

EXHIBIT A

URBAN REDEVELOPMENT AREA OVERLAY (URAO) A SUBCOMMITTEE OF THE LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

MINUTES OF THE MAY 6, 2011 SUBCOMMITTEE MEETING

Prepared by Zona Case, Zoning Technician

On Friday, **May 6, 2011**, the Urban Redevelopment Area Overlay (URAO) Subcommittee met at the Vista Center, Room VC-1W-47, Kenneth S. Rogers Hearing Room, at 2300 North Jog Road, West Palm Beach, Florida.

Third meeting of the Urban Redevelopment Area Overlay (URAO) Subcommittee for Amendment Round 2011-01.

A. CALL TO ORDER

Mr. Cross called the meeting to order at 8:40 a.m. and asked the participants to introduce themselves.

1. Introduction

Subcommittee Members: Jim Knight.

Interested Parties: Joni Brinkman, Jeff Brophy, Dionne Hall, Bradley Miller, Thuy Shutt, Dominick Saez, and Jon Schmidt.

County Staff: William Cross, Bryan Davis, and Zona Case.

2. Additions, Substitutions and Deletions to Agenda

None.

3. Motion to Adopt Agenda

There was no motion to adopt the agenda due to the lack of a quorum.

4. Motion to Adopt Agenda

There was no motion to adopt the Minutes of the April 19, 2011 meeting due to the lack of a quorum.

B. General Overview of Proposed Amendments Exhibit B

Mr. Cross said the meeting would focus on the List of Permitted Uses and Waiver Processes, and that he hoped to get feedback from those in attendance. Referring to Exhibit C, he indicated that the chart represents the zoning for standard districts and the uses that were proposed to be permitted within the PRAs. He singled out those uses previously allowed or added and those that do not belong in the URAO. The highlights of the discussion are as follows:

1. Simplification of Uses Permitted for Prior Approvals (Non-conformities)

Ms. Brinkman said that the manufacture of cosmetics and like products, using oxygen, should be included in Industrial Uses because of the high employment base. When the Transportation Concurrency Exemption Area was last amended industrial square footage was added to support residential uses that are encouraged in the area. The jurisdiction in question still has the ability to approve using the TCEA. Ms. Brinkman requested that further thought be given to including this use.

Mr. Cross said this has never been allowed in commercial zoning and increasing industrial job opportunities was not the primary purpose of the URAO or PRAs. This falls under a broader topic which would be better addressed in another forum.

Mr. Davis confirmed that manufacturing and processing is allocated in some parts of various TCEAs and an effort was made to include all existing industrial uses. He said he would review.

EXHIBIT A

- Mr. Cross stated that most of the Agricultural Uses were excluded from the List of Permitted Uses but this may be revisited in the next amendment round when produce stands, green markets, community vegetable gardens and related parking regulations are intended to be addressed.
- Mr. Cross advised that “Building Supplies” has typically been approved under General Retail Sales, and will be removed as a use in 2012. The idea is to create a more urban environment and encourage uses that do not take up as much outdoor space as lumber yards do. He noted that monument sales and statues have been added and confirmed that outdoor display would still be permitted provided that goods are stored inside after hours.
- Mr. Cross assured Ms. Shutt that the 30 percent allowance for accessory use has not changed.
- Mr. Cross said that a note may be needed for Transportation Facility to say the use is for transport-oriented development, greyhound bus depots, transfer stations, etc., and not warehousing for heavy transfer materials.
- Mr. Miller inquired whether Flex Space is allowed under Industrial Use. He stated that this was recently added to the Code and should be included in the Use Matrix so that one can readily see if the use is allowed.
Mr. Cross responded that Flex Space is addressed in Article 5 which states the specific uses and where they are allowed. He said he would review and told members that Zoning is planning a complete review of the Use Matrices in 2012 with the assistance of a subcommittee to be convened sometime in 2011. This will be raised at the next DROOC meeting.
- Mr. Cross said Electric Transmission Facility was added in case FPL needs another facility.
- Mr. Davis referred to Mobile Home Dwellings and expressed concern that mobile home parks have zero option for development. A brief discussion followed.

2. Analysis of List of Permitted Uses in PRA Zoning Districts

Mr. Cross - referred to Page 11, Exhibit B, and said that the changes made to the previous draft were substantial and he summarized as follows:

As relates to vesting of any existing buildings or site improvements, he clarified that where existing buildings or site improvements would be vested for any information clearly shown on a Development Order such as a Final Site Plan or Building Permit. He noted that most older shopping centers may be considered non-conforming structures due to the building standards for the PRAs. The draft amendments presented at the last meeting attempted to resolve this by adding all possible uses that were previously permitted in many of the prior non-residential districts; however, drafting code language that addressed all possible scenario's proved to be overly cumbersome. Therefore, rather than establish a separate category from the uses permitted in new buildings that comply with the URAO, provisions were made to allow non-conforming sites to utilize the same List of Permitted Uses. In this draft, prior approvals are now granted the right to use the Expedited Review Process allowed to any new development that met the form based code. He noted that in some instances, previously permitted by right uses might now require DRO approval, but noted that alternatively – there were a number of uses that would no longer require BCC approval. However, there were several specific uses that would still require BCC review and approval due to the potential for adverse impacts to the surrounding community.

Subcommittee members posed various scenarios in order to get further clarification.

EXHIBIT A

- Ms. Brinkman cited an example of a Retail Sales use being changed to a Personal Services use which is a “D” and inquired whether staff would know that the applicant does not need to go to the DRO.
- Mr. Cross said he would consider a note for each use that is a “P” for the handful of uses acknowledged as being previously permitted by right. The others will still be “D”. He agreed with Ms. Brinkman that planners should look at the note, resolutions, conditions, business tax receipts, etc.
- Mr. Miller – cited an example of a project with an approved site plan, showing General; Retail Sales, approved prior to the URA but not developed, and wanting to do another use which is a “D”, and he questioned if the applicant would have to go back to site plan. If so, he said, why not put all allowed uses on the site plan.
Mr. Cross - noted that an Administrative Amendment or other DRO approval would still be required. He confirmed that it does not matter what the previous use was, vesting is for that use and the use can only be changed to one that is in that use chart. He noted that the previously adopted Code allowed applicants to identify multiple uses on the Final Site Plan.
- Mr. Cross - affirmed to Mr. Miller that if a half-finished building with an approved site plan is destroyed, the entire building can be rebuilt, but only for information clearly shown on any Development Orders.
- Ms. Shutt – cited as an example, a building that gets destroyed and does not have a plan because it is an older site. Mr. Cross said that any information shown on a development permit, a development order, or a plan is acceptable; however, if there isn't a record to show what was built it cannot be rebuilt. He noted that this is how the Code has always been applied as relates to non-conformities.
- Mr. Brophy referred to Page 6, Line 38 and said it is usual to have a pre-application meeting and then submit and then, if necessary, re-submit. Although he understands the need for accuracy, he did not see the need for a pre-submittal meeting with staff, especially since the County is trying to streamline the process. Mr. Cross said the Zoning Director needed to ensure that everyone met before a project got too far along. He advised Mr. Brophy to voice his concerns at the regulatory committee meeting. Mr. Brophy added that the problem is getting recommendations from a Planner 1 at the pre-application meeting only to have a supervisor turn down everything the planner suggested. It is beneficial but it adds time and expense. (Editor's Note: Industry input regarding review and approval of applications has included a recommendation that pre-application meetings be mandatory.)

3. Review/Discussion Type II Waivers (BCC “Alternative Standards”)

Mr. Miller spoke about the 3 criteria for the Type II Waiver on page 2, lines 32 thru 39, and made the observation that they are the same for the Type I - DRO approval. Mr. Cross said that the process is being set up so that if the DRO does not approve the Type I Waiver, it is appealed to the BCC. Mr. Miller inquired who makes the determination about the criteria as they are subjective. The applicant and staff might have differing opinions on what meets the criteria. He also asked if the entire project goes to the BCC or just the waiver.

Mr. Cross said the project should meet the other requirements of the code and that regardless of staff's opinion or recommendations, Zoning will certify applications for Type II Waivers, so that it goes to the BCC. He also said that typically a variance application is presented with the site plan to the BCC.

Ms. Brinkman expressed the view that this opens up the project for potential conditions associated with the waiver.

Mr. Brophy was of the view that no one would take just a waiver application to the Board, suggesting that most would choose to present the entire project as this affords the opportunity to present it positively.

EXHIBIT A

Mr. Miller was of the opinion that the public would not understand this process.

Mr. Cross said he would briefly go through Exhibit D and highlight the main points. These are summarized below:

- Mr. Cross- no Waivers allowed for Transect Zones. Limited waivers allowed in the PRA with Board approval. The Transect Zone regulates density, intensity and height. Given current objections to the requirement for a two story building, much less multi-story, it was determined that Waivers to allow for increases would be revisited if conditions changed.
- Mr. Knight asked about parking and Mr. Cross explained shared parking and other parking tools that reduce parking requirements, with the reminder that the area is supposed to be urban, walkable, and better suited for mass transit.
- Mr. Miller asked why Variances go to the Zoning Commission (ZC), whereas Type II Waivers go to the BCC. Mr. Cross explained that it was critical that the BCC be involved in the process so as to enable them to gauge the need for any revisions to the Plan that may be required to support industry trends. The ZC is technically an advisory body that makes only limited decisions.
- Mr. Miller - the code requires minimum drive isle dimensions with 15 foot lane width, the fire department requires 20ft, so there is additional cost to the client to cover a Type I Waiver. If the project is initially designed for 20ft, a waiver is not required. Mr. Miller said he does not understand why there is no agreement between agencies.

Ms. Shutt suggested that 20ft lane be codified, stating that another department requires it.

Mr. Davis said that the agencies agreed to what was said when the TMD was created but have not updated their regulations and even larger issues have not been addressed.

Mr. Brophy expressed the view that owners are not going to pay for a waiver when they know that another agency is circumventing the Code. Ms. Brinkman asked whether Fire has the authority to request compliance with the 20ft requirement.

Mr. Cross said he would make an inquiry about that and will put it on the agenda and he recommended that the concerns expressed be presented to the DROOC.

Mr. Cross continued to highlight the main points of the Exhibit, as follows:

- Mr. Cross – Waivers will not be considered for Interconnectivity. Planning has given some relief so that smaller parcels can be exempted. Ms. Shutt referred to line 44, page 21, and said she did not understand why small parcels should be exempt. She added that small parcels are the ones that need interconnectivity.
- Mr. Miller suggested a revision to language on Page 22 line 1 # 2. The language should read “Applicant can demonstrate that...” Mr. Cross agreed to revise.
- Building Standards - Mr. Cross said that waivers from just about everything can be applied for at the Board level.

Ms. Shutt noted that this will be an additional expense for the owner who will have to hire an architect or engineer at the zoning level to look at systems before he knows whether he can do residential or commercial. Mr. Davis said that when the land use changes were being done this was looked at to try and take out the speculative nature, the concept being that building systems should be looked at to see what can fit.

- Building Height and Floors - Mr. Cross stated that there is flexibility in the Plan. Parcels in the UI district that do not front a Primary Street and are an acre or less may construct a one story building. The height of each story can be increased so that it can accommodate mechanical equipment. Responding to Ms. Shutt’s question on floor height, he advised that it is 35ft. for two stories and an additional 10ft after the 35ft., so

EXHIBIT A

the 3 story building is 45ft. The minimum interior height requirement was removed in the last round of amendments.

- Ms. Shutt - would like to ensure that there is no maximum height per floor so the height could be 18 or 20 ft to accommodate an atrium or lobby.
- Mr. Davis said the civic building type came into existence for that reason. He further stated that it is not restricted in the Code and the Plan restriction was removed.
- Mr. Cross - Green Building incentives allow for alternative standards. He went on to inquire: if we permit the BCC waiver, is that not technically allowed because it is in the Plan, and the same for increases in height or number of floors? Mr. Davis said he would look at the specific verbiage because that was never entertained, but is theoretically possible.
- Mr. Cross - no exemption from fenestration requirements in Art 5.C, Architectural Guidelines.
- Mr. Cross confirmed that when going to the BCC for the waiver, staff will determine if the project meets the criteria and give recommendations.
- Mr. Cross clarified that the Plan establishes the need to ensure that individual store fronts provide for minimum glazing to address CPTED and other pedestrian oriented design issues. The Type 1 Waiver cannot be less than 35 percent. .
- Mr. Cross - Parking and Loading, no waiver from minimum parking ratios.
- Mr. Knight – asked about differentiation between retail and showroom, for example a mattress store where there is a retail area but all showroom, so lower parking ratio as the merchandise is not being purchased off the floor. Mr. Davis said if parking cannot be increased the use can never change. The owner is stuck in that approval.
- Mr. Cross - No waivers for landscaping because there is exemption from incompatibility buffers and there are options for alternative provisions for parking lots; so there is no need for waivers.
- Ms. Brinkman inquired if someone wanted to lower the height of the wall to 6ft. and it is supported by the neighbor, would they have to get a waiver. Mr. Cross said he had been asking for the last two meetings for suggestions to justify why the wall would not be required, an alternative that can be codified, but to date he has not had any.
- Ms. Shutt pointed out the inconsistency with Community Garden which is P in the Use Matrix and D in the chart.

4. Other Questions/Suggestions

There were no other questions or suggestions.

C. Public Comment

There was no public comment

D. Adjourn

The meeting adjourned at 10:30 a.m.