

EXHIBIT A

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

Minutes of March 27, 2013 Meeting

On Wednesday, March 27, 2013 the Palm Beach County Land Development Regulation Advisory Board (LDRAB), 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 2:02 p.m. Zona Case, Code Revision Zoning Technician, called the roll.

Members Present: 14

Wesley Blackman (PBC Planning Congress)
Jim Knight (District 4)
Lori Vinikoor (District 5)
Michael Zimmerman (District 6)
Henry Studstill (District 7)
Gary Rayman (Fl. Surveying & Mapping Society)
Joni Brinkman (League of Cities)
Terrence Bailey (Florida Eng. Society)**
Jerome Baumoehl (AIA)
Edward Tedtmann, Environmental Organization)
Richard Kozell (District 1)*
Barbara Katz (District 3)
Frank Gulisano (PBC Board of Realtors)
James Brake (Member At Large, Alt.)

Members Absent: 4

David Carpenter (District 2)
Maurice Jacobson (Condominium Association)
Raymond Puzitiello (Gold Coast Build. Assoc.)
Leo Plevy (Member At Large, Alt.)

Vacancies: 1

(Assoc. General Contractors of America)

County Staff Present:

Rebecca D. Caldwell, Executive Director, PZ&B
Jon MacGillis, ASLA, Zoning Director
Robert Banks, Chief Land Use County Attorney
William Cross, Principal Site Planner, Zoning
Bryan Davis, Principal Planner, Planning
John Rupertus, Senior Planner, Planning
Scott Rodriguez, Site Planner I, Zoning
David Nearing, AICP, Site Planner I, Zoning
Zona Case, Zoning Technician, Zoning

2. Additions, Substitutions, and Deletions

Chair Blackman announced that there were two amendments to the agenda related to Exhibit B, Electrified Fence; changes to the proposed language, and a memo from the Planning Division confirming consistency of the proposed amendment with the Comprehensive Plan.

* Richard Kozell arrives at 2:05 p.m.

** Terrence Bailey arrives at 2:08 p.m.

3. Motion to Adopt Agenda

Motion to adopt the agenda, as amended by Ms. Vinikoor, seconded by Mr. Gulisano. Motion passed (14-0).

4. Adoption of February 27, 2013 Minutes (Exhibit A)

Motion to adopt by Ms. Vinikoor, seconded by Mr. Rayman. Motion passed (14-0).

B. RECOGNITION OF FORMER LDRAB MEMBERS: ROSA DURANDO, JOANNE DAVIS, AND MARTIN KLEIN

The Chair noted that Mr. Klein could not be present and would be presented with his plaque at a later date. The Chair noted that the other two individuals had not arrived yet. Therefore, the item was postponed.

C. ULDC AMENDMENTS

1. Exhibit B – Electrified Fences

Mr. Cross provided a brief introduction outlining that staff would make a short presentation and that the applicant should then be afforded the opportunity to make their presentation before the LDRAB takes up discussion of the proposed amendments.

Mr. Rodriguez provided a general overview of the key elements of electrified fences, and outlined the remaining differences between staff's and the applicant's proposed language which relates to aesthetics, screening height and buffers and spacing for warning signage. Mr. Cross noted that the the current schedule was to take the amendment before the BCC for request for permission to advertise on April 25, 2013.

Mr. Cross then noted that certain aspects of the applicant's proposal are intended to alleviate the need for variances. Currently, dangerous materials are not permitted, with limited exceptions for barbwire for uses such as water and wastewater plants where

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higher security is mandated by Federal law. Mr. Cross continued, noting that maximum fence heights are regulated by the ULDC, citing a non-residential example where fencing is limited to six feet in height within the front setback, and eight feet in height within the remaining setbacks. Any fencing not located within a setback may exceed the maximums. The intent is to prevent very tall fences from being installed on common property lines with adjacent properties, especially residential properties.

Mr. Cross then explained that the applicant is requesting a two foot increase in height. The applicants have agreed that if electric fencing is being installed on newly developed sites, landscaping meeting the current landscape requirements should be installed. However, per the amendments to the agenda, the applicant was now requesting that if an electrified fence is being retrofitted into an existing site, any deficiencies in landscaping need not be rectified.

Mr. Cross concluded that the applicant was proposing to permit electrified fencing with specific uses, several of which would be permitted within residential areas. He indicated that staff could see the need for this type of fence in industrial areas and for certain commercial uses; however, staff has concerns with residential locations or in commercial areas along roadways, in that it suggest blight and high crime in an area, and may have negative impacts on property values, redevelopment efforts, and aesthetics.

Present for the applicant were Chris Barry and Jon E. Schmidt for Jon E. Schmidt and Associates, Cindy Gsell, Sentry Security d/b/a Electric Guard Dog, and Cliff Hertz, Broad and Cassel.

Mr. Barry started the presentation for the applicant noting that one of Electric Guard Dog's clients, Marine Connection, did go through the variance process to permit an electric fence at their site. He noted that the poles shown on the staff Power Point were the large poles located at the corners of the site and the gates. The poles located between the large poles, approximately every 30 ft. are much smaller. It was the applicant's position that there was little difference between the appearance of chain link and the electrified fence.

Mr. Barry reiterated that the applicant was proposing standards for electric fencing that permitted taller fencing to prevent the need for multiple variances every time someone wished to install electric fencing. He elaborated that the request to not require nonconforming landscape buffers be brought into compliance, was due to the loss of site area to comply, especially for businesses with display area, such as boat sales.

The applicant played a video noting employees of the applicant touching the fence, noting that while it hurt, there were no marks, burns, etc. Based on the video, Mr. Hertz concluded the fence was not a "dangerous fence." Mr. Hertz further surmised that the electric fence itself has little impact on the aesthetic appearance of a site. That the wire is barely visible, with just three strands located above the outer fence. Mr. Hertz contended that if it becomes too onerous to install an electrified fence, people will continue to utilize such security measures as dogs. If there is concern about the aesthetics of electrified fencing along boundaries with residential property, the applicant is proposing the use of the mesh cloth material.

Ms. Gsell wished to clarify several points:

- the use of electrified fencing was to protect outdoor storage, not residential uses; and,
- Electric Guard Dog does not sell its product, it leases it.

Several members of the Board questioned what it would cost to lease the product. Ms. Gsell did not wish to be quoted, however, she thought it was in the neighborhood of \$0.50 – 1.00 per lineal foot.

Ms. Gsell finished by noting that they would concede to bring the height of the electrified fence poles down to the height of the gate.

Chairman Blackman asked if there were other companies in the business of electrified fencing not meeting or using the same standards. Ms. Gsell noted that her firm follows international standards, which are currently the only standards used to regulate the product.

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Ms. Vinikoor asked if there had been any compromise to the 50 foot setback and other nonconformity issues discussed during the Subcommittee's meetings. Ms. Gsell reiterated that electrified fences area intended to protect outdoor storage, and moving the fence back 50 feet would result in loss of storage area.

Mr. Cross noted that there had been discussion of a compromise during the subcommittee meetings. In January (2013), the applicant had offered to provide a six foot screen along any R-O-W if they would be permitted to install the electrified fence two feet above the perimeter fencing. However, the offer was withdrawn in February. Ms. Gsell noted that the Sherriff indicated a concern with added buffering due to decreased visibility.

Ms. Gsell added that from the applicant's perspective, the need for the standards being proposed is to reduce the need for variances, to increase the speed at which electrified fences can be added to sites. Time is the issue due to losses from crime.

Ms. Caldwell interjected the following points:

- No security like an electrified fence will prevent employee theft;
- The international standards noted by the applicant are not recognized by the FL Building Code; and,
- If dogs, razor wire, and similar deterrents don't stop theft, neither will electrified fences.

Ms. Gsell countered that:

- The product is also an alarm system with external monitoring to notify if the current is broken; and,
- The IEC is currently the only organization with standards for this type of product, and its headquarters are here in the US.

Mr. Bailey inquired if there was some way to shorten the variance process, to which Mr. Cross noted that this had not been part of the original request and that there were other requirements such as providing public notices that would make it difficult to shorten current timeframes.

Ms. Katz indicated that there needed to be some give and take in the process. The applicant needed to compromise to come to a complete package. Mr. Rayman indicated that he still had a problem with electrified fences in general. He also has a problem with what appears to be the case where permitting an electrified fence would cause a nonconforming fence to be made conforming. Mr. Cross noted that the concepts were difficult to keep separate.

Mr. Knight inquired whether the replacement cost affects whether a nonconforming fence must be brought into compliance. Mr. MacGillis indicated that it would. Discussion briefly centered on the issue of replacement of nonconformities based on improvement value.

Mr. Gulisano noted that his problem was not with safety or aesthetics, but with the concept of encouraging the continuance of nonconforming fences. He felt that applicants should be required to go through the variance process so conditions could be attached regarding nonconforming fences.

Mr. Tedtmann asked why there was only a six to eight inch separation between the electrified fence and the perimeter fence, why not six feet? Ms. Gsell indicated that the intent was not to create an entrapment zone between the two fences. Also, there were maintenance issues. She explained that her company provides vegetative control chemicals to keep vegetation down along the electrified fence.

Mr. Kozell requested clarification regarding what are the main points of contention regarding this issue. Mr. Barry indicated aesthetics is the issue. Staff noted that the code requires that any chain link fence in a required landscape buffer must be vinyl coated. It must also be screened by landscaping. Discussion ensued regarding:

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- Site related nonconformities;
- Replacement and maintenance of nonconformities; and,
- Amortization of nonconformities.

Mr. MacGillis noted that the applicant is getting something which they did not have before, a new, and higher, electrified fence. There is concern that if an owner could add a new security fence to an existing nonconforming fence, would they be inclined to come in to make any site improvements which would require them to deal with the nonconformity, or would they just let it go that much longer. Since they are installing something new, they should provide buffering for the new fencing.

Ms. Katz asked what landscaping is being asked for if they don't move the fence. Mr. MacGillis indicated that it is possible that some type of sliding scale based on how wide the buffer outside the nonconforming fence is could be worked out.

At this point, the Chair called for temporary break in the proceedings to permit the presentation of the service award to Ms Joanne Davis, who was present in the audience.

B. RECOGNITION OF FORMER LDRAB MEMBERS: ROSA DURANDO, JOANNE DAVIS, AND MARTIN KLEIN

Mr. Blackman awarded Ms. Davis her plaque in recognition of her years of service to the LDRAB, including those years before it was known by its current acronym. Ms. Davis gave a few words of thanks and indicated how much she enjoyed her time on the Board.

C. ULDC AMENDMENTS (Continued)

1. Exhibit B – Electrified Fences

Mr. Cross resumed with a request to review the proposed language page by page. He noted that Mr. Rupertus and Mr. Davis of the Planning Division, were present if there were any specific questions regarding the Planning Division memo.

Page 9: Mr. Cross started by noting the exception to dangerous fences found on pages 9 and 10, and asked if there are any questions regarding these. The Board noted that the list included Flea Markets, Commercial Parking, and Laundry Services. There was a brief discussion on why such uses would need this type of security if there were no outdoor storage. A question was raised regarding what would happen if electrified fencing were approved for a site on the list of uses where it was permitted, but subsequently, the use of the site was changed to a use not on the list.

Staff also noted that because the applicant's request includes airports or could be used within the Westgate CRA, staff contacted both the Department of Airports (DOA) and CRA staff to discuss the issue. The DOA did not object to inclusion of airports in the amendment; however, the Westgate CRA voted to limit use to Industrial areas. They did not support the use in commercial or residential areas.

Mr. Barry noted that it was the applicant's intent to include only uses where outdoor storage was involved. Only uses with outdoor storage should be included. Mr. Cross indicated that this was not what the proposed amendment entailed and requested clarification from the applicant. Discussion ensued on provisions allowing use of electrified fences to protect mechanical equipment such as air conditioners.

Discussion again centered on retrofitting electrified fencing into existing sites with site related nonconformities. Mr. Hertz noted that any new sites will in fact be required to meet the current buffering, setback and height regulations. The main concern is addressing nonconforming fencing. It was also noted that there are no standards for electrified fencing in such recognized testing centers as ULI. It will be necessary for each site to obtain a certification from a field testing, before any installation can be completed.

Page 10: Discussion on the spacing of warning signage. The applicant is proposing to space it every 60 feet on the perimeter fence. Staff is requesting every 30 feet. Ms Gsell indicated that greater spacing looks better.

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Page 11: Discussion on the types of roadways required to comply with landscaping requirements.

At this point, Mr. Cross also indicated that during the course of the meeting, staff was able to come up with a possible solution to the Board's previous question about change of use from one where electrified fences were permitted to one where they are not. He noted that this could be treated similar to cases where accessory dwelling units are approved on a single-family lot, and the owner must sign a "kitchen removal agreement" in the event the use is discontinued. A similar type of agreement could be fashioned for any site where and electrified fence is approved.

Mr. Bailey asked if they were installing electrified fencing at a new site, would they be granted the same visibility as that with nonconforming fencing. Staff indicated that a new development would not be granted the same exception being proposed for nonconformities. Mr. Bailey indicated that there is a need to provide some type of aesthetics to accomplish the intent of what the BCC has been wanting. Mr. Hertz indicated that they do not wish to give up the nonconforming status of their buffer. They are willing to do something, and long as it is not full-blown.

Motion to continue to the April LDRAB by Ms. Vinikoor, specifically to deal with the issues of buffering and height, seconded by Mr. Tedtmann.

Motion to continue to the April LDRAB meeting passed unanimously (14-0).

**D. CONVENE AS LDRC and
E. RECONVENE AS LDRAB**

The Chair noted that since LDRAB had moved to continue the Electrified Fence discussion to the April meeting, there was no need to convene as the LDRC.

F. PUBLIC COMMENTS

There were no public comments.

G. STAFF COMMENTS

1. LDRAB Revision of Rules of Procedure

Mr. Banks explained proposed amendments to the LDRAB "Rules of Procedure" which includes Article VI, Rules of Debate that the amendments implements an easy to use summary version of "Robert's Rules of Order."

Motion to accept the "Rules of Procedure" made by Ms. Vinikoor, seconded by Mr. Brake, motion passed (14-0).

2. Status of Privately Initiated Amendments

Mr. MacGillis informed the Board that the Commercial Parking Lot amendment had been withdrawn, and the Type I Private Kennel amendment was to go before the Board of County Commissioners at the March 28, 2013 Zoning Hearing.

Mr. MacGillis also advised that staff will be providing status updates on the Use Regulations Project starting at the next meeting in April.

H. ADJOURN

The Land Development Regulation Advisory Board meeting adjourned at 4:35 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: David Nearing

David Nearing 4/24/13