

EXHIBIT A

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

Minutes of October 26, 2011 Meeting

On Wednesday, October 26, 2011 the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the First Floor Conference 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 2:05 p.m. Zona Case, Code Revision Zoning Technician, called the roll.

Members Present: 13

Wesley Blackman (PBC Planning Congress)
David Carpenter (District 2)
Maurice Jacobson (Condominium Association)
Joanne Davis (District 1) *
Barbara Katz (District 3)
Jim Knight (District 4)
Lori Vinikoor (District 5)
Michael Zimmerman (District 6)
Martin Klein (District 7) **
Terrence Bailey (Florida Eng. Society)
Gary Rayman (Fl. Soc. of Prof. Land Surv.)
Raymond Puzzitiello (Gold Coast Build. Assoc.)
Michael Cantwell (PBC Board of Realtors)

Members Absent: 2

Rosa Durando (Environmental Organization)
Jose Jaramillo (AIA)

Member At Large: 1 (Not Attending)

Robert Schulbaum (Member At Large, Alt.)

Vacancies: 3

Vacant (League of Cities)
Vacant (Assoc. Gnrl. Contractors. of America)
Vacant (Member At Large, Alt.)

County Staff Present:

Leonard Berger, Assistant County Attorney
William Cross, Principal Site Planner, Zoning
Monica Cantor, Senior Site Planner, Zoning
Bryan Davis, Principal Planner, Planning
John Rupertus, Senior Site Planner, Planning
Michael Howe, Senior Planner, Planning
Christian Davenport, Archaeologist, County Historic Preservation Officer
Timothy Sanford, Site Planner I, Zoning
Zona Case, Zoning Technician, Zoning

2. Additions, Substitutions, and Deletions

No amendments were presented.

3. Motion to Adopt Agenda

Motion to adopt by Martin Klein, seconded by David Carpenter. The motion passed (12 - 0*).

4. Adoption of August 24, 2011 Minutes (Exhibit A)

Mr. Cross referred to Exhibit D of the Minutes and said it was agreed that this item would be re-tabled to allow for additional information to be provided by the Planning Division and further discussion. Ms. Cantor stated she received changes to the minutes from Mr. Bailey related to his comments regarding amendments to Article 9. She clarified the changes will be included in the published version of the August 24, 2011 minutes.

Motion to adopt as amended by Martin Klein, seconded by Lori Vinikoor. The motion passed unanimously (12 - 0*).

B. ULDC Amendments

1. Exhibit B: Article 3, Overlays and Zoning Districts

Ms. Cross stated that this amendment is associated with the Glades Area Protection Overlay (GAPO). He said that the proposed amendment allows the existing zoning to be retained to comply with the Plan Future Land Use (FLU) designation regulations and avoid rezoning of parcels with a Specialized Agriculture (SA) zoning district.

Motion to adopt by Martin Klein, seconded by David Carpenter. The motion passed unanimously (12 - 0*).

2. Exhibit C: Article 4, Use Regulations

Mr. Cross explained that the proposed amendment is in keeping with updates to the U.S. Census. The 2000 U.S. Census indicated that average household size in Palm Beach

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County was 2.34 persons and this has increased to 2.39 persons, as indicated in the 2010 U.S. Census. This change necessitates amendments to the Maximum Permissible Occupancy in Type 3 Congregate Living Facility. No further discussion took place.

Motion to adopt by Martin Klein, seconded by David Carpenter. The motion passed unanimously (12 - 0*).

3. Exhibit D: Density Bonus Programs

Mr. Michael Howe of the Planning Division addressed the amendments proposed under Exhibit D. The following provides a summary of the key points presented:

- **Density Bonus Program** - Under Part 1, general exceptions applicable to Property Development Regulations (PDR) for standard districts, Mr. Howe said that the language is being eliminated as it is duplicative and no longer necessary, as each density bonus program has its own PDRs.
- **WHP on Site Construction** - Mr. Howe stated that in Part 2, the change is to clarify development orders already commenced that may include WHP units in later or final phases. This language clarifies existing regulations for previously approved projects.

* Joanne Davis arrives at 2:12 p.m.

- **Sales and Rental Prices of WHP Units** - Part 3, Mr. Howe said that the proposed amendment will instill certainty in the prices at the time the project is developed. If household incomes become depressed rental prices will fall and this provision will offer some protection. Owners may choose to rent below rental floor price. He further explained Utility Allowance proposed language is to clarify that water, sewer, gas and electric will be subtracted from the rental amount to assist the tenant in paying utilities.
- **Affordable Housing Program** - Part 4, Mr. Howe explained that there are certain programmatic requirements imposed by some funding sources. It is thought that a maximum of 20 percent of units targeting incomes of 30 percent and below Area Media Income (AMI) will not work. The proposed amendment is meant to encourage use of the program by giving flexibility to the current code definition.
- Mr. Howe informed Board members that Part 5 is for deletion as previous Part 4, (Art. 5.G.2.A) is more general and renders this text redundant.
- **Transfer of Development Rights (TDRs) Bank** - Part 6, Mr. Howe addressed this by saying that the proposed amendment will ensure that density increase in the TDR Program is consistent with Neighborhood Plans and supported within those Plans.

Mr. Carpenter stated that the Neighborhood Plan standards were taken out of the Code and questioned the necessity of this language. Mr. Bryan Davis said this amendment is being proposed for consistency with changes made earlier. Mr. Carpenter said he has seen several projects in the past where density is increased in the neighborhood and he questions whether the amendment will be a deterrent.

Mr. Knight inquired what the houses will be priced at, and what the median house price in Palm Beach County is. Mr. Howe indicated that the program targeted income 60% of variable to \$140,000, now running at \$145,000 up to \$260,000 at the high end. Regarding the median house price in PBC, Mr. Howe said it is \$180,000 and this figure is based on US Department of Housing, Federal Funding source.

Mr. Howe also responded to Mr. Blackman's question on the number of approved projects by stating that about 20 projects which have approximately 4,000 units have been approved. Since 2006 there have not been any new projects. Some are approved, but are subject to change.

Mr. Carpenter inquired whether the negative aspects of the TDR Program has improved and was informed by Mr. Howe that staff met with several members of Industry and some of the issues were addressed.

Mr. Christopher Roog, Gold Coast Builders Association, told the Board that initially an effort will be made to sell the units at the affordable price but if they are not sold after a period of 180 days the units may revert to the market price. Builders are allowed

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flexibility consistent with market rate development and some esthetic changes can be made to allow some creativity.

Ms. Katz expressed concern that the units are going to be built in one location and be easily identified as TDR Units, as is the case in the West Boynton area. Mr. Howe confirmed that changes were made and it is possible to have the units in separate locations and also to be affordable. There has to be a mix of affordable and market price units.

Mr. Carpenter was of the view that in this depressed housing market many homes in Palm Beach County are now in the Workforce Housing category. More effort should be directed at getting buyers for existing houses on the market to clear the inventory. He pointed out that there is at best 50% or less occupancy in condos as many people have walked away. Mr. Howe responded by saying that the existing housing stock is being addressed. Workforce Housing Units are not just for sale but also for rent and recent analysis shows that an increased demand for rental units is expected in Florida. This will result in increased rental price. Some of the Workforce Housing units will address the demand.

Mr. Jacobson requested definitions of "workforce" and "affordable" and Mr. Howe stated that workforce is 60% of median income (\$39,000) for family of 4. "Affordable" is from zero income up to 80%, which would be \$50,000.

Motion to adopt by Mr. Klein, seconded by Mr. Jacobson. The motion passed unanimously. (13 - 0)

4. Exhibit E: Article 9, Archaeological and Historic Preservation

As discussed at the August 24, 2011 meeting, this Exhibit was re-tabled to facilitate input from appropriate staff and further discussion. Mr. Chris Davenport, Archaeologist from the Planning Division gave a brief background:

- January 2011, the Historical Resources Review Board (HRRB) held a Certificate of Appropriateness (COA) Public Hearing relative to changing the paint scheme for the Wenger House.
- The HRRB granted the COA on the grounds that color choice was not a factor in what made the building historically significant but its architectural form and they instructed staff to start the amendment process to remove color choice from requiring a COA under Article 9 of the ULDC
- In August the proposed language changes were brought before the LDRAB and after extensive discussion the issue was re-tabled for further clarification.

Mr. Davenport said that the Wenger House is the only privately owned historical house in unincorporated Palm Beach County, located between Boynton Beach and Delray Beach. He gave a power point presentation showing the Wenger House, highlighting specifically the paint colors on the house. The presentation also outlined:

- Historically designated structures on PBC Register of Historic Places;
- How historic significance is determined;
- Wenger House historic significance;
- Examples of what other municipalities require;
- Discussion on differences between Home Owners Associations and Historic Preservation Ordinances; and,
- When color is relevant and when it is not.

Mr. Davenport stated that color is not relevant as paint is just a protective covering and the choice of color is irrelevant to protection. He questioned whether it is proper to regulate color, as architectural form is what is important to determine historical significance and not choice of color. Color choice, he continued, has a lot to do with time and buildings evolve through time. Mr. Davenport showed famous historical buildings, including the Statue of Liberty which today has a different color than when it was first erected, due to the passage of time. Mr. Davenport went on to say that a permit is not required to paint a home and the only reason this issue was brought to the County's attention was because of the honesty of the property owner. The HRRB

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recommended the ULDC be changed so that a COA for a change in the color is not required.

Ms. Friederike Mittner, City of West Palm Beach Historic Preservation Planner, and Chairperson of the HRRB, said that permits are not required to paint a house and City of West Palm Beach does not require permits for color changes. She expressed the view that denial would put other properties in jeopardy of not having their structures designated. She said that paint is reversible, according to the Secretary of Interior, and she urged Board approval.

** Martin Klein leaves at 2:55 p.m.

Ms. Katz opined that preservation is not only related to structure and color accents characteristics of the structure. Mr. Bailey stated that preserving the artist's intent is important and went on to say that the original color is not known but he wondered whether a middle ground could be found.

Mr. Blackman was of the view that this is an invasion of government into a personal selection.

Motion to adopt by Raymond Puzzitiello, seconded by David Carpenter. The motion passed (8 - 4**). Barbara Katz, Lori Vinikoor, Maurice Jacobson, and Terrence Bailey voted nay.

C. Public Comments

Mr. Christopher Roog of Gold Coast Builders said that Exhibit K in the last Ordinance 2011-016, effective September 6, 2011, has created some issues regarding rezoning. He presented an example of a shopping center of approximately 150 acres, if it is not in keeping with the Code, it has to be rezoned. He discussed the criteria with staff as this will greatly affect cost. This is significant because it can delay projects and is not economically viable. Mr. Lenny Berger stated that the amendments were done in an effort to clean up the code and take care of older districts. A more global solution can be found with just a couple of changes in the code. Mr. Carpenter cited a similar situation and said he was mandated to rezone the whole site and the project had to be changed to MUPD to move it forward.

Mr. Cross stated that staff were responding to industry concerns that solutions were being developed for presentation at the November 11, 2011 LDRAB meeting. No matter what solutions are to be presented, exemptions for PUDs will be addressed accommodated. He said a memo has been drafted to address fees and a global solution will be sought.

D. Staff Comments

Miss Cantor updated the Board on the Produce Stand Subcommittee, which she said is continuing to work on this issue to take it to another level. Another meeting will be convened shortly and the Zoning Director will attend.

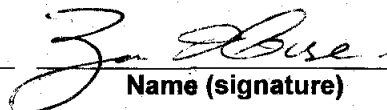
G. Adjourn

The Land Development Regulation Advisory Board meeting adjourned at 3: 25 p.m.

Recorded tapes 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:

Zona Case


Name (signature)

11-9-2011

Date