we could incorporate into this bonus structure, but this was completely vetted by the community. Those are on pages 23 and 24.
- How this works is you have your base zoning. Predominantly, you have commercial zoning along the corridor. You do have PUDs, but only the commercial component of the PUD is within the Zoning Overlay, so the base density is set at what the zoning allows for all commercial. We know there's zero density assigned to commerce, so if you're in a Community Center Subdistrict, you can get up to 16 dwelling units per acre and then in the Regional Subdistrict, those are all of your Activity Centers located along the corridor. You can get up to 20 dwelling units per acre.
- How these are calculated is based on the zero density to begin with. For vertical mixed-use, if you're in the Community Center, your max is 16 dwelling units per acre, so you would take 30% multiplied by 16, which would give you 4.8 dwelling units per acre, and you would do the same for the 20. That would give you 6% and it's and as you choose and select, whether you choose vertical mixed-use, green building or you go to the next page and you look at green roof or you look at native preservation. They all have percentages associated with them, so you add up those percentages and you multiply them with the maximum density allowed to give you your density or height for that subdistrict.

Mr. McLean said if he has a developer who wants to lay the Live Local Act over the top of this ...

Ms. Mosca said that's preempted by the state.

Mr. Johnson said the Live Local Act is only applicable to commercially zoned properties, industrial zoned properties and mixed-use zone properties.

Mr. McLean asked, but this is all commercial, right?

Ms. DeJohn noted that the Live Local Act is going to mandate that the affordability requirements must be rental.

Mr. McLean said he's asking because part of the reason why he's abstaining from this is because of other projects he has on this corridor. Since we met last time, someone asked him to apply the Live Local Act to a property in this corridor. It's amazing what we can do then. So that's why he was asking, from that standpoint. Is there anything we can do now to help control that over-density?

Chairman Brooker said he didn't think so.

Mr. McLean said he didn't think so either but was wondering.

Chairman Brooker said this is a state law and it's going to preempt everything the county does as long as it's applicable. But remember, you get that added height and you get that added density under the Live Local Act as long as 40% of your dwelling units are for 120% AML.

Mr. McLean asked if there's anything they can do.

Mr. Henderlong said no, it's precedent. Mike Bosi made a wonderful presentation before the board on it. Keep in mind that when you take a targeted piece of property and you have a client, you have to draw a mile radius around there. You have to look for the highest building or it reverts back to this.

Chairman Brooker said that's for building height, but the density is the maximum your comprehensive plan allows?

Mr. Henderlong said no, that trumps it.

Ms. Mosca said it would be self-limiting based on the size of the lot.

Mr. McLean said it's self-limiting by parking and everything, but then his question is, does any of the Live Local Act go above and beyond this from a density and height standpoint? Is there any reduction in parking or reduction in units that we'll be able to take advantage of if they're increasing their density through the Live Local Act? Are we giving them a mechanism to reduce their density count to make their parking work? That's where he's at right now. He can't make his parking work for the density count that his client wants.

Ms. Mosca said she understood. They can discuss that at the full DSAC. That's a standalone provision. They would not be able to take advantage of this provision without applying all. That's her understanding.

Mr. McLean asked if there was some way we could cut this off that says you can't take advantage of two different conditions like that? That's where he was going. Maybe he was unclear on that.

Ms. Mosca continued with her presentation:

- On page 25, the last portion of the zoning overlay deals with deviation. With the deviations, the community has seen in other areas of the county how easy it has been to deviate from the regulations.
- This is a little different from some of the other regulations within the county. This will require going to the Planning Commission and having that justification for that deviation.
- The list of what can be deviated from in terms of your dimensional requirements, such as loading space, landscaping, etc., are all listed on pages 25 and 26.
- It is possible to get those deviations. There may be unique properties in the community that would warrant such a deviation, and they'll need to go through the conditional-use process to obtain that deviation.

Ms. DeJohn noted that this also requires a Neighborhood Information Meeting, which is unique compared with other parts of the county that have deviation processes.

Chairman Brooker asked if they could imagine him going through this. What are provisions of the EZO from which thou shalt not deviate? Unless you go and get a variance, is it? Is that a small list?

Ms. DeJohn said the easiest way to answer would be to list what you're allowed. You're allowed to get deviations from dimensional-like setbacks, things like that. You're allowed the loading space. If you

need special relief on loading, the landscaping and vehicular-use areas, landscaping for industrial and commercial development, building foundation, plantings and signage, those are the only ones you're allowed to ask for.

Mr. Johnson noted that's on pages 25 and 26.

Chairman Brooker said he hadn't gone through the criteria line by line, but there are none that are one-size-fits-all. That's his concern. He's hopeful that this deviation process and the application of the criteria are reasonable because there are going to be certain circumstances where a private property owner has a legitimate complaint. The variance criteria, as a matter of Florida common law, are virtually impossible to meet. He's tried and it's impossible under most circumstances, so he's hoping the criteria that are in this EZO are not impossible and have reasonability infused in them in the event there is a legitimate problem with complying.

Ms. DeJohn said there are three. Being compatible, being the minimum amount necessary to achieve the goal and when reduced, if there is some type of public benefit from doing such a reduction, like if there can be a mitigating factor achieved almost like compensation or public benefit compared to the deviation. There are a list of examples.

Mr. Henderlong said that list is on page 27, c.

Mr. Boughton said another concern is small pieces of property. A lot of these properties were developed so long ago that water retention and parking restrictions weren't near what they are today, so you'll see a lot of smaller parcels. Then when you incorporate requirements like this, a lot of times they're undevelopable. There's nothing that can be done with them except a parking lot for somebody else, so it is a concern.

Chairman Brooker said we were looking at the specific undesired uses, such as drive-through restaurants, car washes, self-storage. What is he missing? All gas stations have a perimeter buffering requirement. One of the original drafts of the EZO that he saw did not include an exception for U.S. 41 frontage, but now it does, so a piece of property on U.S. 41 has frontage that is otherwise required to have perimeter buffering does not have to put the buffering on U.S. 41? Is that accurate?

Ms. DeJohn said except for the U.S. 41 frontage. That's correct. Because the U.S. 41 frontage would have the buffer treatment as described elsewhere.

Chairman Brooker said we've got everything else. It's just not going to be a 25-foot landscape buffer. We've got all the other stuff.

Ms. Mosca apologized for going quickly through that. She was cognizant of the time. If you want to go back to other sections, we can discuss that. Then when you're ready to vote, we can go ahead and do that.

Chairman Brooker asked if there was anything else the staff wanted to direct the subcommittee's attention to before we ask subcommittee members.

Ms. Mosca said staff is good with it.

Chairman Brooker asked if staff had a list of their prior concerns.

A discussion ensued over what the subcommittee's concerns were at the last meeting and this meeting:

- They had concerns about the size of the right-of-way, possibly 40 feet or less.
- The glazing requirement was onerous, and they recommended 40 because 60 was too high.
- There was a discussion about the roll-up doors.
- It may only be that 50% of the total facade is available as common wall space between the outside and inside, where you can install windows. When people say it needs to be 50% glass, there might be 50% of the facade that you can't even have glass.
- There were other architectural elements involving massing to get the glazing and those transitions.

Mr. Johnson suggested they memorialize their suggestions in their vote.

Chairman Brooker said per Eric's suggestion, he won't be making a motion or voting on it. You might want to incorporate the prior minutes and our suggestions and the consensus from the March 21 meeting. Does staff have a position about glazing going from 60 to 40? Is that objectionable or are you guys still internally debating?

Ms. DeJohn said it's not objectionable.

Chairman Brooker suggested that when we get to DSAC have a list of what the subcommittee asked for. If you ask us to repeat to the full DSAC what we suggested, we won't be able to do that. For the public's benefit, this normally does not occur. We're not dealing with a massive overlay like this. We're dealing with a finite set of rules and regulations, which are easy to keep track of. This is a big document, so this may look inefficient, and to a certain degree it is, but we're doing the best we can.

Mr. Johnson said keep in mind that there were many things that were discussed, but we can't certainly pinpoint exactly what the subcommittee agrees on because one member may have a thought. What we do have is Mr. Curl's comments.

Mr. McLean said that for future overlay districts, we could wordsmith on screen while doing it and make these adjustments, as we did with Golden Gate.

Chairman Brooker said it wasn't even necessarily wordsmithing, drafting on the fly. It was a comment inserted in the margin (by Mr. Henderlong) to say this was an issue brought up by the subcommittee. Staff is going to consider it and will come back with their recommendation.

Ms. Mosca noted that at the first meeting, Zak Karto, who is no longer with the county, took notes and he provided her with the subcommittee's comments about the front yard streetscape, providing a new sketch, a discussion on the structural soil cell, resolution for the GMPA, Chris Shucart's property, and defining a roll-up shutter. Other than that, those are the comments he gave me prior to his departure.

Mr. Valle noted there also was concern over the glazing.

Mr. Varian said he wrote down something pertaining to the size of the right-of-way – if there's a specific width that triggers something. For U.S. 41, six lanes, that's a given boon, right? But if we take a side alley, there was something we discussed.

Chairman Brooker said that had to do with the roll-up shutters in the back. If it's an alleyway, are you going to require the same type of aesthetic mitigation measures when you have a roll-up shutter toward the back of the property rather than to U.S. 41. He's uncertain if they reached a consensus and because believes it depends on the neighbors who live behind the alleyway who probably don't want it. They want aesthetic mitigation.

Mr. McLean said at the time, we deferred to what was the definition of an alley because the road he referenced was not defined as an alley. The question that would linger from this is, there's a primary and a secondary facade for as far as how the architectural LDC is overlaid. Is there anything beyond that? There's just two classifications, primary or secondary, and any road that has a name has a primary? So you can potentially have a building that has roads on three sides.

Mr. Boughton said standard architectural standards refer to as any side that faces a primary road, a public or a private road, so just about any roadway is going to be interpreted that way.

Mr. Johnson said he recalled that he suggested they could make it applicable to a certain width of a roadway.

Chairman Brooker said right. He suggested 40 feet. We can ask staff to come back with a recommendation at the full DSAC on that particular issue, perhaps making those aesthetic mitigation measures applicable to only rights of way that are of X feet of width or greater. For a small alleyway, for example, that won't be required. That's the concept.

Mr. McLean said in the Gateway Triangle Overlay, we're going for density bonuses there. There's a density pool that we're pulling out of. That's a Bayshore overlay district. There's a density pool when we're referring to bonus density in this district. Is just this bonus density based on criteria, or is there a bonus pool that doesn't have an endless amount of bonus density?

Ms. Mosca said Bayshore is very different. At the Botanical Garden, they had X units, so that became the bonus pool. Then there were some additional amendments. Whatever that bonus pool is, that was based on units that were stripped from the property. This is a bonus that is being provided as an incentive to do a certain type of ...

Mr. McLean asked, so this is a bonus pool that won't run out five years from now? This is a finite density, as long as you meet this criteria to gain that density?

Ms. Mosca said that's correct.

Mr. McLean commended staff on the maps they sent. He did the architecture on Carl's White Glove, a big storage facility on the East Trail. If you come off U.S. 41 on the edge and try to put this front yard setback streetscape zone on that particular property, he had three feet to a sidewalk that was 5-foot wide and dropped off into a 40-foot-wide FPL swale that he couldn't do anything in. A lot of the landscape buffer was applied to his property from the property line on his side of the swale. This makes reference to the right-of-way line of U.S. 41. Is that where we want to keep that, or do we want this to be on the subject property line?

Ms. DeJohn said that U.S. 41 right-of-way and the property line are coincidental, so the private property would be occupied first by some plantings and then by a walkway on the private property.

Mr. McLean asked if maybe this was an 8-foot minimum planting zone? He commends that and understands it. It's a great concept. His question is are we going to go in there and plant shade trees along U.S. 41 within 4 feet from the edge of the road?

Mr. Henderlong said that's the edge of the right-of-way.

Ms. DeJohn agreed and said there's a lot of space between traveling and

Mr. McLean said there can be a lot of space. Going back to his example, from the edge of the pavement to a 3-foot grass strip to a sidewalk to the edge of his right-of-way, that becomes a 25-foot-wide swale. So there are some areas here where this won't work.

Ms. DeJohn said going back to his original premise that the location you're referring to just happens to be a location that this is not applicable to, you're not in a center.

Mr. McLean said it would be considered the center.

Ms. DeJohn said those centers are focused around intersections, bigger, major intersections, so the conditions are more urbanized at those intersections.

Mr. Johnson said he wanted to make it clear that the edge of the pavement for U.S. 41 may not even touch the U.S. 41 right-of-way line. He doubts it does, so the 8-foot-wide planting zone would be on private property.

Mr. McLean asked if they've defined the materials that can and cannot be used on the 10-foot-wide multi-use pathway.

Mr. Johnson said they discussed it.

Ms. DeJohn said they expect it to be concrete.

Mr. McLean said what if he has a client who wants to build a boardwalk or a sand and shell walkway. Are we setting ourselves up for a pathway with changing materials from property to property?

Ms. DeJohn said it's consistent with what the county would typically have built for sidewalk.

Mr. Valle said he wouldn't necessarily want it to always be concrete.

Mr. McLean said that's why he's saying pathway, not sidewalk. He's not sure we always want it.

Ms. DeJohn said they can specify that to be concrete.

Mr. McLean said that's his last thought on that. You could technically have five different lots and five different materials if we just say pathway and don't define what it is. It could be cool if we're looking for a walking path or a jogging path, but he wouldn't necessarily want it to be all concrete.

Mr. Valle asked about the public's comments on treatment, swales and stormwater retention.

Ms. DeJohn said they will be governed by the ADA, the ability to be safe on those.

Mr. McLean said he doesn't know whether if you come off a right-of-way and there's already a sidewalk, are we going sidewalk to planting zone to multi-use pathway that's going to be a 10-foot-wide concrete pathway? He wants to make sure we're not setting up a space where we're trying to be conscious of what developers are doing here and a concrete sidewalk is going to be the least expensive thing to do. Are we running two concrete sidewalks, 15-18 feet wide right down, double striping the property with double sidewalks? If there's already an existing sidewalk in the U.S. 41 right-of-way, he wants to ensure we consider the unintended consequences of that pathway is having two sidewalks.

Mr. Johnson said he'd probably agree that if you have two concrete walkways or sidewalks, that would be inefficient, two parallel concrete surfaces.

Mr. McLean agreed, noting it would directly contradict what we're trying to achieve with greenways.

Chairman Brooker asked if Ms. Mosca could clarify whether the U.S. 41 streetscape zone is required in every subdistrict of the overlay.

Ms. Mosca said only in the Regional Center and the Community Center subdistricts. That's on page 8, Frontyard/Streetscape Zone for U.S. 41 in Table 1.

Chairman Brooker said his second question relates to what a speaker said. So it's not tied to whether you're opting in or opting out of bonuses, it's simply a requirement. If your property is located within one of those two subdistricts, there is the potential where you're going to have stop, start, stop, start – unless you're within one of the subdistricts. Upon redevelopment, those regional and community properties are going to have to create this 10-foot multi-use pathway?

Ms. Mosca said that would occur over time. When you start looking at these regional and community centers, we're looking for walkability within those centers. We're looking at infill development. This is a redevelopment area and over time, those properties in the Corridor Subdistrict can connect to those additional pathways along the corridor from the Regional and Community Centers.

Chairman Brooker asked if she could show him in the code where it says it only applies to the Regional and Community Centers.

Ms. Mosca said it's on page 8 toward the bottom, Table 1, Frontyard/Streetscape Zone.

Chairman Brooker thanked her.

Mr. Johnson noted that it's applicable to the RC and the CC.

Chairman Brooker said only there, but it's not applicable to the corridor.

Mr. McLean said that would apply to the area around the intersection of Rattlesnake-Hammock Road and U.S. 41. He's playing devil's advocate, so Jersey Mikes, Culver's and the Lamborghini dealership are down there. That's where that new area of development is from the edge of U.S. 41 and you come out anywhere from 5-8 feet, and there's a sidewalk. You go another 5-8 feet and there's a planter – all in the right-of-way. Then we're going to put this 8-foot planter next to the right-of-way planter?

Ms. DeJohn asked, if by planter, do you mean a buffer strip?

Mr. McLean said a buffer strip.

Ms. DeJohn said at the time of redevelopment, the Bank of America comes in and says it's building something new. Their requirement would be to install a row of trees. We have renderings showing how this development looks, a row of trees followed by a walking path.

Chairman Brooker said they only have 30 minutes left. The point is you have existing sidewalks and buffers within the platted right of way on U.S. 41 today. Upon redevelopment, you are presumably now going to have that sidewalk and buffer, which is going to continue to exist because the county doesn't own it. That is a federal road. Starting from the private property line backward into our private property, we're going to be creating a new buffer strip, a 10-foot multi-use pathway, even though there's an existing sidewalk there. Then in the post-redevelopment scenario, we'll have a sidewalk buffer.

Mr. McLean said the 10-foot building culvert goes away, so on U.S. 41, there's a buffer and a sidewalk, then the county's landscape buffer, so the edge of the U.S. 41 right-of-way is on the backside of these trees. Then we're going to add another 8-foot planter and then a 10-foot multi-purpose walkway before we start our projects?

Ms. DeJohn said before you start your building, yes.

Mr. McLean asked if we're going to have two sidewalks.

Chairman Brooker said that's going to be the end result.

Mr. Varian noted it would be start and stop.

Mr. McLean said it could be different materials.

Mr. Varian said it could be over a 15-year period.

Mr. McLean said we need to look at that more. That occurs in half of what we're talking about.

Ms. DeJohn said it only occurs in the Regional Centers and the Community Centers.

Chairman Brooker said it doesn't occur in half, but it's a substantial amount.

Mr. McLean said the community doesn't want a 10-foot multi-pathway to be concrete.
[Others agreed]

A discussion ensued and the following points were made:

- You can't have sand along the pathways.
- The community wants more green space.
- The community wants walkability.
- They want smart water-management solutions.
- For buildings oriented toward the street, residents want more shopping opportunities, more places for people to work and these would be new buildings being placed closer to the street in centers only to create a more focal point.
- If you lived along the corridor, along the other 20 miles of this stretch, you'd go to the center to hang out and eat dinner. It's pedestrian friendly.
- These are the standards we're applying to help them build out centers that they don't have today. If you follow the code today, you're going to get more Culver's.
- We've removed the parking lots from the front and pushed the buildings forward.
- This is a problem in the City of Naples that we fight. It's problematic. When 505 (Fifth Avenue South Mixed-Use Project) was built, they had to do both sidewalks so they elevated the inner sidewalk to the point the city had to pass a code that says you can't elevate the sidewalk. What's going to stop somebody from elevating this multi-purpose path?

Chairman Brooker asked if there were further questions from the public or subcommittee before they voted.

Mr. Boughton said that last month, when we first received the handout information, there was a letter from Mr. Scott that dealt with a piece of property in the EZO and they had already received the HEX decision.

Ms. Mosca said there's no impact on that property with this overlay, so we've already addressed it. She felt it was important for them to see that, but there's currently no impact to that property based on this zoning overlay.

Mr. Boughton said they're allowed to develop the property per their HEX decision. OK, thank you.

Mr. Varian said he had a question about page 21. You had a picture of Sunbelt Place on Davis Boulevard, with the snorkel-lift sticking up in the air. So you're going to measure from existing grade. We're going to redevelop some of these properties and we've got to bring that grade up regardless. Is that going to limit this measurement? They brought that thing up two or three feet, the whole property, because Davis Boulevard was low. If he's looking at that lift on the righthand side, that's three feet higher than it was five years ago because of what they did. The way this reads is this is "existing grade."

Mr. Valle said they probably did that because of FEMA requirements. Looking at major, substantial improvements, in order to meet the substantial improvement requirement, you've got to elevate it above.

Mr. McLean said that's a new building, a whole new building.

Mr. Varian said they brought the whole property up.

Mr. Valle said we're going to see the FEMA flood maps change within the next quarter, so how are we going to account for what that differential is?

Mr. Varian said the wording says "existing." He would think that would be safer because what happened is that some of those properties might have to come up four feet. Just to meet the zero sidewalk buffers. This is on page 21, d, line 37, "existing grade."

Mr. Johnson said it's lines 37 through 39. Would you say that it should be changed to "above required finished grade"?

Mr. Varian said staff knows why you wrote that that way, but that property is a great example.

Ms. DeJohn said it's pulled from the same code that applies to that property. It's pulled from the Bayshore Gateway Overlay. They had the language written that way, but she understands that with that evolution of changes that we're about to endure, if you go "existing" and then you raise it five feet, you're going to have a 12-foot limit where 17 feet was intended.

Mr. Varian said we're talking the East Naples Corridor, which is well established and older, and it's got to come up, so that's going to bring that "existing grade." It could hurt and affect a lot of things.

Mr. Valle agreed. While reviewers might be understanding today, with the transition and the loss of historical perspective, we want to make sure that's clear in the future.

Chairman Brooker asked if there were any other questions or comments from subcommittee members or points staff would like to make?

Mr. Johnson said as of right now, what we just talked about "required finished grade." That would be to LDC Section 402.23 f.5.d. It sounds like what you're saying is you'd want to change the wording so that it says "above required finished grade."

Chairman Brooker said any other place that language is used, you may want to consider changing it to "required finished" wherever the existing maximum height is mentioned.

Mr. Valle said where it mentions maximum height. We want to make sure we have consistency so no one questions it in the future.

Mr. Johnson said that's acceptable. The other thing that we talked about are the materials comprising the pathways. Do we have a consensus on that?

Ms. DeJohn said they need to ask Collier County Transportation and the Naples Pathways Coalition and confirm what's acceptable to the county for transitions between adjacent materials, so we don't have three consecutive properties with three different finishes.

Mr. Johnson said Clay usually makes motions, but he's probably going to delegate that to someone else.

Chairman Brooker said he'd sit silent.

Mr. Varian made a motion.

Mr. Valle seconded it.

A discussion ensued about the motion.

Mr. Varian then amended his motion.

Mr. Valle seconded the amended motion:

Mr. Varian made a motion to send this to DSAC with the following: We recommend approving these changes but staff needs to discuss this further and bring back changes to the full DSAC; we have to address the maximum glazing on a building, whether it's 40% or another number; we need more information on structural soil cells, their practicality and inspection process; we want a definition of roll-up shutters; we need clarification on primary and secondary right-of-way definitions for building facades in reference to the roadway; DSAC should discuss the double sidewalk, the multi-use pathway and existing sidewalk and buffer issue further; how the pathway materials transition from one property to the next should be determined; on page 21, the height should be measured from proposed finished grade, not original; Chris Shucart's property should be included in the Community Center; and the minutes of the March 21 and April 18 subcommittee meetings should be included. Second by Mr. Valle. The motion passed unanimously, 3-0; Chairman Brooker and Mr. McLean abstained.

4. **New Business**
(None)
5. **Public Comments**
6. **Reminder of Next DSAC-LDR Subcommittee Meeting Dates**
 - a. 3 p.m. May 16, 2023

Mr. Johnson said the next subcommittee meeting is May 16 and we're supposed to discuss changing the December meeting and select alternate dates.

Chairman Brooker asked if another subcommittee meeting was needed.

Mr. Henderlong said another meeting was needed to discuss mobile food-truck parks. We're bringing back an LDC amendment on it. It's been out there about a year, but it's down to the final stage. We have one more meeting with the County Attorney on Friday and then it's ready to start the vetting.

April 18, 2023

Mr. Johnson said if we don't have it ready by then, we'll send out an e-mail saying we don't need another meeting on that agenda item.

Chairman Brooker said we should wait until our May 3 full DSAC meeting because we don't have all our subcommittee members here to weigh in, our typical subcommittee members. Thanks to (Mr. Varian and Mr. Boughton) for jumping in onto the subcommittee.

Mr. Henderlong provided an update/status report:

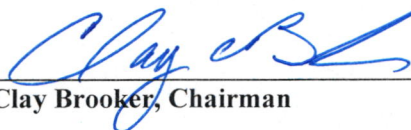
- The Administrative Code Insubstantial Changes was supposed to be heard by the BCC on April 11, but was continued to April 25, so there will be a community e-mail going out to everybody about that.
- Hopefully, it will pass and after it gets passed, the ordinance will go live on the website.
- The BCC took action last week on golf-course conversions. The motion was to try and repeal 5.05.15 in its entirety. Several members of the public spoke out about that and finally, the BCC decided not to repeal it, but directed staff to come back, tweak it and come up with recommendations on how to improve the process.
- The primary concern is dealing with the details, the expense and requirements of bringing information that may not be necessary during the ITC process and trying to narrow it down to a concept plan that both stakeholders can weigh in on. It doesn't mean they're going to recommend approval, but it basically says figure out a way out to come up with some recommendations.
- The option to repeal it in its entirety will still be considered by the BCC at that time, but the intent is to come back to the DSAC. We're in the process of putting a group together with some of the planners who were involved in that process to come up with some recommendations on how to tweak it, make it easier and more streamlined.
- One of the main concerns was that the stormwater calculation expenses are incredibly detailed. Why should you run a full analysis when you don't have a concept plan that's been agreed to by all the parties? It makes perfect sense to come up with some preliminary numbers.
- Those are the things we're going to be looking at.

7. Adjourn

Mr. Varian made a motion to adjourn the meeting. Second by Mr. Valle. The motion passed unanimously, 5-0.

There being no further business for the good of the County, the meeting was adjourned by the order of the chairman at 3:49 p.m.

**COLLIER COUNTY DEVELOPMENT SERVICES
ADVISORY COMMITTEE
LAND-DEVELOPMENT REVIEW SUBCOMMITTEE**



Clay Brooker, Chairman

These minutes were approved by the subcommittee/chairman on Dec 6, 2023, (check one) as presented or as amended _____.