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

January 16, 2024, Naples, Florida

LET IT BE REMEMBERED that the Collier County Development Services Advisory Committee-Land Development Review Subcommittee, having conducted business herein, met on this date at 3:00 p.m. in REGULAR SESSION at 2800 N. Horseshoe Drive, Naples, Florida.

MEMBERS PRESENT:	Clay Brooker, Chairman Jeffrey Curl Robert Mulhere Mark McLean
STAFF PRESENT:	Rich Henderlong Eric Johnson Maria Estrada Jaime Cook Marissa Fewell
PUBLIC ATTENDEES:	Peter Osiniki Alan Carpenter George Denz Tricia Campbell

1. **Call to Order**

2. **Approval of Agenda**
   Jeffrey Curl moved to approve the agenda; second by Mark McLean.
   Approved unanimously.

   Does anyone here want to speak about something that's not on the agenda?(No one.)

   Mr. Chair, even though we usually can stay until 5:00 p.m., there is a request that we vacate the room at 4:30 p.m. if possible.

3. **Old Business**

4. **New Business**

   A. **PL20230012905 – Updates to Golf Course Conversion – Intent to Convert Process**

   (PowerPoint Presentation Provided)

   Rich Henderlong, Planner III with the Growth Management Community Development Department and in the Land Development Code Section.

   This amendment is basically a Board directed amendment. The purpose of this amendment, on February 14 and the 11th of last year, the Board directed staff to bring back an LDC amendment that would clarify that they have the discretion to address on a case-by-case basis a reduction in the minimum average greenway width at any one location during the rezoning process, and to make recommendations in a greater detail, and to come up with improvements to the golf course conversion and intent, the ITC application process. In accordance with those directives, staff would also analyze the framework and the process for the conversion of constructed golf courses established since March of 2017. To date, three properties, zoned golf course and recreational use have been processed for an ITC application which staff had attended each of these stakeholder outreach meetings that were conducted by the applicant. During the SOM, staff observed the relative pastoral open space views, these are views of budding existing versus the proposed development, and whether they were reasonably mitigated or sustained during the IT process, requires an extensive detailed design review. These detailed designs typically occur at different times during the development review process, when all element and effects of a site design are identified and fully disclosed. That was a difficult issue in a pre-concept way that was observed by staff as a struggling issue. Other notable facts that were identified by the staff for improvement based upon the review of the other applications are listed in Page 4 of your LDC and narrative, and rather than reiterate them here, they're in your narrative.

   The amendment itself accomplishes this: It's to clarify the difference between an intent to convert process and a golf course application conversion process; Exhibit B of the document, Pages 29 to 32, listing the detail, the basis for the process improvements, givingstaffs' previous review of ITC applications and the staff experiences. It distinguishes the conversion of a golf course as a two-step process, if not a single conversion rezone.

   This amendment seeks to promote a better communication engagement with the community and outreach meetings early in a conceptual design phase, emphasis added, of a conversion project and build an early consensus on alternative uses by involving the public early in that concept of planning phase, applicants can be responsive to the neighborhood concerns, and the goal is to avoid further delays,continuances, and appeals during the rezoning process. The amendment accomplishes this: Golf courses that do not abut, and this is specified in the amendment, that do not abut and/or not adjacent to residentially zoned property will be exempt from the ITC process. This would be a project like the Link of Naples, the

Hideout Club, Bonita Bay East, etc. The ITC application process also does not imply, and we want to make it very clear, that a conversion approval to a different land use or rezoning is a given. Further regarding the ITC process, it now will require a minimum of two conceptual development plans; also that the conduct of the SOM's have to be in the same manner as NIMS and held at least 30 days apart from one another. A third-party trained facility may moderate the SOM. It is not mandatory, but it was recommended that staff put that in there, and talking with the County Attorney, we left it open for further discussion for the public to weigh in on that. Obviously, there is an added expense involved with that so there wasn't a feeling by staff that we should go that far to put that burden on the applicant.

Next was to establish a minimum average of 50 feet for building setback, but no less than 30 feet at any one location, from property lines to existing zone residential or with residential uses. It also calls out that buildings above two stories may have an increased setback, as determined by the Planning Commission and the Board, so they will maintain that flexibility and weight in at that time. The amendment for an ITC process also requires a preliminary conceptual pre versuspost development stormwater runoff analysis and it defers the final stormwater analysis to the conversion application. Again, these are the two steps that we talked about – ITC and then the conversion application. There is a provision in there for alternatives for ownership options other than just a county purchase – it could be a full or partial golf course conversion at nine or 12 holes. This was a suggested recommendation by Commissioner Saunders a while back.

So going to the second step, after the ITC process is completed, we are now focusing on the development standards and process for the conversion. So in the text, this will give the Board and the Planning Commission on a case by case basis greater flexibility to alter the greenway design and its location during the rezoning process. However, it would still maintain 35% of the gross area of the conversion project to be dedicated to the greenway while allowing the greenway to be aggregated into one or more larger parcels. Also, it reduces the current greenwayaverage width from 100 to 75 feet, but no less than 50 feet at any one location. The conversion application also will require commitment by an entityto the greenway ownership and maintenance as approved by the Board and these details must be worked out during the conversion process. Also, the conversion process now removes the conflicting interpretation language that states deviations to the 50515 shall be prohibited and further deviations to other LD sections shall be shared with stakeholders at the SOMs now. However, in 50515G2A, development stands as it states the Board may approve alternative design, so that provision and conflicting language has been removed. However, there is a provision that states that in exchange for granting deviations when the Board considers them, that the deviations requested shall require an enhancement to a property and or make improvements to an existing external infrastructure such as stormwater,roadways, or traffic calming. Another way to look at that is there must be a public purpose or direct public benefit. In addition to the application, because real property encompasses the influence of the amount of the area that would be eligible for redevelopment, this amendment will notrequire resolution of those encumbrances

application being deemed complete. Case in point: where many of the contentious issues that were debated on the Riviera Golf Estates ITC process. Next, the amendment will encourage applicants to consider cluster residential development affordable housing; it is not mandated, but it is aprovision for encouragement. That's somewhat of an improvement. Also, it adds (I believe) three evaluation criteria to the staff report when they come in for conversion applications and it's usually related to something like environmental impacts and what mitigations may be associated that may require some environmental impacts that be also looked at by staff and made part of the staff report when an applicant files a conversion application. Also, it defers the completion of salt and groundwater sampling and stormwater final analysis, including the stormwater analysis from outside the golf course that passes on over through the areas of the golf course prior to the conversion application; that is where it properly belongs rather than the intent to convert. That's where most of thefocus and the details will be coming forth and that was a complaint that the expense of doing a full stormwater analysis and soil groundwater analysis prior to knowing a final development plan was cost prohibitive and very burdensome on applicants. So that was a consideration given by staff as well too. It also calls out that at the time they come back for subdivision platter and SDP approval, there will be at least two separate tracks, one associated with each phase of the development, one to identify the greenway track, if there is a greenway track, and the other the development track.

Lastly, the amendment addresses the procedural and contextual changes to the administrative code. Those are presented in your documents inExhibit AonPages 16 through 28. And staff in its analysis also looked at other community standards studies that we had studied, and they are listed in Exhibit C.

So,the staff is seeking a recommendation for approval, or approval with conditions,of these changes. I would also like to add that on Pages 30 and 31, there is a correction for the headers – it should read, *processing staff improvements* – it says ‘other community standards’ in your documents and that needs to be corrected.

As far as public comments, you have before you one e-mail that we received from Mr. Fernandez regarding his input as it relates to the proposed amendment.
(Copy of email provided for the Board and public record. Paraphrase of this email was not included in minutes.)

A Few Housekeeping Measures:

- **Robert Mulhere’s** firm represented the owner of Riviera Golf Estates, and Mr. Mulhere has recusedhimself from voting on this matter. A conflict form was signed by him and dated today.
- General question from **Robert Mulhere** on behalf of Mr. Fernandez suggests that a golf course that is a commercial golf course, open to the public,qualifies for the Live Local Act, would not require any approval, would not necessitate any further approval other than administrative approval for a site development plan or plat. Collier County classifies golf course zoning not as commercial, but as an open space zoning district. I thought Live

Local was not simply about commercial uses but was specific to commercial zoned or mixed-use zoned projects. I do not know the answer.

- **Richard Henderlong:** You are correct. I had a brief conversation with Derek Perry.It is a commercial related activity and golf courses are not a commercial enterprise. Mr. Perry said it is not applicable. The Board acted on the latest analysis that was done on the Riviera Golf Special Improvement District and based upon a strong vote of the residents in the area with approximately 87% opposed to the assessments and the numbers that were involved, the Board opted not to go forward with that and that directed the County Attorney to go back and renegotiate.
- **Clay Brooker** brought up Senate Bill 250signed into law by Governor DeSantis, which precludes any local government within 100 miles of landfall of hurricanes from proposing or adopting any land use regulation that is more burdensome or restrictive than existed at the time the hurricane hit back in September or October of 2022. I read in some of these provisions more restrictive stuff. Have we talked to the County Attorney's office to make sure we're not violating state law by proposing this amendment?
- **Rich Henderlong:** We are still waiting for feedback on it. We've had two meetings with the County Attorney's office. We have not been told that there is something here that would cause that problem. But we're happy to carry that forward and continue that dialogue before DSAC. In my awareness, we're reducing some of the standards, so if you had pre-Senate Bill 250 regulations intact, you could modify those, but you cannot increase them, make them more burdensome, or more cost restrictive.
- **Jeff Curl:** I think that can be reasonably argued. You get one price for one concept plan. You get a different price for two concept plans.
- **Rich Henderlong:** We had development alternative statements that had been removed. We had no conversion; there were four different criteria that went in for the application; we rewrote that into a two-step process – the ITC and the conversion, and cleaned it up to where we're making the ITC, not the entity, and the process for implementation of all those development standards, we're deferring, for the most in general practice, all of this to the conversion application. Now those are conversations that we have had with Heidi and Derek specifically about making sure, and Mike Bosi, that we're moving this to the rezoning process and that the intent to convert process is really an information engagement process to get people to talk, to communicate in a non-binding way and that's why there is no burden upon the applicant to the extent that they have to adhere to these applications. It's at the time when they come back for the conversion process and the rezoning as if they were going through a PUD.
- **Jeff Curl:** It is a bit more front-loaded. In terms of fees, I'm saying professional fees for submitting to engage in this process and be hired,two concept plans and upfront pre- and post-storm water study. It almost sounds like, as well, you'd be engaging a traffic consultant to look at the outside network of the community so that then you can have these discussions. ***Earmark.***
- **Rich Henderlong:** Traffic has been during the three other previous application processes, it has been repeatedly stated that traffic stays are not a requirement for the intent to convert process. That comes at the time when the final master concept plan is required.
- **Clay Brooker:** My suggestion would be a County Attorney needs to weigh in on whether this is precluded by Senate Bill 250 or not, but that we should, as a subcommittee, simply move forward, especially in light and the courtesy of people from the public who are

here, we want to hear their comments because we don't know ultimately what's going to happen. I have my personal opinions on some of this stuff which seems to align with some of Jeff's comments. However, that's not our job, but I raised it. I immediately saw it and it immediately came to mind. SenateBill 250, which has been codified into law, has been amended to extend to October of 2026. There are no more burdensome or restrictive regulations permitted that can even be proposed by a local government in Collier County. And I mean Collier County, not this government, Collier County as a geographical boundary, City of Naples, Marco, can't do anything until October 2026 that is more burdensome or restrictive. ***Earmark.***

- **Rich Henderlong:** I think it would be, after the public comments, beneficial for staff and the County Attorney, if you have certain suspects about what you think may be burdensome, that we at least identify them so that it gives staff members direction to go back and have a dialogue with them – I heard traffic and storm water.
- **Jeffrey Curl:** We are going to have to define what those two concepts are because anytime you're getting someone into what could potentially be a second review, the timelines added to that, whattends to get lost sometimes on the development side of this when the public approvals take a year or a year and a half that we have people holding sometimes tens of millions of dollars in loans for what seems to be a very indecisive process. When we're talking about two conceptual plans, am I submitting getting a review, and making a revision based on comments? Or can I come in with a concept that lays out everything I want to do and turn this driveway 90° and say, there's my 2 concepts and I've given you two workable concepts. We need to define that through the process, because if it's two concepts, I'll beat two concepts all day long in ten minutes.
- **Rich Henderlong**: The two concepts aren't designed to be cast in stone. They are an engagement tool to be used to get dialogue back and forth between the parties and to find out issues of what areas are common and what areas are not. (Refers further to an applicant who over-designed.)
- **Clay Brooker**: For the benefit of the public, just so you understand, this is a subcommittee of the fullDevelopment Services Advisory Committee. We simply vote andmake a recommendation. The Board of County Commissioners can ultimately acceptit or it can be rejected. We make no final say on this land development code amendment. From here it goes to full DSAC– the full Development Services Advisory Committee. Then they will have at least two more public hearings, one before the Collier County Planning Commission, and then ultimately the Board of County Commissioners.I believe this is the very first of at least four public hearings, a minimum of four, that will occur on this land development code.

5. **Public Comments:**
    - **Alan Carpenter:**(Lives in Riviera Golf Estates)
      I am on the Board of Directors (for Riviera Golf Estates). I'm here today with past President George Danz, our current President, Tricia Campbell, and Peter Osiniki who is the Chairperson of our golf course advisory committee. Will this code proposed change apply to (golf) courses that have already gone through the ITC process? Or is itbased upon the existing code as it was adopted in 2017?
    - **Clay Brooker:** Is it going to be applied prospectively only to applications that are not already in the process, or will it apply to already filed ITC's?

- **Mark McLean:**My understanding of the way code has always worked is it goes into effect on an adopted date or a future date. Up until very recently, the city and the county have made things retroactively effective, so it's a fantastic question because it is something we've never experienced.
- **Rich Henderlong:** Historically, that's the case in the sense that all applications have already been submitted. Where those three applicants are, they're at the point they have fulfilled the requirements for the ITC process, and they would have to submit for a conversion process. One exception, a fourth applicant, Naples Links,has not gone through the ITC process and has a Bert HarrisClaim. It is still ongoing, stating that the ITC process is somewhat of a taking and burdensome to them and unrestrictive. This specific amendmentwill remove that provision that they would have to go to an ITCprocess. In that sense it remedies that problem. In another sense, those applicants that have gone before, they're already fully vested, would not have to come back and reinitiate any ITC process. They just come back and file. The other thing is that once people finish the ITC process, they can elect not to proceed, or if they do, they have this background information. Those three have been basically deemed complete. A staff report would not be written until such time that they came back and file for the conversion application and that becomes a deliverable document that is a part of record. It is not the official staff report for a rezone. It is a staff report looking at that, so there are only three add-ons that I'm aware of for criteria for staff evaluation. If they came in tomorrow and filed for the conversion application, this would not be applicable in those other threecriteria until it is adopted, just as Mark had indicated.***Earmark for further clarification prior to DSAC.***
- **Alan Carpenter:** It should be clear if it's one set of code or another, and not a cherry-picking of(for example), we did this for the ITC, but now we're going to follow different regulations for the conversion. It's either one or the other; can't be half and half. How long do you think this process will take before the new code is adopted?
- **Rich Henderlong:** We hope if this goes forward after today, that it's proposed to be reviewed by DSAC by February 7 at their next meeting. It is on the Board'sradar; the Deputy County Manager has asked for a status update, and it is being fast tracked as best it can. We must do advertising so it's probably 3-4 months out.
- **Eric Johnson:** It is a process, and it will have to go before the DSAC and there is an advertising deadline.We don't want to commit to a certain time frame, butwithin this calendar year provided we get feedback from the County Attorney's office.
- **Alan Carpenter:** Regarding the purpose of a greenway, we would like to know what your thoughts are. I know there's some language in the current and proposed amended code which says it should be principally to protect open space preserve, space for wildlife, and act as a passive recreational buffer for communities. Is that still applicable today in the amended language?
- **Rich Henderlong:** Modifications **--** References Page 12 – 5B; Page 13 – line 21 through 23; Page 14.

- **Clay Brooker:** I think the question was, is the purpose of the Greenway being changed, and I think the answer is no.
- **Alan Carpenter:** If you can substitute separate parcels, then what happens to the minimum standards of setback? And the thrust of all this is related to the existing owners' property values. Let's reduce it to dollars. The reason there's a greenway to begin with in this whole process is to protect the communities that exist around a lot of these golf courses. And if in fact two parcels can be put over here, but then there's only a 20-footdimensional difference or buffer between existing homes and the redevelopment golf course, then it defeats the purpose of buffering the existing owners from the financial impact they're going to feel from having lost that privacy.
- The aggregate language is new and says it can be put into one or two parcels. That's a whole new ball game. We must weigh that against the interests of the people who bought the property and that's my own point. I understand what the Board requested, and I think the proposed changes do,but they do more than that, and I just wanted to point that out. Greenways should not include stormwater lakes. The purpose of the greenway as we started with this wasto create a recreational opportunity. We don't use lakes in the sense of gaining any benefit, The way it is written now, you can includewaterway storm water retention as part of the greenway area. The lakes themselves serve no recreational purpose.
- **Clay Brooker:** A question on that point for staff -- assume we go through this whole process and a greenway is created., do the homeowners who are abutting that greenway, who are on the outside of the subject property, have the right to use that greenway automatically?
- **Rich Henderlong:** It depends upon how the applicant chooses to dedicate that. For example, on the Golden Gate golf course, that's a subject matter for where the affordable housing project is that abuts the greenway. There's an ongoing discussion that residents of the affordable would have access to it, but they don't want the maintenance responsibility for that portion of the greenway. Typically, a greenway will have two public accesses from the outside so that residents would have access to it, that does not mean that they can deviate from that during the conversion process and limit that access to just residents of the project, or does it necessarily open it to people outside? It depends upon the design and how they dedicated the greenway.
- **Eric Johnson:** Anyone who is interested as this land development code amendment goes through the process:
  - Attend the meetings
  - Voice your concerns
  - Put your concerns on record – write an email; address it to staff/Rich
  - Staff will include that in the back-up material and your comments are memorialized; all decision makers will be privy to it.

Further discussion ensued regarding:

- Since 1959, golf courses in Collier County record maintained the 50-foot buffer
- Riviera Golf Estates – no proof given that it could not operate as a profitable golf course.

- Refer to Page 8 and 8C of the Land Development Code Amendment draft for consideration for partial conversion
- Golf is not a dying industry in Collier County; we have only three executive style public golf courses – the Lynx, Riviera Golf Estates, and Lakewood.
- Choice of a professional setting for stakeholder meetings
- Having 30 days between meetings
- Golf courses in a floodplain versus not and costs associated
- Early soil testing to understand the scope of a potential problem
- Strategic trade-offs
- The 50-foot minimum
- This process does consume resources from the County and applicant; this division with respect to development applications is run by fees paid by the applicant not by Avalon tax dollars

- **Peter Osiniki:**
  - The proposed language of the greenway, setbacks, property lines, aggregate ordeviation with Board approval. ***Earmark.***
  - Sections 5D and D1 of the existing language refers to details to be vetted. There is give-and-take, compromise, and agreement. The word vetted needs to be defined. Maybe use enforced dialogue; a moderator because we talk past each other; nothing accomplished; written acknowledgment that a particular concept was indeed vetted; a document/list to show what was agreed upon and a list that was totally unacceptable
  - Riviera Golf Estates, the property subject to development, is entirely encompassed by our over 55 community. Inserting a non-age restricted development within our confines will create issues – compatibility, quality of life, public safety, traffic issues, etc. There is no acknowledgment of this in the regulations. The ITC should address this important compatibility issue by adding language – if it over a certainpercentage that the proposed development needs to be over 55also – it is another issue to address

Table this for a future meeting for continuation of this topic.

4. **New Business**
   B. PL20230018350 – Updates to Requirement for Removal of Prohibited Exotic Vegetation
   (PowerPoint Presentation Provided)
   Maria Estrada (with Jaime Cook):
   - Introduce the removal of the prohibited exotic vegetation, specifically Section 03.05.08. It was Board directed; the primary requirement is to remove all the prohibited exotic vegetationon approved cleared areas already. When you buy a single-family home, you get one acre of clearance. This would help in not necessarily needing to remove these exotics for accessories that come in after the fact – such as a screen, a pool, etc. We're looking to amend LDC Section 03.05.08.
   - Commissioner Hall brought this upearlier regarding a public comment about the purchase of a shed.

- A resident had left pepper trees as a buffer for I-75 noise and sight. He put up the shed; then got the permit, as part of the permit, he was required to remove all exotics and it was going to cost exponentially more than the cost of his shed.
- Several Commissioners had similar experiencesand complaints with residentsabout this section of code. Staff was directed to look at this and make some revisions to it.
- **Jeff Curl:** I can't even believe this also doesn't apply to commercial. Why are we setting a new standard for residential? And if I'm a commercial guy and I want to add to a building, I don't get the same benefit. We're beginning to split land use. Wildfires are probably one of the biggest complaints or concerns. You start adding density now and you've got this wall of vegetation which translates to fuel. That's why fires are getting out of control. If somebody is allowed to get a pass from clearing their land that would fall into a code complaint for mowing. I am opposed to this. It is a health, safety, and welfare issue with wildfire.

Further discussion ensued:

- Exotics grow back and should be removed and maintained forever
- For a house you clear up to an acre. Currently, on a five acre lot, you also must clear the exotics on your entire property. This amendment would allow clearing the exotics within that one acre, as well as 7.5 feet around your property boundary but anything internal to the 7.5 feet you wouldn't have to clear. If you had wetlands and needed to clear those, currently you would need a permit from DEP which can take three to six months to get. Then that holds up a CO on their house because they don't have their permit because they haven't cleared those exotics.
- No exception for one or two homeowners
- There has been a concerted effort over the last 30-40 years to have exotic removal, not just in Collier County, but throughout the State of Florida.

- **RobertMulhere:** Motion that we recommend that the amendment be limited to the struck-through language; and the exception for accessory structures, and that the proposed amendment to reduce the other area that needsto be clear of exotic vegetation to only 7.5 feet around the perimeter, not move forward, for reasons of maintaining a consistent exotic removal policy in Collier County.
- **Mark McLean:**Seconds the motion.
- **Jeff Curl:** It is establishing a different policy that doesn't provide that benefit to other entities with the County; I am seeing a double standard. But I will go in with the motion.
- ***Clarification by Robert Mulhere:*** The motion includes eliminating the proposed additionallanguage onlines 39, 40, 48 and 49; everything else is retained as is – Pages 41, 42, 43, and 44.
- All in favor – aye.
  Approved unanimously 4-0.

Eric Johnson: I will do before DSACmeets is make sure that the GMP consistency review is 100% complete.

6. **Upcoming DSAC-LDR Subcommittee Meeting Dates**
   a. **Tuesday, April 16, 2024**
   b. **Tuesday, July 16, 2024**
   c. **Tuesday, October 15, 2024**

Continuation of golf course amendment -- another date/time will be set up.

Limiting, on a case-by-case basis, the time for public attendee comments/questions.

If a quorum for this committee cannot be met, any member designated by DSAC can attend as an alternate. Bring this comment up again at the next DSAC meeting to have the answer in the minutes. ***Earmark.***

7. **Adjourn**

There being no further business for the good of the County, the meeting was adjourned at 4:45 p.m.

Collier County Development Services Advisory Committee – Land Development Review Subcommittee

Clay Brooker, Chairman

These minutes were approved by the Chairman, Clay Brooker,

on MARCH 6, 2024, (check one) as submitted X or as amended _____.