

COLLIER COUNTY LAND DEVELOPMENT CODE STAFF CLARIFICATION

ZONING & LAND DEVELOPMENT STAFF CLARIFICATION SC 05-01

DATE: 28 February 2005

LDC SECTION: 9.03.03.A.5

SUBJECT: Legal Nonconforming Lot Combination/Splits

INITIATED BY: Staff

BACKGROUND/CONSIDERATIONS: The relevant section of the LDC addresses the status of legal nonconforming lots that have been combined for purposes of development. This section states, in part, that prior to the combining of two or more adjacent legal nonconforming lots for development, a "legally binding document" must be recorded to reflect a single parcel with a unified legal description. It then states, "Once such a document has been recorded to amend the legal description and a development permit has been approved by the county for the development as that unified parcel, the property cannot be split or subdivided except as may then be allowed by this Code." This language has apparently been applied by Planning/Zoning and Building Department staff so as to allow building permits to be issued for demolition of existing homes on unified parcels with the intent that the property revert to the original legal nonconforming lots, thereby allowing the replacement of a single home on a conforming lot with one home on each legal nonconforming lot.

DETERMINATION (CLARIFICATION): Based on the language cited above, it is my opinion that a unified parcel developed in accordance with these provisions cannot be divided to recreate the original legal nonconforming lots for individual development, even if all improvements on the unified parcel are removed.

In order not to penalize property owners for the ambiguity of the language, it is my opinion that any building permits for demolition of an existing structure or structures approved for development as described above prior to xxxxxxxxxxxxdatexxxxxx should remain valid. Similarly, building permit applications submitted for individual homes intended to replace homes so demolished may be approved if the demolition permit was approved prior to this date.

An amendment to the LDC clarifying the existing language will be forthcoming.

AUTHOR: Ross Gochenaur, Senior Planner (for Susan Murray, AICP, Director, Department of Zoning & Land Development Review))

cc: Tom Kuck, Engineering Director
John Houldsworth, Senior Engineer
Bill Hammond, Building Director
Alamar Smiley, Permitting Supervisor
Patrick White, Assistant County Attorney