

**PALM BEACH COUNTY**  
**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)**  
**COMMUNITY RESIDENTIAL HOUSING SUBCOMMITTEE**

(Updated 03/17/21)

**Minutes of February 26, 2021 Community Residential Housing Subcommittee Meeting**

On Friday, February 26, 2021, the Palm Beach County Land Development Regulation Advisory Board (LDRAB) Community Residential Housing Subcommittee, met in the Medium Hearing Room (VC-1E-60), at 2300 North Jog Road, West Palm Beach, Florida and via Cisco Webex Events communications media technology (CMT).

**A. CALL TO ORDER**

**1. Roll Call**

Chair Dr. Lori Vinikoor, called the meeting to order at 2:00 p.m. Mr. Alexander Biray, Site Planner I, called the roll. County Staff and Interested Parties present in person introduced themselves and positions, and Mr. Biray noted those present via CMT.

**Members Present: 5**

Dr. Lori Vinikoor (District 5, Commissioner Sachs)  
Anna Yeskey (League of Cities)\*\*  
Susan A. Kennedy (Environmental Organization)  
Frank Gulisano (Realtors Association of the Palm Beaches)  
Wesley Blackman (PBC Planning Congress)

**Members Absent: 1**

Terrence Bailey (Florida Engineering Society)

**County Staff Present:**

Wendy N. Hernández, Deputy Zoning Director

Jeff Gagnon, Principal Site Planner, Zoning

Jerome Ottey, Site Planner II, Zoning

Zubida Persaud, Site Planner II, Zoning

Alexander Biray, Site Planner I, Zoning

Bob Banks, Chief Land Use County Attorney

Scott A. Stone, Assistant County Attorney

Bryan Davis, Principal Planner, Planning\*

Carolina Valera, Senior Planner, Planning\*

**Interested Parties: 4**

Bob Berman (Palm Beach Country Estates)

Steven Farnsworth (FARR Executive Director)\*

Dodi Glas (Gentile Glas Holloway O'Mahoney & Associates)\*

Al Johnson (Chief Assistant State Attorney)\*

\* Present via Webex Events.

\*\* Ms. Yeskey arrived at 2:05 p.m.

**2. Motion to Approve Remote Participation by CMT Due to Extraordinary Circumstances**

Motion to approve remote attendance by CMT based on extraordinary circumstances of the coronavirus pandemic, by Mr. Gulisano, seconded by Mr. Blackman. The Motion passed unanimously (4-0). Mr. Bailey did not attend in person or CMT as the remaining Subcommittee member.

**3. Additions, Substitutions, and Deletions to Agenda**

None.

**4. Motion to Adopt Agenda**

Motion to adopt the Agenda, by Mr. Blackman, seconded by Mr. Gulisano. The Motion passed unanimously (4-0).

**5. Adoption of Minutes – October 13, 2020 (Exhibit A) and October 28, 2020 (Exhibit B)**

Motion to adopt the Minutes, by Mr. Gulisano, seconded by Mr. Blackman. The Motion passed unanimously (4-0).

**B. NEW BUSINESS**

**1. Unified Land Development Code (ULDC) and Community Residential Housing**

Ms. Hernández noted Zoning Staff has worked with the County Attorney's Office, Planning Division, and Consultant to resolve issues since the last time the Subcommittee convened in October. She explained the format of the material to be presented by intensity and noted a cheat sheet at the front.

\*\* Ms. Yeskey arrived at 2:05 p.m.

**a. Article 1 – Definitions**

Ms. Hernández noted discussion with Dr. Vinikoor regarding the removal of "Boarding House" and "Rooming House" definitions, but upon further research, may leave it in the Code when presented to the LDRAB, because it does not have an impact on Community Residential Housing. She explained the new definitions provided by the Consultant for "Community Residence," "Continuing Care Facility," and "Oxford House," and clarified the Florida Statute (F.S.), and Comprehensive Plan ("the Plan") references added as it relates to the proposed amendment.

**1) Discussion**

Dr. Vinikoor noted several instances in new text where the terms "Boarding House" or "Rooming House" are referenced. Ms. Kennedy asked why Family Community Residences and Transitional Community Residences were not labeled in the definition. Ms. Hernández responded they can be added along with Oxford House references. Ms. Kennedy also asked if Single Family residences with Accessory Quarters are considered Multifamily. Ms. Hernández responded they are not because accessory uses must be incidental. A discussion ensued regarding whether transitional housing like vacation rentals regulated by the Florida

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Department of Business & Professional Regulation (DBPR), Division of Hotels and Restaurants would be considered dwelling units. Ms. Hernández said she will follow up with the Planning Division, as it is language derived from the Plan. Mr. Blackman noted a typographical error omitting “and Professional” from DBPR. He also asked if Oxford House would follow Family Community Residence requirements. Ms. Hernández confirmed.

**b. Article 4**

Ms. Hernández explained the order of uses will be presented by the least to most intense, while the amendment has them alphabetically by Use Classification.

**1) Family Community Residential**

She explained the use is more permanent in nature, may include persons not protected by F.S., and has to emulate a family. She noted they are Permitted by Right wherever Single Family homes are located, subject to licensing, certification, or the Oxford House Charter, and a 660-foot radius or seven-lot separation distance. A Type 2 Waiver would be required without licensing or certification, for more than ten residents and on-site staff pursuant to F.S. ch. 397, or less distance. She also noted a subparagraph will be removed for the use and others referencing the Florida Building Code (FBC), Fire Prevention Code, Life Safety Code, and Palm Beach County Property Maintenance Code (“Housing Code”) as any would be reviewed to be in compliance by the applicable County Agency, instances of “Congregate Living Home,” supplemental application requirements that would be on the application rather than in the Code, and dwelling unit text already enumerated in Article 1. She also explained the revocation process and requirements.

**a) Discussion**

Ms. Kennedy noted a Heading correction changing “maximum” to “minimum” regarding the number of residents, including staff that reside on the property.” A discussion ensued about the thresholds. Ms. Hernández responded she would clarify the language. Dr. Vinikoor asked if there is a definition for sober living home. Ms. Hernández responded there is not in the amendment, and Mr. Banks responded that there may be one in the F.S. to reference. Mr. Gulisano asked about licensing determination. Ms. Hernández responded it is determined by the State. Mr. Blackman asked about Type 2 Waivers as they relate to licensing. Ms. Hernández and Mr. Stone responded the Waiver is for if it cannot be licensed. Ms. Yeskey asked if there will be coordination with municipalities. Ms. Hernández responded Countywide data is received from the State. Ms. Yeskey further asked how different requirements by municipalities would be handled. Mr. Banks and Ms. Hernández responded that municipalities would get notice for proposed Type 2 Waivers, and the F.S. enumerates Local Governments are allowed to have more lenient distance requirements. A discussion ensued on distance requirements by jurisdiction. Dr. Vinikoor asked how two neighboring Single Family homes would be handled if the same owner wants to convert both into a Community Residence. Ms. Hernández responded that it would be considered a Recovery Community subject to a Waiver for Reasonable Accommodation.

**2) Transitional Community Residential**

Ms. Hernández explained the use differs from a Family Community Residence as being more temporary in nature with a higher turnover for treatment less than a year, and are Permitted by Right in the Residential Multifamily (RM) Zoning District or wherever Multifamily is allowed for a maximum of ten or 14 residents and on-site staff pursuant to F.S. ch. 397 and 419 respectively, and six residents and on-site staff for Single Family homes.

**a) Discussion**

Ms. Kennedy asked about Residential Treatment Levels. Mr. Stone responded that is it in the Florida Administrative Code (F.A.C.), and can be added. Mr. Blackman asked for clarification on detoxification. Ms. Hernández responded if it is 24 hours and not incidental, the use would be more of a treatment facility. Ms. Kennedy asked about the Use Matrices. Ms. Hernández responded that the Use Matrices indicate the worst case scenarios. Mr. Blackman asked for clarification on the maximum occupants. Ms. Hernández responded that under F.S. ch. 419, the maximum is 14, while F.S. ch. 397 allows greater than ten, but have to prove function as a family, which the Consultant has concluded will be difficult greater than 14. Ms. Kennedy asked about Single Family homes. Ms. Hernández responded that the Waiver only extends six to ten residents under F.S. ch. 397, six to 14 under F.S. ch. 419, and location requirements, all with license and certification. Mr. Stone clarified it would be to the Board of County Commissioner’s (BCC) discretion. He also noted a correction to change “Family” to “Transitional” Community Residence.

**3) Recovery Community**

Ms. Hernández explained the use is allowed wherever Multifamily is allowed, is typically attached housing, and the approval process would be the same unless existing, where it would

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be Permitted by Right. She also noted the instance of “boarding house” to be analyzed further. She also noted the allowance of a Waiver for licensing and maximum number of residents would be removed, as a license will be required and follow the Housing Code respectively. Distance between Recovery Communities, a Community Residence, or Congregative Living Facility without a Waiver would be 1,200 linear feet.

**a) Discussion**  
None.

**4) Congregate Living Facility/Home**

Ms. Hernández reiterated instances for Congregate Living Home will be removed. She explained Type 1 and Type 2 Congregate Living Facilities will be removed as the new uses take their place, with Type 3 CLFs remaining and could be a mixture of living arrangements. She noted location criteria will remain in the Code in consideration of previously approved CLFs, fire-rescue station requirements removed as Fire-Rescue looks at all distances and placement for all uses in the County are covered, and generator requirements as it will be relocated to Article 5. She will confirm if assistive care services will remain.

**5) Continuing Care Facility**

Ms. Hernández noted it was determined to remove Continuing Care Facility as a use.

**a) Discussion**  
None.

**6) Nursing and Residential Treatment Facility**

Ms. Hernández explained the use name will change from “Nursing Home or Convalescent Facility” to “Skilled Nursing or Residential Treatment Home.” She explained it is an institutional use where medical treatment is more than incidental and do not meet F.A.C. Residential Treatment Level requirements for a Community Residence. She noted the approval processes remain the same. She also noted there was discussion on removing existing language on lot size and bed count for the Rural Residential (RR) Future Land Use, which is not allowed.

**a) Discussion**

Mr. Blackman asked if over ten beds are allowed for a one-acre lot and 10,000 square feet. Ms. Hernández confirmed.

**c. Article 2 – Approval Processes and Standards**

Ms. Hernández explained the amendment provides an exception to the restriction of a Type 2 Waiver not to relieve specific financial hardship if specified as a judicially-mandated standard relative to Family Community Residences, cross references Family Community Residence Transitional Community Residence, and Recovery Community in Article 4 and enumerates the Waiver Standards, and, corrects a glitch for the Standards of a Medical Marijuana Dispensing Facility. She also noted reference to the 1,200-foot separation may need to be added to Recovery Community distance Standards. She explained Reasonable Accommodation provisions will be amended to indicate it does not apply to the new uses as the Waivers are the Reasonable Accommodation for the uses. She also explained the amendment codifies the process of securing a site and issuance of a Zoning Confirmation Letter (ZCL). The amendment adds the Zoning Director’s Jurisdiction, Authority, and Duties to oversee Community Residence and Recovery Community licensing.

**1) Discussion**

Ms. Yeskey asked how municipal boundaries would be taken into consideration as they relate to the Type 2 Waiver Standards to no create a *de facto* social services district. Ms. Hernández responded she will talk to the Consultant about it. Mr. Blackman asked how the Standards are determined to be followed. Mr. Stone responded that the BCC would rely on the facts and statements made by the Applicant, and violations would be brought to Code Enforcement. Ms. Kennedy noted the Standards do not address Single Family residences. Ms. Hernández responded that she will tweak the numbers.

**d. Article 6 – Parking**

Ms. Hernández explained the amendment updates the new and replaced uses, with Recovery Community corresponding to Multifamily, and Community Residences corresponding to Single Family homes. She also noted the existing allowance of off-site parking if required, and where on-street parking is allowed subject to Land Development Division (LDD) approval.

**1) Discussion**

Mr. Stone asked if the requirements for CLFs of certain size will be removed. Ms. Hernández confirmed. Mr. Blackman and Ms. Yeskey asked about Reasonable Accommodation requests as they relate to parking and continuation of use. Ms. Hernández responded that it will be

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looked at. She also noted the Consultant proposed greater parking ratios in previous drafts, but it was determined that it would create non-conformities. Dr. Vinikoor noted residents may have different modes of transportation than automobiles. Mr. Blackman asked if Variances are allowed to reduce parking. Ms. Hernández confirmed, and affirmed that the requirements are the minimum.

**e. Article 7 – Landscape**

Ms. Hernández explained the amendment updates the new and replaced uses for Type 1 Waivers and Incompatibility Buffer requirements, while clarifying the classification of Multifamily to include the new uses when located in that housing type, and Single Family residences not requiring the extra buffering to better integrate with communities.

**1) Discussion**

Mr. Stone asked for clarification that new text for Continuing Care Facilities and Congregate Living Homes will be removed. Ms. Hernández confirmed. Ms. Kennedy asked for clarification that Community Residences in Single Family homes will not have extra landscaping requirements. Ms. Hernández confirmed.

**f. Article 5 – Generators**

Ms. Hernández explained the amendment clarifies generator or alternative power source requirements consistent with F.S. ch 400 and § 400.99, and is subject to further revision including reference to the F.A.C. She further explained updates the new and replaced uses for Parks and Recreation requirements for phasing and density bonus programs.

**1) Discussion**

None.

**g. Article 3 – Other Modifications**

Ms. Hernández explained the amendment updates the new and replaced uses corresponding to Multifamily and Single Family residential uses for the Westgate Community Redevelopment Area Overlay (WCRAO) and Urban Redevelopment Area Overlay (URAO) Priority Redevelopment Area (PRA), noting there will be further edits to restrict detached housing types on slip street frontages for the latter. She further explained for Planned Development Districts (PDDs) redundant generator requirements being removed as it refers to Article 5, and listed residential uses under Traditional Development Districts (TDDs).

**1) Discussion**

Mr. Stone noted a correction adding “Residences” to “Traditional Community.”

**C. FUTURE MEETINGS/ANTICIPATED EXHIBITS**

Dr. Vinikoor asked if the LDRAB presentation will be alphabetical or by intensity. Ms. Hernández responded she can reorder it if the Subcommittee found by intensity helpful. Mr. Stone asked if the amendment is alphabetical. Ms. Hernández confirmed pursuant to Code formatting. Dr. Vinikoor expressed concern the public would have trouble following it in alphabetical order.

Mr. Johnson commended Staff’s work, being one of the few jurisdictions addressing Americans with Disabilities Act (ADA) and Fair Housing Act (FHA) issues with congregate living and recovery residences. He expressed concern about the term “sober home” as being colloquial and not defined in F.S. and suggested the “recovery residence” pursuant to F.S. § 397.311. Mr. Farnsworth noted he posted a message in the Webex chat for consistency purposes.

Ms. Glas asked when a revised draft of the amendment will be available. Ms. Hernández responded as soon as possible, noted the Consult’s contract ends in June, and Staff has a deadline for BCC adoption.

Mr. Berman asked how the emulation of a biological family is determined for the uses. Mr. Farnsworth responded that a family is defined equally throughout a community. Mr. Berman suggested that long-term should be defined as a year. He agreed with the landscaping requirements and suggested a maximum to keep a use from being institutional in character. Mr. Gulisano asked how it would be treated. Ms. Hernández responded it would be treated as any Single Family home based on minimum and maximum requirements. Mr. Berman further asked for clarification that the Waiver process replaces Reasonable Accommodation. Ms. Hernández and Mr. Banks confirmed, with exception to appeal under the courts.

Mr. Farnsworth expressed concern about the terms “transient” and “non-transient” as subjective, and conflict with fire codes. Dr. Vinikoor noted it is something for Staff to work on with the County Attorney’s Office.

**1. March 5, 2021 – Review of Draft ULDC Amendments – Back-Up**

Dr. Vinikoor asked if the scheduled Subcommittee meeting next Friday was necessary and too early. Ms. Hernández responded it was reserved a back-up or follow-up date. Mr. Blackman and

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Dr. Vinikoor agreed it was not needed, as all the material had been provided a week in advance and presented. Dr. Vinikoor noted the finalized draft will be available by March 17th, one week before the March 24th LDRAB meeting.

**D. MEETING RECAP AND CONCLUSION**

Dr. Vinikoor clarified there will be no meeting on March 5th. There were no further comments.

**E. ADJOURNMENT**

The LDRAB Community Residential Housing Subcommittee adjourned at 4:10 p.m.

Recordings of all LDRAB meetings 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) 233-5243.