

# POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

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| <b>DRC Date:</b>  | November 30, 2023 | <b>Level of Review:</b> | Level 4 Review     |
| <b>PC Date:</b>   | February 7, 2024  | <b>Type:</b>            | LDC Text Amendment |
| <b>BoCC Date:</b> | March 5, 2024     | <b>Case Numbers:</b>    | LDCT-2023-19       |
|                   | March 19, 2024    | <b>Case Name:</b>       | Housing Amendment  |
| <b>Applicant:</b> | Polk County       | <b>Case Planner:</b>    | Ian Nance          |

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| <b>Request:</b>                  | An ordinance amending the Polk Land Development Code (LDC) to include the following changes: to add “Duplex, Two-family Attached” as “C3” conditional uses in Residential Low-1 (RL-1) & Residential Low-2 (RL-2) land use districts; to reduce “Mobile Home Subdivisions” and “Mobile Home Parks” to “C3” conditional uses; to require a Level 1 Review for accessory dwelling units; to partially remove temporary mobile homes for medical hardship from review by the Land Use Hearing Officer; to allow accessory structures larger than the primary on residential properties exceeding two acres; to provide clarity to existing criteria for duplexes, mobile homes, multi-family developments, and residential infill developments; to reduce “Individual Mobile Homes to a “C1” conditional use in the Ronald Reagan SAP; to provide definitions for gross density; providing for severability; and providing for an effective date. |
| <b>Location:</b>                 | n/a  |
| <b>Property Owner:</b>           | n/a  |
| <b>Parcel Size (Number):</b>     | n/a  |
| <b>Development Area:</b>         | n/a  |
| <b>Nearest Municipality:</b>     | n/a  |
| <b>DRC Recommendation:</b>       | Approval   |
| <b>Planning Commission Vote:</b> | Approval 7-0   |

## Among the changes to Chapter 2:

- Adding “Duplex, Two-Family Attached” as a “C3” Conditional Use in RL-1 & RL-2 districts.
- Reducing “Mobile Home Park” and “Mobile Home Subdivision” from “C4” to “C3” conditional uses.
- Clarifying in the Table 2.2 Footnotes that densities for a duplex unit on a single lot can be increased through a Conditional Use approval. Clarifying that minimum lot areas are for single-family detached and duplex units.

- Modifying Section 206.B to rename “Security Residences” to “Secondary Residential Structures,” to include other uses such as parsonages, and to lower the level of review to a Level 1.
- Modifying Section 207.J, Temporary Mobile Homes for Medical Hardships, to move requests for such mobile homes from review by the Land Use Hearing Officer (LUHO) to staff review on properties exceeding one acre.
- Modifying Section 209.G to allow all residential properties two acres and above further allowances for accessory structures larger than the primary up to 150% of the size of the primary structure.

**Among the changes to Chapter 3:**

- Modifying Conditional Use criteria for Duplexes to distinguish the types of review required for an individual duplex and larger duplex developments requiring a Planned Development.
- Modifying the Conditional Criteria for Individual Mobile Homes, Multi-family, and Residential Infill Development to provide clarity and correct grammatical errors.

**Among the changes to Chapter 4:**

- Reducing the Level of Review for Individual Mobile Homes from a “C4” to a “C1” in the Ronald Reagan Selected Area Plan.

**Among the changes to Chapter 10:**

- Adding definition for Gross Density.

**Summary:**

The purpose of this ordinance is broad but constitutes simple policy changes intended to alleviate the burdens of citizens to develop and use individual lots, reduce the levels of review for certain uses, and provide clarity for citizens and staff when applying existing conditional use standards. With input from the Development Review Committee, Customer Services, and LUHO cases, this amendment aims to reduce the number of inconsistencies in the LDC, such as allowing multi-family uses in Residential Low-1 land use districts but not allowing duplexes. It recognizes that the current levels of review for minor uses such as security residences and temporary mobile homes for medical hardship are unwarranted. This will provide more affordable housing opportunities and more allowances for homeowners wishing to build accessory structures that are larger than primary structures, especially in rural areas. Finally, this amendment will correct multiple errors and oversights in the LDC text that have led to confusion on how certain conditional standards are applied. Staff recommends approval of this amendment.

**Relevant Sections, Policies, and/or Regulations to Consider:**

Comprehensive Plan Policy 2.203-A2 Housing Element  
 Comprehensive Plan Section 2.102 Growth Management  
 Comprehensive Plan Section 2.120-C Residential Low  
 LDC Section 205 Use Table for Standard Land Use Districts

LDC Section 206 Accessory Uses  
LDC Section 207 Temporary Uses  
LDC Section 209 Accessory Uses  
LDC Section 303: Criteria for Conditional Uses  
LDC Table 4.3 Use Table for Ronald Reagan Selected Area Plan  
LDC Section 904 Level 1 Review  
LDC Section 905 Level 2 Review  
LDC Section 906 Level 3 Review  
LDC Section 907 Level 4 Review  
LDC Chapter 10 Definitions

### Findings of Fact

- *This is a request to amend the Polk Land Development Code (LDC) to include the following changes: to add “Duplex, Two-family Attached” as “C3” conditional uses in Residential Low-1 (RL-1) & Residential Low-2 (RL-2) land use districts; to reduce “Mobile Home Subdivisions” and “Mobile Home Parks” to “C3” conditional uses; to require a Level 1 Review for accessory dwelling units; to partially remove temporary mobile homes for medical hardship from review by the Land Use Hearing Officer; to allow accessory structures larger than the primary on residential properties exceeding two acres; to provide clarity to existing criteria for duplexes, mobile homes, multi-family developments, and residential infill developments; to reduce “Individual Mobile Homes to a “C1” conditional use in the Ronald Reagan SAP; to provide definitions for gross density; providing for severability; and providing for an effective date.*
- *Chapter 553 of the Florida Statutes states that “Mobile Home” means any residential unit constructed to standards promulgated by the United States Department of Housing and Urban Development. Mobile homes are built to a separate standard than site-built homes and may be regulated differently than site-built and other manufactured homes. Site-built homes and other manufactured homes are built to the standards set forth in Chapter 553 of the Florida Statutes.*
- *POLICY 2.102-A1 of the Comprehensive Plan states, “Polk County shall promote contiguous and compact growth patterns through the development process to minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, and prevent development patterns where tracts of land are by-passed in favor of development more distant from services and existing communities.”*
- *POLICY 2.203-A2 of the Comprehensive Plan (Housing Element) states that “Mobile homes shall be allowed in all areas of the County designated for residential development, subject to siting and design criteria consistent with the County's Land Development Code.”*
- *Comprehensive Plan Section 2.120-C Residential Low states, “The Residential-Low classification is characterized by single-family dwelling units, duplex units, and small-scale multi-family units. Residential development may contain a variety of housing types as defined by the Land Development Code within the TSDA. Outside the TSDA, RL may contain single-family dwelling units, duplex units, small-scale multi-family units, and*

*family-care homes, and shall be permitted, with County approval, at a density of up to, and including, 5 DU/AC. Additionally, community facilities may be allowed in accordance with policies of this Plan.”*

- *According to LDC Chapter 10, an Accessory Structure is “A structure, which is customarily associated with, subordinate in size and incidental in use to the principal structure and located on the same site. For floodplain management purposes, the term includes only accessory structures used for parking and storage.”*
- *According to LDC Chapter 10, an Accessory Use is “A use which:*
  - 1. Is clearly incidental to, customarily found in association with, and serves a principal use;*
  - 2. Is subordinate in purpose, area, and extent to the principal use served;*
  - 3. Is located on the same lot as the principal use, or on an adjoining lot in the same ownership as that of the principal use; and*
  - 4. Is not the principal use.”*
- *According to LDC Chapter 10, a Duplex is, “A single structure containing two dwelling units connected by a common wall or other integral part of the principal building, such as a breeze way or carport, and situated either on a single lot or parcel (duplex) or two adjacent lots (single-family attached).”*
- *According to LDC Chapter 10, Infill Development is, “Development of vacant, "skipped-over" parcels of land in otherwise built areas. The reuse or change of use of a previously developed parcel or the intensification of use or change of use by remodeling or renovation of a structure.”*
- *According to LDC Chapter 10, a Mobile Home is, “A structure, transportable in one or more sections, which is eight body feet or more in width, and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein.”*
- *According to LDC Chapter 10, a Mobile Home Park is, “A single tract of land under a single ownership where lots are offered for lease or rent for placement of three or more mobile homes or where mobile homes are offered for lease or rent, and which is developed with all necessary facilities and services for park residents in accordance with an approved site development plan.”*
- *According to LDC Chapter 10, a Mobile Home Subdivision is “A platted residential subdivision in which the dwelling units consist of mobile homes.”*

- *According to LDC Chapter 10, Multi-family is defined as, “A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and other spaces. Each unit is an independent housekeeping unit (room or suite of rooms used exclusively for permanent or seasonal residential occupancy as a home or residence of one (1) individual, family, or household, and not including hotel rooms. Individual units may be owned as single-family attached dwellings (duplex), townhouses, condominiums, or offered for rent (apartment).”*
- *According to LDC Section 206, “Accessory uses are permitted in conjunction with the primary use in all land use districts. Accessory uses are those land uses that are incidental and subordinate to the primary use of the property (see table 2.1 for a list of primary land uses allowed per district). Specific requirements pertaining to the determination of what is incidental and subordinate for certain types of accessory uses are listed in the section and sections to follow in this chapter.”*
- *According to LDC Section 207, “Temporary uses are defined as those types of activities that are not regularly conducted from a permanent structure or location and are conducted for only a short period of time.”*
- *According to LDC Section 209.G, “Accessory structures are customarily associated with, subordinate in size, and incidental in use to the principal structure located on the same site.”*
- *According to LDC Section 904, “A Level 1 Review is a technical review of development plans and applications for development activities that do not require a multi-disciplinary review. The review is to ensure the development meets minimum standards as stated in this Code and other County regulations. A Level 1 Review is performed by various Polk County staff. A successful Level 1 Review will result in an issuance of an authorization to proceed with development, such as a building permit.”*
- *According to LDC Section 905, a Level 2 Review is, “A technical review of an application and plans for a development which is:*
  - 1. Expected to have multiple technical issues or changes in the use or site;*
  - 2. To ensure conditions required by the Comprehensive Plan are compliant;*
  - 3. To evaluate whether the application meets minimum development standards and conditions as stated in this Code and other County development regulations;*
  - 4. Necessary to review by the Land Development Director for conditions as required by the Comprehensive Plan and in Chapter 3 of this Code.*

*A Level 2 Review is performed by the Development Review Committee (DRC). A successful Level 2 Review will result in approval of subdivision construction plans, permitted use site plans, or conditional use site plans.”*

- *According to LDC Section 906, “The Level 3 Review is a technical and compatibility review of development applications and plans which have limited issues to be reviewed by a citizen authority in a public hearing forum, in which affected parties can provide input and feedback to the applicant and the Planning Commission (PC). A Level 3 Review is performed by the Development Review Committee and Planning Commission (PC). The DRC and the Planning Commission may approve, deny, or approve with conditions. A successful Level 3 Review will result in an approval, or approval with conditions, or an affirmative recommendation of the plans presented.”*
- *According to LDC Section 907, the Level 4 Review “is to evaluate whether the requested development meets minimum development standards as stated within this Code, other County development regulations, and to provide for compatibility review. The Planning Commission shall recommend and the BoCC may approve, approve with conditions, or deny the application. A Level 4 Review is performed by the Development Review Committee, the Planning Commission, and the Board of County Commissioners. A successful Level 4 Review will result in a recommendation of approval, or approval with conditions from the Planning Commission and approval or approval with conditions by the Board of County Commissioners.”*
- *This request has been reviewed for consistency with SECTION 2.102 GROWTH MANAGEMENT and POLICY 2.203-A2 HOUSING ELEMENT of the Comprehensive Plan.*
- *Since 2018, there have been 15 requests for Temporary Mobile Home for Medical Hardship (TSE) requests. All have been approved by LUHO or the former Board of Adjustments. Of these 15, eleven have been requests for properties larger than one acre.*
- *Since 2020, Land Development staff has presented 41 cases to LUHO requesting accessory structures larger than the primary. All have been approved. Of these, 19 have been for storage structures – garage, pole barn, etc. – on properties where the primary structure is a mobile home without a garage or additional space for vehicles, lawn equipment, ATVs, and personal belongings.*
- *This application has been reviewed for consistency with LDC Section 907.*

Based on the information provided by the applicant, recent site visits, and the analysis conducted within this staff report, the Development Review Committee (DRC) finds that the proposed request **IS COMPATIBLE** with the surrounding land uses and general character of the area and **IS CONSISTENT** with the Polk County Comprehensive Plan and Land Development Code, and therefore, the DRC recommends **APPROVAL of LDCT-2023-19**.

*On February 7, 2024, the Planning Commission voted 7-0 to recommend approval of this application.*

## **Analysis:**

### *Duplexes*

The current language in the LDC provides no distinction between building a single duplex structure on an individual, un-platted lot and a larger subdivision development comprised of duplexes. Furthermore, no duplex development is permitted in RL-1 or RL-2, which is inconsistent with other uses. Multi-family, for instance and which is far more intense, is allowed in both sub-districts, pending Planning Commission approval.

This amendment will add “Duplex, Two-Family Attached” to RL-1 and RL-2 as “C3” uses, consistent with the level of review required in RL-3 and RL-4. Furthermore, this will lower the burden of approval for applicants wishing to build a single duplex unit on an existing legal lot. Most individual duplex requests will exceed the density and lot size requirements in the underlying land use district. As the Code reads now, to do so would require each duplex request to meet the standards for a Planned Development (PD), which is excessive for the intensity of the request. Section 303 will be amended to allow duplexes on individual lots to be processed as Conditional Uses with the Planning Commission ultimately determining if the unit type is within character of the surrounding area. Larger duplex developments requiring increased density will continue to follow the PD process.

### *Mobile Homes*

This amendment will lower the level of review for Mobile Home Parks and Mobile Home Subdivisions from requiring BoCC approval to requiring PC approval in Residential Low land use districts, consistent with requests in A/RR and RS. The current level of review is a holdover from previous zoning ordinances. Requests for new MHPs are relatively infrequent; staff has processed fewer than five requests since 2018. The most common request is a modification to existing parks to add a handful of units. These are minor but must currently still be heard by the Board, which can be a high barrier to entry. At any rate, sufficient public opposition can still appeal to the BoCC through the DeNovo Hearing process.

These changes will only take place in parts of Polk County outside of the Selected Area Plans and Green Swamp ACSC, where MHPs are already “C3” uses in RL land use districts. In the Ronald Reagan SAP, Individual Mobile Homes are categorized in the use table with Mobile Home Subdivisions as “C4” conditional uses requiring BoCC approval in RL-4X districts. Since 2018, there have been two requests for placing a single mobile home in the RR SAP. One was approved (LDCU-2022-40), while the other is pending the outcome of this amendment which will reduce the level of review for Individual Mobile Homes to a “C1” aligning it with this use throughout the rest of the County.

Finally, this amendment will modify the conditional use text in Section 303 of Individual Mobile Homes to clarify that mobile homes can be placed only on legal lots, no matter which provision is used to place one. This is policy now, as other elements of the LDC require minimum lot standards for single-family development, whether they are legally created today or determined to be a legal lot of record; however, confusion has occurred within staff and the public when applying the

current plain language standards. Similarly, this amendment will clarify that mobile homes shall not be placed through the Residential Infill policy in Section 303.

### *Residential Infill*

In addition to the clarification regarding Mobile Homes, a past grammatical error has brought confusion when reviewing potential Residential Infill Developments. Current text states that “tracts considered for Residential Infill Development shall be limited to no greater than **80 gross net acres.**”

This is a conflicting term, and this amendment will change the language to read “80 acres, less waterbodies and wetlands” to make it consistent with the County definition of Developable Area. In addition, a definition for Gross Density will be added to Chapter 10.

### *Secondary Residential Structures for Non-residential Uses*

The above phrasing will replace “Security Residences” in Section 206.B. Through Pre-Application cases reviewed by DRC, staff has determined that the current language in 206.B is insufficient. For one, there are no provisions for parsonages or other homes used by clergy when sited on property owned by religious institutions. This amendment will provide for these homes. The language has been unclear as to whether a mobile home can be used for a security residence. This amendment will allow a mobile home for this purpose. Finally, the path for approval of these homes has been a Level 2 Review, which requires engineered site plans, excessive for limited scope of use. This amendment will lower this to a simple Level 1 approval by Land Development or the Building Department.

### *Temporary Mobile Homes for Medical Hardships*

Mobile homes may be permitted as a Temporary Special Exception (TSE) in all residential districts, on the same lot or parcel as an existing principal residence, in cases of medical hardship in which the infirm resident requires continuous supervision. The mobile home may be the residence of the infirm person, or the residence of the person providing the supervision. Requests for these mobile homes must be approved by the Land Use Hearing Officer (LUHO) requiring an individual to attend a public hearing to discuss private medical matters.

Since 2018, there have been 15 TSE requests. All have been approved by LUHO or the former Board of Adjustments. Of these 15, eleven have been requests for properties larger than one acre. This amendment will remove the need for LUHO approval for such properties, under the assumption that an acre provides adequate space for two dwelling units while meeting setback standards and allowing privacy for the neighbors. Future applicants will submit for a Level 1 approval by staff.

Those requests on properties less than an acre will continue to be reviewed by LUHO. Approvals shall be valid for one year, or for a shorter period as specified by the Land Use Hearing Officer. Approvals may be renewed by the Land Development Director, following notice provided by the Land Development Director within 30 days before expiration, when the medical hardship



warranting the original approval remains and is verified. If for any reason the resident requiring medical supervision ceases to reside on the property, the mobile home must be removed from the property within 60 days.

### *Accessory Structures Larger than the Primary*

Accessory structures are customarily associated with, subordinate in size, and incidental in use to the principal structure located on the same site. However, current text allows larger accessory structures up to 150 % of the principal structure square footage or height with a minimum lot size of five acres in the A/RR district. Failing that limited scope, approval from LUHO is required.

Since 2020, staff has presented 41 cases to LUHO requesting accessory structures larger than the primary. All have been approved. Of these, 19 have been for storage structures – garage, pole barn, etc. – on properties where the primary structure is a mobile home without a garage or additional space for vehicles, lawn equipment, ATVs, and personal belongings. The average property size per request was 2.95 acres with 23 properties (56%) two acres or higher. Finally, of all requests, 23 of the proposed structures fell within the 150% allowance.

To provide more allowances for accessory structures larger than the primary, staff has proposed decreasing the minimum acreage for an administrative approval to two acres within all residential land use districts, not just A/RR. The threshold for the maximum size for an administrative approval will remain 150% but will provide up to 2,000 sq. ft. for the accessory structures to help smaller homes (< 1,300 sq. ft.). This amount of acreage will allow for space between neighbors when contemplating the compatibility of larger accessory structures. If applied, these new standards would have allowed 18 cases (44%) to move forward with building permits without LUHO approval.

### **Limits of the Proposed Ordinance**

Elements of this amendment will affect the approval of accessory structures, temporary special exceptions, the described conditional uses, and secondary residential structures County-wide, including the Green Swamp ACSC.

### **Consistency with the Comprehensive Plan & Land Development Code**

The request is consistent with the Comprehensive Plan and the Land Development Code. No use is being proposed within a land use designation for which it was not intended. Essentially, this amendment is a policy change intended to alleviate the burdens of securing permits and permissions for uses for which current standards and levels of review are either too stringent for modern development or are routinely approved to the point an approval should be administrative.

**Comments from Other Agencies:** None

**Draft Ordinance:** Under separate attachment