

Review Date: April 24, 2024

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Recommendation: Approval

Request: Amend the Land Development Code (LDC), Article 5, to add a new subsection encouraging the conversion of nonconforming residential sites to commercial ones. This subsection applies to owners of single-family homes or duplexes that are subject to a future land use (FLU) change in which the owner is not the applicant, and the FLU amendment has the effect of creating a nonconforming residential use on the site. Owners seeking to redevelop such sites with a nonresidential use will be governed by less stringent standards for parking, solid waste, landscaping, and off-site improvements.

Positive aspects of the amendment	<ul style="list-style-type: none"> • Provides regulatory flexibility to owners of single-family dwellings or duplexes that become nonconforming due to a land use amendment the owner did not initiate. • Encourages the conversion of nonconforming residential sites to commercial ones. • Encourages redevelopment of sites where infrastructure and services exist to support commercial development.
Negative aspects of the amendment Mitigating factors	<ul style="list-style-type: none"> • None. • None.

BACKGROUND

To bolster the amount of commercial land in the City, Planning staff periodically evaluates land, particularly along major corridors, for FLU amendments. Because the City originated as a large residential subdivision with little land set aside for commercial use, these amendments frequently involve changing the FLU of sites from a residential to a commercial or mixed-use classification. Despite efforts to avoid blocks with improved residential properties, nonconformities are frequently created upon the adoption these amendments.

This LDC amendment will assist owners with sites that become nonconformities resulting from a FLU amendment filed by someone other than themselves. Owners with single-family dwellings or duplexes when the FLU amendment was approved, and later wish to convert the existing residential site to a commercial one, will benefit from less restrictive standards that include parking, solid waste, landscape, and off-site improvements.

APPLICABILITY

Owners of single-family dwellings or duplexes subject to a FLU amendment not initiated by themselves that creates a nonconforming site will be eligible for targeted regulatory relief. However, subsequent owners that acquire the property after the FLU amendment has been adopted will not be entitled to relief offered by this amendment. Furthermore, if the owner of a site when the FLU amendment is adopted later demolishes the building, the owner will no longer be eligible for regulatory relief offered

by this amendment but may redevelop the site in conformance with the applicable provisions of the LDC.

SUMMARY OF THE PROPOSED CHANGES

The key changes appearing in Ordinance 33-24 are summarized by category in Table 1.

Table 1. Summary of Proposed LDC Changes Appearing in Ordinance 33-24.

General Category	Current LDC Requirement	Proposed Change
Parking	Required parking based on building area.	Three spaces required.
Solid Waste	Dumpster and enclosure required.	Dumpster and enclosure not required.
Landscaping	Buffers required along property lines adjacent to residential zoning.	Single row of trees and shrubs required in lieu of buffer.
Off-Site Improvements	Curb, gutter, sidewalks, and lane widening required where frontage of the site abuts a public right-of-way.	Off-site improvements along a local street or alley may be reduced at Director’s discretion.

ANALYSIS OF PROPOSED CHANGES

Many LDC standards for single-family homes and duplexes are similar and both differ substantially to standards for commercial development. For example, commercial projects require parking generally based on building area, a dumpster with an enclosure, stormwater treatment, and landscaping. Standards for commercial development also involves off-site improvements that may include constructing curb, gutter, sidewalks, and turn lanes in the public right-of-way. The conversion of residential to commercial sites often proceeds slowly as developers frequently encounter requirements and expenses that were not anticipated at the onset of a project.

The LDC amendment will simplify redeveloping commercial sites previously zoned residential where a single-family home or duplex exists. This amendment improves the feasibility of commercial conversions by lessening several commercial standards for these sites. While several standards will be relaxed to provide flexibility to encourage redevelopment, adequate provisions will remain to ensure that parking, solid waste management, and landscaping is required. It is anticipated that this ordinance will reduce permitting time by relaxing key standards, provide greater certainty regarding applicable requirements, and encourage the repurposing of existing site improvements, thereby reducing the costs of development and encouraging redevelopment where infrastructure and services exist.

COMPREHENSIVE PLAN ANALYSIS

The proposed amendment is consistent with applicable policies appearing below in the Future Land Use and Property Rights Elements.

Future Land Use Element

Policy 2.1: The City shall encourage commercial development where it can efficiently use infrastructure, where their adverse impacts on adjacent uses are minimized and where they will effectively provide the community with desired products, services and employment opportunities.

Staff analysis: *This LDC amendment will encourage the redevelopment of commercial sites where existing City services exist.*

Policy 8.1: The City will prohibit the expansion and replacement of land uses which are inconsistent with the Future Land Use Element.

Staff analysis. *Beyond prohibiting the expansion and replacement of nonconforming uses, this amendment will encourage the conversion of nonconforming residential sites to commercial ones.*

Economic Development Element

Objective 4.: The City shall review and where possible, streamline land development regulations and permitting processes to shorten the review cycle time such that Cape Coral becomes measurably more efficient location for creating commercial development.

Staff analysis. *This amendment will streamline, but not eliminate, requirements for parking, solid waste, landscaping, and off-site improvements. These changes will provide greater flexibility to property owners by simplifying targeted regulations that should translate to these projects moving through permitting more quickly.*

RATIONALE FOR LDC TEXT AMENDMENTS

LDC, Section 3.5.4. states text amendments shall be considered for one or more of eight stated reasons. This LDC amendment is consistent with Reasons #7 and #8 below.

7. The amendment results in providing compatible land uses within Cape Coral.

Staff analysis. *The LDC amendment will encourage the conversion of sites originally developed as single-family homes and duplexes to commercial ones. Such conversions will yield redevelopment that will be consistent with the current FLU classification and zoning.*

8. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assistance.

Staff analysis. *Many local governments utilize their police powers to prohibit the expansion of legal nonconformities that occur as a result to changes in zoning. This LDC amendment, consistent with accepted planning practices, seeks to eliminate nonconformities by relaxing certain LDC provisions to encourage the redevelopment of nonconforming single-family and duplexes sites.*

REVIEW CRITERIA FOR PROPOSED LDC TEXT AMENDMENTS

LDC, Section 3.5.4. identifies four review criteria for proposed text amendments to the LDC. Each criterion is evaluated below.

1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan.

Staff analysis. *The amendment is consistent with two policies and one objective appearing in the Comprehensive Plan as outlined earlier within this report.*

2. The amendment results in compatible land uses within a zoning designation.

Staff analysis. *By encouraging the elimination of nonconformities by easing regulations for redeveloping sites with existing single-family homes and duplexes, this LDC amendment will promote the redevelopment of compatible land uses in nonresidential zoning districts.*

3. The amendment protects the health, safety, and welfare of the community.

Staff analysis. *While this amendment provides flexibility from several LDC provisions for owners wishing to redevelop sites with existing single-family homes and duplexes, appropriate safeguards will remain to protect the health, safety and welfare of the community. For example, minimum standards for parking, solid waste, and landscaping will be modified, but not eliminated.*

4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.

Staff analysis. *This criterion is not applicable as this amendment was not initiated by either the Planning and Zoning Commission or the City Council.*

RECOMMENDATION

The proposed amendment will provide flexibility from several LDC provisions with the goal of encouraging the redevelopment of sites with existing nonconforming single-family dwellings and duplexes. While these changes will provide owners with relief from parking, solid waste, and landscaping provisions, adequate safeguards will remain to protect the health, safety, and welfare of the community. The changes proposed in this ordinance will provide needed relief to owners wishing to redevelop their sites, streamline the permitting process, reduce developer costs, and encourage the elimination of legal, nonconformities. This ordinance is consistent with applicable policies in the Comprehensive Plan. This ordinance is also consistent with applicable standards for proposed LDC text amendments. Staff recommends **approval** of Ordinance 33-24.

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