

LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20200001706

ORIGIN

Growth Management
Department

SUMMARY OF AMENDMENT

This Land Development Code (LDC) amendment expands the existing provisions for real estate signs in the Collier County Sign Code. The amendment allows for additional signs, including associated standards, for qualifying developments within residential and non-residential zoning districts.

LDC SECTION TO BE AMENDED

HEARING DATES

BCC	TBD	5.04.04	Model Homes and Model Sales Centers
CCPC	TBD	5.06.02	Development Standards for Signs within Residential Districts
DSAC	TBD	5.06.04	Development Standards for Signs in Nonresidential Districts
DSAC-LDR	09/15/2020		

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR
TBD

DSAC
TBD

CCPC
TBD

BACKGROUND:

The LDC allows for real estate signs, pursuant to LDC section 5.06.02 B.2.e and 5.06.04 D.5. Examples of real estate signs are depicted in Exhibit A. On June 9, 2020, the Board of County Commissioners (Board) reviewed the Hyde Park Village Stewardship Receiving Area (SRA-PL20180000622) petition, wherein the applicant requested a deviation involving “lifestyle signs” and cited the real estate sign provisions of the LDC (see Exhibit B). The LDC does not define lifestyle signs and staff opined that lifestyle signs were prohibited. The County Attorney’s Office determined the deviation request was ineligible for a sign variance, because it was based on sign content and not any dimensional standards (see Exhibit C). Staff objected to the deviation and sought the Board’s guidance regarding the potential for a future LDC amendment, with the intent to further analyze and clarify the provisions for real estate signs. Prior to the Board’s vote on the SRA-PL20180000622, the petitioner agreed to withdraw the requested deviation involving lifestyle signs.

From observing the signs depicted in Exhibit D, it is staff’s opinion that lifestyle signs are comprised of “lifestyle graphics,” which are illustrations, text, or a combination thereof that are used in a marketing strategy to communicate or advertise a favorable or positive message of the existing, proposed, real, or desired amenities, assets, or other attribute(s) of a community. However, defining lifestyle signs in the LDC is problematic because it will invariably involve regulations that are based on sign content, which could fail constitutional muster, particularly when considering the U.S. Supreme Court decision in the case of *Reed v. Town of Gilbert* (2015).

To accommodate signs with lifestyle graphics in Collier County, the LDC is being amended to allow for additional real estate signs for qualifying developments located in residential and non-residential zoning districts. It will be the prerogative of the petitioner to incorporate lifestyle graphics into their additional real estate signs if the petitioner so chooses. The County will neither be creating provisions for lifestyle signs/graphics nor overseeing the messages proposed on the additional real estate signs. A succinct summary of the proposed text is as follows:

- Add new paragraph to LDC section 5.04.04 D. so that the additional real estate signs are allowed in connection

with model homes and model sales centers.

- Amend LDC section 5.06.02 B.2.e. to exclude the typical seven-day time period by which property owners are required to remove real estate signs. This will allow the additional real estate signs to exist until the model home or model sales center is removed.
- Add new subparagraph to LDC section 5.06.02 B.2.f. to indicate the new standards associated with the additional real estate signs where located in residential zoning districts.
- Add new subparagraph to LDC section 5.06.04. D.4. to indicate the new standards associated with the additional real estate signs where located in non-residential zoning districts.

DSAC-LDR Subcommittee Recommendation:

On September 15, 2020, the DSAC-LDR Subcommittee discussed the definition and they desired further clarification between lifestyle signs and real estate signs. The Subcommittee noted lifestyle signs are decorative, graphically-based, and associated with promoting the amenity of a residential community. The DSAC-LDR Subcommittee recommended that staff revisit the amendment and return to the DSAC-LDR Subcommittee with a second draft, having appropriate regulations for lifestyle signs, including the number, size, setback from roadway, height, spacing, and duration (cross-referencing the duration in the LDC for real estate signs), and that the definition should be revisited to further clarify the intent of the lifestyle sign based on the discussion at the meeting.

FISCAL & OPERATIONAL IMPACTS

There are no anticipated fiscal or operational impacts associated with this LDCA.

GMP CONSISTENCY

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

EXHIBITS: A) Examples of Real Estate Signs; B) Staff Report for Hyde Park Village SRA; C) Executive Summary for Hyde Park Village SRA; and D) Examples of Signs Containing Lifestyle Graphics

Amend the LDC as follows:

5.04.04 - Model Homes and Model Sales Centers

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D. Additional real estate signs shall be allowed in accordance with LDC section 5.06.02 B.2.f.

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5.06.02 – Development Standards for Signs within Residential Districts

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B. Applicability. Signs within residential zoning districts, and in designated residential portions of PUD zoned properties shall be permitted as provided for in this section.

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2. Real estate signs. The following signs classified as real estate signs shall be permitted in residential districts subject to the following.

a. One ground sign with a maximum height of 6 feet or wall, with a maximum area of 4 square feet, per street frontage for each parcel, or lot less than 1 acre in size. Such sign shall be located no closer than 10 feet from any adjacent residential property and may be placed up to the property line abutting a right-of-way, provided it is a minimum of 10 feet from the edge of the roadway, paved surface or back of the curb, as applicable. No building permit is required.

b. One ground sign with a maximum height of 8 feet or wall sign, with a maximum sign area of 12 square feet, per street frontage for each parcel, or lot 1—10 acres in size. No building permit required.

c. One pole sign with a maximum height of 15 feet or wall sign, with a maximum sign area of 64 square feet, per street frontage for each parcel or lot in excess of 10 acres. A building permit is required.

d. Real estate signs shall be located a minimum of 10 feet from any property line.

e. A real estate sign shall be removed within 7 days after a sale, rental, or exchange has been completed, excluding signs installed in accordance with LDC section 5.06.02 B.2.f. A sign advertising that a property has been sold or leased shall not be displayed for more than 14 days after it is installed.

f. Additional real estate signs located along external boundaries of a development and visible from County or State roadways shall be permitted in accordance with the following:

- i. Non-illuminated or externally-illuminated pole signs shall be permitted for each conventional zoned residential subdivision, PUD, or SRA having a model home or model homes sales center pursuant to LDC section 5.04.04.
- ii. Signs shall be permitted along the external boundary of the conventional zoned residential subdivision, PUD, or SRA, provided the following conditions are met:
 - a) Signs are located along an external boundary having vehicular access to a County or State roadway with at least 1,320 linear feet of frontage; and
 - b) Signs shall be equidistant from each other with a minimum spacing of 1,000 linear feet.
- iii. Each sign shall be a maximum of 15 feet in height and 64 square feet.
- iv. No building permit shall be required if the sign area is 32 square feet or less and 8 feet in height or less.

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5.06.04 - Development Standards for Signs in Nonresidential Districts.

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D. Real estate signs shall be permitted in nonresidential districts subject to the following:

1. One ground sign with a maximum height of 8 feet or wall sign with a maximum sign area of 12 square feet per street frontage for each parcel, or lot less than 1 acre in size. No building permit is required.
2. One ground sign with a maximum height of 8 feet or wall sign with a maximum area of 32 square feet per street frontage for each parcel, or lot of 1—10 acres in size. No building permit is required.
3. One ground sign with a maximum height of 15 feet or wall sign with a maximum sign area of 64 square feet per street frontage for each parcel or lot in excess of 10 acres in size. A building permit is required.
4. Additional non-illuminated or externally-illuminated ground signs shall be permitted for parcels having a minimum frontage of 1,320 linear feet along a County or State roadway. Signs shall be placed equidistant from each other with a minimum spacing of 1,000 linear feet. No building permit shall be required if the sign area is 32 square feet or less and 8 feet in height or less.

5.4. Real estate signs shall be located no closer than 10 feet from any property line. When a property line encompasses a portion of the road, then the setback shall

1 be no less than 10 feet from the edge of the roadway, paved surface or back of the
2 curb, as applicable, unless otherwise provided for in this section.
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4 6 ~~5~~. Real estate signs shall be removed when an applicable temporary use permit has
5 expired, or within 7 days of any of the following conditions: ownership has
6 changed; or, the property is no longer for sale, rent, lease or exchange.
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Exhibit A – Examples of Real Estate Signs



Exhibit A – Examples of Real Estate Signs



Exhibit A – Examples of Real Estate Signs



Exhibit A – Examples of Real Estate Signs



Exhibit B – Staff Report for Hyde Park SRA

Deviation # 15 (SRA Document Section 6.6. 4)):

“A deviation from LDC Section 5.06.02.B.2., “Real Estate Signs,” which identifies types of permitted real estate signs, to instead allow, in addition to other permitted signs, a maximum of 4 “Lifestyle Signs” located along Oil Well Road, leading to the project entryway(s), and to also allow such signs interior to the development without limitation. Lifestyle Signs shall be limited to a maximum of 18 square feet in size, 12 feet in height, and shall be setback a minimum of 10 feet from Oil Well Road right-of-way and 5 feet from internal roadways. Lifestyle Signs are intended to advertise lifestyle amenities within the Hyde Park Rural Village, including but not limited to clubhouse(s), fitness center, sports and recreation facilities, and so forth. Such signs may be permitted initially for up to 10 years and may be extended by the Collier County Growth Management Department Administrator or designee for up to two additional years, upon demonstration by the developer that there is need-based upon the remaining number of residential lots for sale within the Village. This deviation is a general deviation. The exact location is not known.”

Petitioner’s Justification: The petitioner states the following in support of the deviation:

These signs are already found in various other master-planned developments (and since they have been utilized in these developments for some time, with impunity, it must be presumed that they are not objectionable). This developer must be able to compete on an even playing field with those other developments. The signs are not obtrusive and will only remain in place while the project is actively being developed and residential lots are offered for sale.

Staff Analysis and Recommendation: Staff not supportive of this deviation and will not permit lifestyle signs. Zoning and Development Review staff recommends **DENIAL** of this deviation, finding that in compliance with LDC Section 4.08.07.J.8(a), the petitioner has not demonstrated that “the deviations are consistent with the RLSA Overlay” and LDC Section 4.08.07.J.8(b), the petitioner has not demonstrated that the deviation(s) “further enhances the tools, techniques, and

strategies based on principles of innovative planning and development strategies, as set forth in §§ 163.3177 (11), F.S.”

Exhibit C – Executive Summary for Hyde Park SRA

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- and other standards of LDC Section 4.08.07.
12. **Consider:** SRA master plan compliance with all applicable policies of the RLSA District Regulations, and demonstration that incompatible land uses are directed away from FSAs, HSAs, WRAs, and Conservation Lands.
 13. **Consider:** Assurance that applicant has acquired or will acquire sufficient Stewardship Credits to implement SRA uses.
 14. **Consider:** Impacts, including environmental and public infrastructure impacts.

The Board must base its decision upon the competent, substantial evidence presented by the written materials supplied to it, including but not limited to the Staff Report, Executive Summary, maps, studies, letters from interested persons and the oral testimony presented at the Board hearing as these items relate to these criteria. This item has been approved as to form and legality and requires a majority vote for Board approval. Should there be a dispute as to any of the deviations to the Code requested by the applicant, a vote of four is required. (HFAC)

ADDITIONAL LEGAL CONSIDERATIONS: The Applicant is requesting a Deviation (Deviation #6.6.4) for what is being termed as a “lifestyle” sign. Staff has opined that this type of sign is prohibited by the Code.

The type of request to obtain a Sign Variance is as follows:

5.06.08 - Sign Variances

A. Applicability. A variance may be authorized by the Board of Zoning Appeals for any required dimensional standard for a **sign**, including the following: height, area, and location; maximum number of, and minimum **setback** for **signs**.

This request for a deviation falls outside the scope of what could be requested as Sign Variance. It is asking the Board to issue a deviation to the Code which is not dimensional, but instead content based.

In order to pass Constitutional muster, a sign code cannot discriminate based on content.

If the Board wishes to consider whether the Sign Code ought to be amended to allow for this type of sign, then the County Attorney recommends that the Board direct staff to prepare and come forward with an LDC amendment to the Sign Code, with the understanding that to pass Constitutional muster, the Board at a minimum would need to allow similar advertising signs for all businesses, not just “lifestyle signs.” -JAK

RECOMMENDATION: Staff recommends approval of Petition SRA-PL20180000622, Hyde Park Village SRA, to the Board subject to the following conditions of approval:

- 1) The companion Developer Contribution Agreement pertaining to transportation and public utilities is required to be approved with this SRA request.
- 2) Per Housing, Grant Development, and Operations, it is recommended that a housing needs analysis be performed to estimate the affordable housing demand generated by The Hyde Park Village proposal, as well as a plan to address the supply of those units.
- 3) Per Housing, Grant Development, and Operations, absent conducting a housing needs analysis to

Exhibit C – Executive Summary for Hyde Park SRA

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estimate the affordable housing demand generated by The Hyde Park Village, as well as a plan to address the supply of those units, staff proposes the following recommendation: The Hyde Park Village should commit that at least 15% of the units that they propose may be sold at purchase prices near the Moderate, and Gap affordability ranges (product types: Multi-Family Apts, & Single-Family Product A, Single-Family Product B), will actually be set aside and sold to households that are certified to be in those ranges.

	Hyde Park Village Residential Types	Units	Sales Price	15% of Products 1, 2 & 3	
1	Multi-Family (Apts) 1-10 St.	300	\$168,000	45	Low
2	Single Family Product A	534	\$282,000	80	Moderate
3	Single Family Product B	598	\$344,000	90	Gap
4	Single Family Product C	368	\$373,000	-	
	Total Residential	1,800		215	

These 215 units would represent nearly 12% of the residential units in The Hyde Park Village and should be certified for initial occupancy and comply with long-term monitoring requirements similar to other developments in Collier County.

- 4) Per Housing, Grant Development, and Operations, the Hyde Park Village should also consider the donation of a residential parcel to the County, an Affordable Housing Land Trust, or the County's designee in order to address the housing needs of households at the Very-Low income levels and below. A contribution to the Collier County Local Housing Trust Fund may also serve to mitigate for units unable to be made available on-site.
- 5) The deletion of deviation 6.6.4 "Lifestyle Signs." These signs are not real estate signs. They are advertising signs and a prohibited sign type. Staff recommends denial of this deviation.

Prepared by: Timothy Finn, AICP, Principal Planner, Zoning Division

ATTACHMENT(S)

1. 9.A.1-Revised Staff Report Hyde Park Village SRA 2-24-20 (PDF)
2. Letter of Concern (PDF)
3. Revised Proposed Resolution - 5-1-20 - Attachment A (PDF)
4. SRA Credit Use & Reconciliation App - Attachment B (PDF)
5. FLUE Consistency Review Memo - Attachment C (PDF)
6. NIM Materials - Attachment D (PDF)
7. Public Facilities Impact Assessment - Attachment E (PDF)
8. [Linked] Revised Economic Assessment 2020.03.02 - Attachment F (PDF)
9. [Linked] Application Back up Materials - Attachment G (PDF)
10. Attachment H - Revised public hearing signs (PDF)
11. Item No. 11198 (PDF)

Exhibit D – Examples of Signs Containing Lifestyle Graphics



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