

EXHIBIT A

**PALM BEACH COUNTY
LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)**

Minutes of November 12, 2014 Meeting

On Wednesday, November 12, 2014, the Palm Beach County Land Development Regulation Advisory Board (LDRAB) and Land Development Regulation Commission (LDRC) met in the Ken Rogers Hearing Room (VC-1W-47), at 2300 North Jog Road, West Palm Beach, Florida.

A. Call to Order/Convene as LDRAB

1. Roll Call

Chair Wes Blackman called the meeting to order at 2:01 p.m. Zona Case, Code Revision Zoning Technician, called the roll.

Members Present: 11

Wesley Blackman, Chair (PBC Planning Congress)
Michael J. Peragine (District 1) **
David Carpenter, Vice Chair (District 2)
Barbara Katz (District 3)
Jim Knight (District 4) *
Lori Vinikoor (District 5)
Terrence N. Bailey (FL Engineering Society)
Jerome Baumoehl (American Institute of Architects)
Frank Gulisano (PBC Board of Realtors)
Gary Raymond (FL Surveying and Mapping Society)
Leo Plevy (Member at Large, Alt.)

Vacancies: 3

(Assoc. General Contractors of America)
(Environmental Organization)
(Condominium/HOA Association)

Members Absent: 5

Mike Zimmerman (District 6)
Henry Studstill (District 7)
Raymond Puzzitiello (Gold Coast Build. Assoc.)
Joni Brinkman (League of Cities)
James Brake (Member At Large, Alt.)

County Staff Present:

Lenny Berger, Chief Assistant County Attorney
Jon MacGillis, Zoning Director
MaryAnn Kwok, Chief Planner, Zoning
John Rupertus, Senior Planning, Planning
William Cross, Principal Site Planner, Zoning
Monica Cantor, Senior Site Planner, Zoning
Lauren Dennis, Site Planner II, Zoning
Zona Case, Zoning Technician, Zoning

2. Additions, Substitutions, and Deletions

Mr. Blackman noted that minor additions to the agenda would be read into the record during the presentation of some exhibits, and that Exhibits G and H would be combined for expediency. Mr. Cross explained a minor correction to the Agenda, under Agenda Item C.2.a, B.7 should be corrected to read B.8.

3. Motion to Adopt Agenda

Motion to adopt agenda by Ms. Katz, seconded by Mr. Gulisano. Motion passed (9 - 0)*, **.

* Jim Knight arrived at 2:03 p.m.

4. Adoption of October 22, 2014 Minutes (Exhibit A)

Mr. Cross pointed out a minor correction to the Minutes by clarifying that the meeting date was erroneously indicating July instead of October. There were no other changes.

Motion to approve, as amended by Ms. Vinikoor, seconded by Ms. Katz. Motion passed (10 -0)**.

B. ULDC AMENDMENTS

1. Exhibit B – Fences, Walls and Hedges

Mr. Cross indicated the purpose of the amendment was to provide clarity on the allowed height of a wall or fence when adjacent to a lot that is elevated. He gave an example of a similar situation where a homeowner attached an additional wall or fence on top of the bulkhead of an adjacent lot. For the convenience of Code users, staff has revised language and associated graphics in Article 7, related to hedges and the measurement of wall or fence height.

Mr. Baumoehl questioned if a gate located in the front of a property is allowed to swing into the street or sidewalk area. Mr. Cross explained that this may be a Building Code issue and that he would check and follow up with Mr. Baumoehl.

Motion to adopt by Mr. Bailey, seconded by Mr. Carpenter. Motion passed (10-0)**.

** Michael J. Peragine arrived at 2:15 p.m.

2. Exhibit C – Hotel Accessory to Public Park

Mr. Cross acknowledged representatives from the Palm Beach County (PBC) Facilities Development and Operations (FDO) Department and PBC Parks and Recreation Department.

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Mr. Cross explained the Morikami Park Master Plan as presented to the Board of County Commissioners (BCC) delineates future improvements which include a Ryoken (Japanese Inn). FDO and Parks staff acknowledged in the BCC Agenda Item that a ULDC amendment would be required as a hotel use in not a permitted use in Park Future Land Use (FLU) and Public Ownership (PO) Zoning District. He clarified the amendment is to recognize PBC Parks and Recreation terminology "park resource base" and establish the type of park and park resource base that is most appropriate for a collocated hotel.

In response to a query from Mr. Carpenter, Mr. McClellan affirmed the County would retain ownership of the underlying land and FDO would develop and pursue a request for proposal (RFP) to identify a hotel operator. The operator would construct and oversee the hotel facility on County owned property. A RFP would be awarded by the BCC. Mr. Carpenter expressed the view that the Riverbend location could potentially be a viable location and wondered about the effect of this amendment. Mr. McClellan responded that the Riverbend Master Plan for the Park does not anticipate a hotel.

Ms. Vinikoor asked if definitions exist for Heritage Tourism and Eco Tourism. Mr. Cross replied that there was no definition of either in the ULDC and that staff is comfortable with referencing the Comprehensive Plan or deferring to Parks and Recreation.

Mr. Cross explained the clarification and change in the exhibit title from Accessory to Collocated; the need to add staff's concern about the 30 percent for accessory; and, that the clarification will be reviewed further during the Use Regulations Project.

Mr. Carpenter opened discussion on removing the language associated with "*Rooming and Boarding House*" and "*SRO*" contained in the definition, and suggested this be done during this round rather than wait until the Use Regulations Project review. Ms. Katz also expressed a similar concern, citing the need to eliminate confusion. Mr. MacGillis pointed out the proposed language identifies that regulations would apply to a hotel only. Mr. Blackman cited the definition of hotel, motel, and asked staff to clarify its intent. Mr. Cross pointed out the additional limits on the uses in question and suggested that the reason for amendment could be made to address this concern.

Mr. Gulisano asked if the developer or facilitator of the land would be paying real estate taxes to the County. Mr. McClellan responded that the underlying land is Public Ownership and exempt from taxation.

Mr. McClellan responded to Mr. Carpenter's comment that he would like to see the hotel on the perimeter of the park, by saying the proposed hotel would be interior, associated with the Morikami Park. He added this was proposed for two reasons: proximity to the park as it is interior, and to eliminate the perception of a commercial regional establishment.

Ms. Katz asked if the proposed hotel would impact the existing restaurant. Mr. McClellan responded that it would not.

Mr. Carpenter questioned the location of the hotel and expressed concern about disturbing the rest of the park with increased traffic impacts, citing Riverbend Park in Jupiter as an example. Mr. Granowitz of Parks and Recreation Department responded that a hotel would not be a part of Riverbend Park. He explained that at most, camping would be the appropriate use.

During discussion of the motion, Mr. Blackman reiterated concerns for the proliferation of hotels in regional parks in the future.

Motion to approve as amended by Mr. Gulisano, seconded by Ms. Vinikoor. Motion passed (11-0).

3. Exhibit D – Mechanical Equipment Screening Exceptions

This amendment accommodates owners who live in multi-family residential buildings who may have financial challenges in keeping up with screening requirements for replacement of existing mechanical equipment. Mr. Cross emphasized that staff is still in discussion about the regulation related to the painting of mechanical equipment to match the building (line 41, page 16). The concern is that this provision may impact the warranty of the equipment or may not be financially feasible. Mr. Cross also emphasized that changes to

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the Building Code also contributed to this amendment in that all future replacement equipment must be elevated.

Mr. Baumoehl expressed disagreement with existing Code language that waives roof mounted equipment from screening based on structural issues since all structures are designed to hold extra weight. He also asked to add the word "architecture" to text in page 17, line 12 after "building". The motion was made without the inclusion of the proposed change.

Mr. Carpenter asked if the screening material included lattice work. Mr. MacGillis responded by saying yes, the County has allowed lattice material as long as it is secure (e.g. complies with wind load standards) and compatible.

Motion to adopt by Ms. Vinikoor, seconded by Ms. Katz. Motion passed (11-0).

4. Exhibit E – Minimum Acreage Required for Cemeteries

Mr. Cross reiterated that this minor amendment is moving forward per BCC direction, and that additional changes may be undertaken as of the Use Regulations Project. The amendment addresses updates to Florida Statutes, which included an increase in the minimum acreage requirements from 15 to 30 to be licensed as a new cemetery, and to recognize the limited exceptions in licensing outlined in the Statute. State regulations do not preempt local zoning ordinances and the County may consider an exception with BCC approval. The County is willing to accommodate requests that meet the minimum acreage exceptions incorporated into the ULDC.

Mr. Blackman asked if the County licenses municipal cemeteries and if any currently exist. Mr. Cross responded by explaining that one may exist within County limits, it would be State licensed and requires BCC approval. Mr. Cross explained that the requirement relative to places of worship would apply here. Mr. Blackman questioned why language "County and municipal cemeteries" (line 22, page 17) is needed as it may be redundant, but relented to keeping it within the proposed language.

Ms. Vinikoor asked if setbacks are required, why it is not addressed in the proposed Code language and added that property owners adjacent to places of worship may have concerns if a cemetery is added. Mr. Cross responded that setback language was not included. Mr. MacGillis added that cemeteries would be subject to buffer requirements, and if above ground would have to meet property development regulations, e.g. setbacks.

Motion to adopt by Ms. Vinikoor, seconded by Ms. Katz. Motion passed (11-0).

5. Exhibit F – Adult Entertainment

Mr. Cross explained that this amendment was recommended by the County Attorney's Office, in part to recognize that adult entertainment is only allowed in certain commercial and industrial districts and subject to separation requirements. These standards have the potential to limit the number of locations available for the current trend of including food service with adult entertainment, which is crucial to freedom of speech rights. Mr. Cross clarified that this amendment would allow an adult entertainment establishment approved in an industrial zoning district to include food service. He also noted that there are two minor revisions to standards for conformities, to delete redundant text and encourage exterior renovations; and, language clarifying that the County has historically recognized certain types of adult entertainment uses include cocktail lounges

Mr. Blackman asked if these changes would apply to establishments within the Urban Redevelopment area. Mr. Cross confirmed that the use is allowed in Urban Center (UC) 1 and 2, and Urban Infill (UI) 1, but noted that new establishments would need to meet the separation distance requirements.

Ms. Vinikoor questioned if zoning regulations would enforce any smoking laws. Mr. Cross responded by saying that the State would enforce.

Mr. Gulisano questioned the difference in wording between restaurant and food service and Mr. MacGillis responded by saying that the wording is to protect industrial districts from establishments claiming to be adult entertainment in an attempt to develop a restaurant type use. The proposed language is to allow accessory food service to address this

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concern. Mr. Baumoehl questioned if specific parking requirements are included for food services, to which staff responded no, as food service is accessory.

Motion to adopt by Mr. Gulisano, seconded by Ms. Vinikoor. Motion passed (11-0).

6. Exhibit G – Art. 2.D, Administrative Process

Mr. Blackman reminded the Board to make one motion for Exhibits G and H.

Ms. Dennis pointed out that the word “DRO” contained in Part 1, reason 1 needs to be stricken as the language on lines 6-17 only pertains to amendments to ZC and BCC plans. She clarified that the proposed regulation relates to relocation of building square footage to be limited to 25 percent of the total BCC or ZC approved site plan, and maximum relocation of 25 percent for individual buildings. The amendment also references Policies and Procedures Manual (PPM) 49 to allow certain accessory structures to be added to the site without becoming subject to the relocation requirements; and clarify that final DRO has ability to approve relocation or deletion of emergency access ways as requested by the PBC fire department. Ms. Cantor clarified that amendments to approved elevations contained in Art. 5.C, Design Guidelines as developed in Exhibit H, was relocated to Art. 2.D.1.G.1 as it is the appropriate location for the regulations.

Mr. MacGillis clarified to Mr. Blackman that PPMs are not always codified, and they are done that way in order to provide some flexibility.

Ms. Dennis continued by indicating the amendments also include modifications that the Expedited Administrative Modification Process (DRO plans) solely approved by DRO, are now subject to thresholds, and relocated language related to minor modifications to architectural elevations from Agency Review to Zoning Review.

Ms. Cantor added that amendments in Article 2 also establish thresholds for administrative review of approved elevations to be done through Zoning Review process. The thresholds are de minimis and necessary for the buildings to maintain the character of the architecture and comply with Article 5.C. Mr. Baumoehl offered to volunteer pro-bono to assist staff in the determination of an upper level of approval when amendments to approved elevations are made. Ms. Cantor explained that the Zoning Division has an architect in the team that reviews elevations.

Ms. Dennis clarified that Special Permits may be issued for both structures and uses; clarified that they will be subject to sufficiency determination and that the time frame for review process was added. Regarding Reasonable Accommodation, she explained that the amendment would clarify that this process is available only when other ULDC process has been exhausted and, clarified sufficiency determination and reasonable accommodation time frames. Two minor changes were read into the record, as follows:

First change: page 24, beginning on line 45 “The applicant shall have 15 days from the date of the written notice to respond to the request for additional information not to exceed 60 days from the date of sufficiency “determination”. This is to connect the references to reasonable accommodation to limit confusion.

Second change: Line 53 on page 24, staff added “15 days” from “15 day period...”

Ms. Dennis inserted two sentences in reason 1 consistent with Part 1, and added language related to emergency access ways, as requested by the PBC fire department as a DRO threshold. She indicated that stricken language related to intensity increase is already addressed in other parts of the Code.

Mr. Carpenter asked staff to clarify the addition of square footage and what provisions apply to the entire project versus individual buildings. Ms. Dennis clarified the threshold being amended in this round related only to relocation of previously approved square footage.

7. Exhibit H – Art. 5.C, Design Standards

Ms. Cantor explained that an LDRAB Architectural Subcommittee was created as directed by the BCC to address a request from the Zoning Commission to require architectural elevations for projects subject to Zoning Commission approval. She explained that current regulations allow developments to provide elevations at public hearings, Development Review Officer (DRO) review or building permit unless there is a condition of approval to

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provide elevations at a specific step in the approval process. She clarified that as mentioned in Exhibit I, thresholds were included in Art. 2 to allow administrative amendments to the approved elevations without forcing developments to go back to the Board.

Motion to adopt Exhibit G and Exhibit H, as amended, motion by Ms. Vinikoor, seconded by Mr. Gulisano. The additions include the sufficiency determination language to be included and the revision of the language from "15 days" to "the 15 day period". Ms. Vinikoor also praised staff for Exhibits G and H.

There was a brief discussion on the motion regarding the "15 days" reference. Staff clarified that the "days" referenced is consistent with rules of construction in Article 1 and shall mean working days. Motion passed (11-0).

8. Exhibit I – Nonconforming Use

Ms. Cantor explained that the amendment was to clarify the minor non-conforming use definition in the Code by indicating that either of the conditions that apply in current language has to be present in order to determine a minor non-conforming use.

Motion to adopt by Mr. Knight, seconded by Mr. Peragine. Motion passed (11-0).

C. CONVENE AS LDRC

1. Proof of Publication

Motion to approve by Ms. Katz, seconded by Ms. Vinikoor. Motion passed (11-0).

2. Consistency Determination

Mr. John Rupertus stated that the proposed amendments B.1 through B.8 and the previously presented amendments Exhibits J, K and L were consistent with the Comprehensive Plan.

Motion to approve consistency determination by Mr. Carpenter, seconded by Ms. Katz. The motion passed (11 - 0).

D. ADJOURN AS LDRC AND RECONVENE AS LDRAB

E. PUBLIC COMMENTS

There were no public comments.

F. STAFF COMMENTS

There were no staff comments.

G. ADJOURN

The Land Development Regulation Advisory Board meeting adjourned at 3:23 p.m.

Recordings of all LDRAB meeting are kept on file in the Palm Beach County Zoning/Code Revision office and can be requested by contacting the Code Revision Section at (561) 233-5213.

Minutes drafted by:

Scott Rodriguez



3-25-15