

## GROUP 2, ITEM 4

### DWELLING UNIT TYPES ON NONCONFORMING LOTS OF RECORD AND CONSTRUCTION OF SINGLE-FAMILY DWELLINGS ON MOBILE HOME LOTS OF RECORD

#### AMENDMENT SUMMARY

- Issue:** Current regulations limit the development of nonconforming lots of record to single-family residences without acknowledging underlying zoning and density entitlements. Additionally, Department practice allows mobile home lots of record to be redeveloped with conventionally-built single-family residences consistent with a property's underlying zoning district despite existing regulations not explicitly allowing this replacement.
- Solution:** Amend provisions relating to nonconforming lots of record to allow these lots to be developed with the dwelling unit types permitted in a property's underlying single- or two-family zoning district subject to compliance with the Lee Plan and the applicable provisions of the LDC. Amend Section 34-3274 to allow conventionally-built single-family residence where such use is permitted in the underlying zoning district.
- Outcome:** Facilitates infill development of housing consistent with underlying use and property development regulations. Codifies current department practice.

## Chapter 34 - ZONING

### ARTICLE I. - IN GENERAL

#### Sec. 34-2. Definitions.

Staff note: Strike definition of "guest house," which is not regulated in the LDC other than in section 34-3273, which is proposed to be removed.

~~*Guest house* means an accessory building located on the same premises as the principal building and used exclusively for housing members of the family occupying the principal building, or other nonpaying guests, is not occupied year-round, can have kitchen facilities, and is not rented or used as a separate dwelling. A guest house must not be occupied by more than one family at any time, and only one guest house is permitted for each main dwelling.~~

### ARTICLE VIII. - NONCONFORMITIES

#### DIVISION 4. NONCONFORMING LOTS

#### Sec. 34-3271. Definitions.

Staff note: no changes proposed. Section provided for context.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Nonconforming or substandard lot* means a lot of which the area, dimension or location was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located.

## **Sec. 34-3272. Lot of record; general development standards.**

Staff note: Relocate subsection (3)c to section 34-3274(c). Update subsection (3) to allow any dwelling unit type permitted in a property's designated zoning district to be developed on the property subject to certain criteria. Provide cross-reference to development regulations established for single-family residences on nonconforming lots of record.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Lot of record* means a lot which conformed to the minimum lot size for the use permitted for that lot in its zoning district at such time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this chapter.

- (1) For the purpose of this division, a lot is created on such date that one of the following conditions occur:
  - a. The date that a deed for the lot is lawfully recorded in the public records of the County;
  - b. The date that a subdivision plat has been lawfully recorded in the public records of the County, if the lot is a part of the subdivision;
  - c. The date that a site plan for a development was approved by the Board of County Commissioners, pursuant to resolution, as long as the development subsequently recorded a subdivision plat that has been approved by the Board of County Commissioners in the public records of the County, if the lot is a part of the subdivision; or
  - d. In the case of mobile home or recreational vehicle parks, the date when the park was approved by resolution for rezoning or a special permit for such use; provided, however, that the park subsequently obtained, on or before June 3, 1987, approval by the Board of County Commissioners of a site plan which identifies individual sites within the park and the sites meet the minimum lot size and setbacks consistent with the zoning regulations set forth in Section 34-3274. Any park which was lawfully established prior to the effective date of the County's 1962 zoning regulations will be governed by the requirements of Section 34-3274(1), as long as the park satisfies the remaining minimum documentary requirements and Board of County Commissioners approval set forth in this provision. Any park approved by the Board of County Commissioners under Ordinance No. 86-36 may request administrative approval to amend the approved site plan in accordance with Section 34-174. For the purposes of this subsection, the term "site plan" means any one or more of the following, whichever is applicable:
    1. A sealed and signed survey showing individual lots by both course and distance;
    2. An unrecorded subdivision plat prepared and certified by a professional engineer or surveyor;
    3. A condominium plot plan prepared and recorded pursuant to F.S. Ch. 718;
    4. A park plan prepared and submitted with a prospectus pursuant to F.S. Ch. 723, provided that the prospectus has been approved by the State Department of Business Regulation and is of sufficient accuracy, size and legibility to enable the Director to Administer this chapter;
    5. A site plan approved in accordance with County Administrative Code Policy F-0015;
    6. A site plan approved pursuant to a preliminary or final development order;
    7. A rectified aerial with a minimum scale of one-inch equals 100 feet and which has each site delineated and identified by its number and shows individual lot measurements with a reasonable degree of accuracy; or

8. Any other document which shows lot lines with enough specificity to enable the Director to apply the provisions of this chapter with respect to minimum lot size, lot widths and setback requirements.

Any of the above documents that have not been formally approved by the Board of County Commissioners will not be sufficient to satisfy the provisions of this subsection. The burden of proof that a document has received Board of County Commissioners approval is that of the owner.

- (2) The remaining lot after condemnation shall be deemed a lot of record in accordance with Section 34-3206.
- (3) Lots of record may be developed subject to the following provisions:
  - a. Except as provided in section 34-3272(3)c., All other regulations of this chapter must be met.
  - b. No division of any parcel may be permitted which creates a lot with width, depth or area below the minimum requirements stated in this chapter, provided that abutting lots of record may be combined and redivided to create larger dimension lots as long as such recombination includes all parts of all lots, existing allowable density is not increased, and all setback requirements are met.
  - c. Nonconforming lots of record in one- and two-family residential districts may be developed with any dwelling unit type permitted within the property's designated zoning district provided:
    - i. The development complies with the Lee Plan; and
    - ii. Development of the property complies with the regulations established in sections 34-3273(a)(2) and 34-3273(b).
  - e. ~~For mobile home or recreational vehicle lots of record, the following will also apply:~~
    1. ~~All mobile homes, or recreational vehicles, including any attachments, must be placed at least five feet from any body of water or waterway.~~
    2. ~~All mobile homes, or recreational vehicles, must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit will be permitted to have eaves which encroach not more than one foot into the ten-foot separation.~~
    3. ~~Sites or lots located within a park may not be reconfigured or reduced in dimension so as to increase the density for which the park was originally created.~~
- (4) The burden of proof that the lot is legally nonconforming, and lawfully existed at the specified date, shall be with the owner.

### **Sec. 34-3273. Construction of single-family residence.**

Staff note: Strike subsections (b) and (c) to reflect change to section 34-3272(3). Strike language regulating "guest house" and "servants' quarters." Update "single-family residence determination" to "minimum use determination" consistent with Lee Plan terminology. Clarify language as needed and renumber accordingly.

- (a) A single-family residence may be constructed on a nonconforming lot of record that:
  - (1) Does not comply with the density requirements of the Lee Plan, provided the owner receives a favorable minimum use~~single-family residence~~ determination in accordance with the Lee Plan.  
Such nonconforming lots are exempt from the minimum lot area and minimum lot dimension requirements of this chapter, and it will not be necessary to obtain a variance from those requirements.
  - (2) ~~Does comply~~ Complies with the density requirements of the Lee Plan, as long as the lot:
    - a. Was lawfully created prior to June 1962 and the following conditions are met:

- i. Lots existing in the AG-2 or AG-3 Zoning District require a minimum width of 75 feet, a minimum depth of 100 feet and a lot area not less than 7,500 square feet.
    - ii. Lots existing in any other zoning district which permits the construction of a single-family residence require a minimum of 40 feet in width and 75 feet in depth, and a lot area not less than 4,000 square feet.
  - b. Is part of a plat approved by the Board of County Commissioners and lawfully recorded in the public records of the County after June 1962.
- ~~(b) The use of a nonconforming lot of record for a residential use other than a single-family dwelling unit is prohibited except in compliance with the lot width, lot depth, lot area, and density requirements for the zoning district.~~
- ~~(bc) Neither a guest house nor servants' quarters is permitted on a single lot of record less than 7,500 square feet in area, or which is occupied by a dwelling unit or units other than one single family residence.~~
- (bd) Minimum setbacks for structures permitted under section 34-3272(3) and Ssubsection (a)(1) or (2) of this section, are as follows:
- (1) Street setbacks must be in accordance with Section 34-2192.
  - (2) Side setbacks must be ten percent of lot width, or five feet, whichever is greater.
  - (3) Rear setbacks must be one-fourth of the lot depth but do not need to be greater than 20 feet.

**Sec. 34-3274. Development of mobile home and recreational vehicle lots of record.**

**Placement of mobile home or recreational vehicle on lot.**

Staff note: Department practice permits the construction of single-family dwelling units on mobile home/RV lots of record where such use is permitted in the underlying zoning district. This section's title and language has been modified to codify this department practice. Additional amendments are proposed to reorganize this section and clarify conflicting regulations where appropriate.

A single-family dwelling unit, mobile home, or a recreational vehicle may be constructed or placed on a lot of record, ~~which lot is located within a mobile home or recreational vehicle park, as applicable;~~ provided, ~~however,~~ that:

- (a) ~~the park was properly zoned or approved by special permit for mobile home or recreational vehicle use, or, in the case of single-family dwelling units, the property's zoning district lists single-family dwelling units as a permitted use;~~ and
- (b) ~~provided further, that~~ The minimum requirements, as set forth in this section, were met at the time the lot was created. These requirements are as follows:
  - (1) For lots of record created prior to the effective date of the County's 1962 Zoning Regulations:
    - a. The minimum lot area per unit shall be not less than 1,200 square feet; and
    - b. There shall be a minimum of ten feet between units.
  - (2) For lots of record created after the effective date of the County's 1962 Zoning Regulations but prior to the effective date of the County's 1968 Zoning Regulations:
    - a. The minimum lot area per unit shall be not less than 2,800 square feet;
    - b. The minimum lot width shall be 40 feet; and
    - c. The minimum setbacks from all lot lines shall be five feet, ~~and between units or appurtenances thereto they shall be ten feet.~~

- (3) For lots of records created after the effective date of the County's 1968 Zoning Regulations but prior to the effective date of the County's 1973 Zoning Regulations:
  - a. Minimum lot areas shall be:
    - 1. For mobile homes or single-family dwelling units on central sewer: 3,750 square feet;
    - 2. For mobile homes or single-family dwelling units on individual septic systems: 7,500 square feet; and
    - 3. For recreational vehicles: 1,200 square feet.
  - b. Minimum setbacks for both mobile homes and recreational vehicles shall be:
    - 1. From a street right-of-way: Ten feet;
    - 2. From a rear lot line: Ten feet;
    - 3. From side lot lines: Five feet or a minimum of ten feet between units; and
    - 4. From the park perimeter: 15 feet.
- (4) For lots of record created after the effective date of the County's 1973 Zoning Regulations but prior to the effective date of the County's 1978 Zoning Regulations:
  - a. Minimum lot areas shall be:
    - 1. For mobile homes or single-family dwelling units on central sewer: 4,000 square feet; and
    - 2. For recreational vehicles on approved septic systems: 1,200 square feet.
  - b. Minimum setbacks for ~~both~~ mobile homes, single-family dwelling units, and recreational vehicles shall be:
    - 1. From a street right-of-way: Ten feet;
    - 2. From a rear lot line: Ten feet;
    - 3. From side lot lines: Five feet or a minimum of ten feet between units; and
    - 4. From the park perimeter: 15 feet.
- (5) For lots of record created after the effective date of the County's 1978 Zoning Regulations but prior to the effective date of the ordinance from which this chapter is derived:
  - a. Minimum lot areas shall be:
    - 1. In the MH-1 District: 7,500 square feet;
    - 2. In the MH-2 District: 5,000 square feet;
    - 3. In the MH-3 District: 21,000 square feet;
    - 4. In the MH-4 District: 40,000 square feet; and
    - 5. In the RV-2 and RV-3 Districts: 2,000 square feet.
  - b. Minimum setbacks shall be as set forth in the 1978 Zoning Regulations.

(c) For mobile home or recreational vehicle lots of record, the following will also apply:

- (1) All mobile homes or recreational vehicles, including any attachments, must be placed at least five feet from any body of water or waterway;

- (2) All mobile homes or recreational vehicles must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit will be permitted to have eaves which encroach not more than one foot into the ten-foot separation; and
- (3) Sites or lots located within a park may not be reconfigured or reduced in dimension so as to increase the density for which the park was originally created.