



LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20190002818

ORIGIN

Growth Management Department

HEARING DATES

BCC 07-13-21
 CCPC 06-03-21
 09-09-20
 DSAC 08-05-20
 DSAC-LDR 06-18-20
 12-17-19

SUMMARY OF AMENDMENT

This amendment clarifies the calculation of density for single-family, two-family or duplex dwelling units on legal non-conforming lots of record in the RMF-6 District. It further clarifies the definition for non-conforming lots of record and lot of record.

LDC SECTION TO BE AMENDED

1.08.02 Definitions
 9.03.03 Types of Nonconformities

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR
Approval

DSAC
Approval

CCPC
Approval with change

BACKGROUND

This amendment seeks to clarify how to resolve the calculation of the number of dwelling units, for legally platted non-conforming lots of record in the RMF-6 zoning district. Since the adoption of Ordinances 74-12 and 13 (Coastal Area) and 74-14 and 15 (Immokalee Area), the interior minimum lot area standards for single-family, two-family or duplex, and multi-family dwelling units has changed over time. The provision to allow an additional unit when the calculation of allowable density results in a fractional unit of .50 or greater has also changed over time and has been problematic for staff to resolve given prior administrative staff memorandums (See Exhibit A).

This amendment shall reduce staff time in the determination of the non-conforming lots of record that may be entitled for an additional unit based on the density calculation of a fractional unit of 0.50 or greater for single family, two-family or duplex dwelling units. It clarifies that the minimum lot area required to support a two-family or duplex dwelling unit is 9,750 square feet or greater for non-conforming lots, provided an agreement for deed was executed prior to the adoption of Ordinance 74-42. Additionally, staff recognized single family dwelling units could be constructed on legal non-conforming lots smaller than 6,500 square feet provided an agreement for deed was executed prior to July 1, 1998. This is the effective date of Ordinance 98-63 which had increased the minimum lot size from 6,000 square feet to 6,500 square feet. The amendment does not alter the minimum setback requirements which still have to be met.

The definitions for “Lot of Record” and “Nonconforming Lots of Record” are also changed to clarify that the agreement for deeds are relative only to the “former” Coastal Area Planning District and Immokalee Area Planning District which had been established respectively by Ordinances 76-30 and 74-15. On January 5, 1982 these zoning regulations and Planning Districts were repealed when the Board adopted Ordinance 82-02, the unified zoning ordinance for the unincorporated area of the County. Further, the reference date of “prior to May 1, 1979” is deleted as it was an incorrect reference which referenced Ordinance 79-29.

Lastly, a cross reference to LDC section 9.03.03 A has been added to the definition of nonconforming lots of record.

After DSAC's recommendation of approval, staff modified subsection 9.03.03 A.6 to clarify that the evidence for a legal non-conforming lot of record in the RMF-6 District, is by an agreement for deed or deed that had been executed prior to January 5, 1982. By Ordinance 82-02, the RMF-6 Zoning District was established with an effective date of January 5, 1982. Because the RMF-6 District requires a minimum lot area of 6,500 s.f. for a single-family dwelling unit, it is not necessary to reiterate this standard when determining a non-conforming lot of record.

Staff was granted a continuance on September 09-09-20. The amendment is ready for consideration, without any change, by the CCPC.

CCPC Recommendation

Since an executed agreement for deed may not be recorded and potentially result in an issue of fraud, the CCPC recommended unanimous approval that in the definitions for lot of record and nonconforming lot of record, the words "... *an agreement for deed was executed...*" be changed to read "... *an agreement for deed or deed was recorded...*".

This recommendation has been incorporated in the LDC text.

FISCAL & OPERATIONAL IMPACTS

There are no fiscal or operational impacts associated with this amendment.

GMP CONSISTENCY

The subject LDC amendment pertains to permitted density for non-conforming lots in the RMF-6 zoning district. The Future Land Use Element (FLUE), Immokalee Area Master Plan (IAMP) and Golden Gate Area Master Plan (GGAMP) all contain provisions for determining eligible density for rezoning property; that is, they regulate zoning density in context of density allowed by the Future Land Use Map designation when a zoning change is sought. However, they do not regulate density permitted by *existing* zoning districts; this LDCA will not increase density beyond the present 6 dwelling units per acre. Therefore, staff concludes this petition may be found consistent with the FLUE, IAMP and GGAMP.

EXHIBITS: A) Ordinance Historical Table

Amend the LDC as follows:

LDC 1.08.02 Definitions

* * * * *

Lot of record: A lot of record is (1) a lot which is part of a subdivision recorded in the public records of Collier County, Florida; or (2) a lot, parcel, or the least fractional unit of land or water under common ownership which has limited fixed boundaries, described by metes and bounds or other specific legal description, the description of which has been so recorded in the public records of Collier County, Florida, on or before the effective date of this LDC; or (3) a lot, parcel, or the least fractional unit of land or water under common ownership which has limited fixed boundaries, for which an agreement for deed ~~was executed~~ or deed was recorded prior to October 14, 1974, if within the former Coastal Area Planning District, and January 5, 1982, if ~~presently within or previously~~ within the former Immokalee Area Planning District ~~prior to May 1, 1979.~~

* * * * *

Nonconforming lot of record: Any lawful lot or parcel which was recorded, or for which an agreement for deed ~~was executed~~ or deed was recorded prior to October 14, 1974, if within the former Coastal Area Planning District, and January 5, 1982, if within the former Immokalee Area Planning District, ~~and which~~ lot or parcel does not meet the minimum width or lot area requirements as a result of the passage of this Code shall be considered as a legal nonconforming lot and shall be eligible for the issuance of a building permit provided all the other requirements of this Code and the Florida Statutes are met. This definition also includes any lot or parcel made nonconforming by a rezoning initiated by Collier County to implement the Zoning Reevaluation Ordinance Number 90-23 (1990). For nonconforming lots of record within the RMF-6 zoning district, see LDC section 9.03.03 A.

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9.03.03 - Types of Nonconformities

- A. *Nonconforming lots of record.* In any district, any permitted or permissible structure may be erected, expanded, or altered on any lot of record at the effective date of adoption or relevant amendment to the LDC.
 - 1. Except as provided herein, the minimum yard requirements in any residential district except RMF-6 shall be as for the most similar district to which such lot of record most closely conforms in area, width and permitted use, except that when possible the greater of any yard requirement in either district shall apply, and except when specifically provided for in the district regulations.
 - a. Rural Agricultural (A) zoning district:
 - i. Front Yard: 40 feet.
 - ii. Side Yard: 10 percent of lot width, not to exceed 20 feet on each side.

- 1 iii. Rear Yard: 30 feet.
- 2
- 3 b. Estates (E) zoning district: See LDC section 2.03.01 for setbacks.
- 4
- 5 c. RMF-12:
- 6
- 7 i. Single-family dwellings revert to RSF-6 standards.
- 8
- 9 ii. Duplex and multi-family dwellings revert to RMF-6 standards.
- 10
- 11 d. Mobile Home (MH) zoning district:
- 12
- 13 i. Front Yard: 10 feet.
- 14
- 15 ii. Side Yard: 5 feet or zero (0) foot. Where zero is used, the opposite
- 16 yard must maintain a minimum of 10 feet.
- 17 iii. Rear Yard: 8 feet.
- 18 iv. Waterfront Yard (Side or Rear): 10 feet.
- 19
- 20 2. The minimum side yard requirement in any commercial or industrial district shall
- 21 be equal to the height of the proposed principal structure, or the minimum side
- 22 yard requirement in the district, whichever is lesser.
- 23
- 24 3. Nonconforming through lots, which are nonconforming due to inadequate lot depth,
- 25 may have a reduced front yard along the local road frontage. The reduction shall
- 26 be computed at the rate of fifteen (15) percent of the depth of the lot, as measured
- 27 from edge of the right-of-way. Front yards along the local road shall be developed
- 28 with structures having an average front yard of not less than six (6) feet; no building
- 29 thereafter erected shall project beyond the average line. The reduced front yard
- 30 setback shall be prohibited along a collector or arterial roadway.
- 31
- 32 4. When two or more adjacent legal nonconforming lots of record are either combined
- 33 under a single folio or parcel number for taxing purposes by the property
- 34 appraiser's office, or combined as a single parcel by recording the previously
- 35 separate non-conforming lots into one legal description, neither or both of these
- 36 actions will prohibit the owner or future owners from subsequently splitting the
- 37 parcel into two or more folio or parcel numbers for tax purposes, or severing the
- 38 parcels into their former legal descriptions as legal nonconforming lots of record
- 39 according to the original legal description(s) at the time the property was
- 40 recognized as legal nonconforming. Prior to any two or more adjacent legal non-
- 41 conforming lots being combined for development, a legally binding document must
- 42 be recorded to reflect a single parcel with a unified legal description. Once such a
- 43 document has been recorded to amend the legal description and a development
- 44 permit has been approved by the County for development as that unified parcel,
- 45 the property cannot be split or subdivided except as may then be allowed by this
- 46 Code.
- 47
- 48 5. Nonconforming Corner Lots. Corner lots of record which existed prior to the date of
- 49 adoption of Collier County Ordinance No. 82-2 [January 5, 1982] and which do not meet
- 50 minimum lot width or area requirements established in the LDC, shall be required to

1 provide only one full depth front yard. The full depth front yard requirement shall apply to
2 the front yard which has the shorter or shortest street frontage. The setback requirement
3 for the remaining front yard(s) may be reduced to 50 percent of the full front yard setback
4 requirement for that district, exclusive of any road right-of-way or road right-of-way
5 easement. For setbacks for Estates (E) zoning district, see LDC section 2.03.01.
6

7 6. RMF-6 Districts. A two family or duplex dwelling unit may be constructed on any legal
8 non-conforming lot of record when the minimum lot area is 9,750 square feet or greater
9 and an agreement for deed or deed was recorded prior to January 5, 1982 to establish
10 the lot.

11 A single family dwelling unit may be constructed on any legal non-conforming lot of record
12 provided an agreement for deed or deed was recorded prior to January 5, 1982 to
13 establish the lot.

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Exhibit A – Ordinance Historical Table

| INTERIOR MINIMUM LOT AREA | | | | | | |
|---|--------------------|---------------------------------------|---|---------------------|--------------------------|--|
| Ordinance Number | Zoning District | Dwelling Type | | | Fractional Unit Entitled | |
| | | Single-Family | Two-Family | Multi-Family | | |
| 74-12 and 13 (Coastal Area) | MF-1 (SF and 2F) | 6,600 | | N/A | | |
| | MF-2 (SF,2F, MF) | | | 8,400 | | |
| | MF-3 (2F and MF) | N/A | 12,000 | | | |
| | RSF-4 | 8,500 | Not Applicable (N/A) | | | |
| | RSF-5 | 7,500 | | | | |
| | RSF-6 | 6,000 | | | | |
| 74-14 and 15 (Immokalee Area) | MF-1 | 6,600 | | N/A | | |
| | MF-1A | | | | | |
| | MF-2 | | | 6,600 | | |
| | MF-2A | | | 6,000 | | |
| | RSF-4 | 6,000 | N/A | | | |
| 74-42 (Effective Date 10-14-74) | RM-1 (2F and MF) | N/A | 7,000 | | | |
| | RM-1A | | | | | |
| | RSF-4 | 7,500 | | | | |
| | RM-2 | N/A | 1 net acre (4,500 s.f. /unit) | | | |
| 75-36 (Effective Date 9-2-75) | RM-1 (2F and MF) | N/A | 7,000 | | | |
| | RM-1A | 7,500 | Non-Conforming LOR (6,500 s.f.) MF | | | |
| | RM-2 | N/A | 1 net acre (4,500 s.f. /unit) | | | |
| 76-30 (Effective Date 7-2-76) | RM-1 (2F and MF) | N/A | 7,000 | | | |
| | RM-1A | 7,500 | Non-Conforming LOR (6,500 s.f.) MF | | | |
| | RM-2 | N/A | Non-Conforming lots within platted subdivisions prior to 10-14-74: lot area in accordance with recorded plat. 1 net acre (4,500 s.f./unit) | | | |
| 82-02 (Effective Date 1-11-82) (Adoption Date 1-05-82) | RMF-6 | 7,260 s.f. each dwelling unit | | | Yes | |
| | RSF-5 | Non-Conforming LOR | | | | |
| 91-102 (Effective Date 11-13-91) | RMF-6 | 7,260 s.f. each dwelling unit | | | Yes | |
| | RSF-6 | 6,000 | N/A | | | |
| | Non-Conforming LOR | | | | | |
| | 6,000 s.f. | 6,500 s.f. | | | | |
| 92-73 (Effective Date 10-12-92) | RMF-6 | 7,260 s.f. each dwelling unit | | | Yes | |
| | MF and Townhomes | 1 acre-not to exceed 6 per gross acre | | | | |
| | RSF-6 | 6,000 | N/A | | | |
| | Non-Conforming LOR | | | | | |
| 98-63 (Effective Date 7-1-98) | RMF-6 | 6,500 | 12,000 | 5,500 s.f. per unit | Deleted | |
| 99-06 (Effective Date 2-1-99) | RMF-6 | 6,500 | 12,000 | 5,500 s.f. per unit | Yes | |
| | | Non-Conforming LOR (6,500 s.f.) | | | | |
| 04-41 (Effective Date 7-28-2004) | RMF-6 | 6,500 | 12,000 | 5,500 s.f. per unit | Yes, can round up | |