

EXHIBIT B



PZ&B DEPARTMENT **LDRAB COMMUNITY RESIDENTIAL HOUSING SUBCOMMITTEE** **MINUTES** OCTOBER 28, 2020

On Wednesday, October 28, 2020 the LDRAB Community Residential Housing Subcommittee held a meeting at the Vista Center, Kenneth S. Rogers Hearing Room (VC-1W-47) at 2300 North Jog Road, West Palm Beach, Florida and via Cisco Webex Events communications media technology (CMT).

LDRAB Subcommittee Members: Drew Martin, Glenn E. Gromann, Dr. Lori Vinikoor, Terrance Bailey*, Susan A. Kennedy, Frank Gulisano, Wesley Blackman

Not in Attendance: Daniel J. Walesky, Anna Yeskey

County Staff: Jon MacGillis*, Wendy N. Hernández, Bob Banks, Scott A. Stone, Jeff Gagnon, Adam Mendenhall, Jerome Ottey, Alexander Biray, Bryan Davis, Zubida Persaud*

Interested Parties: Bob Berman, Steven Farnsworth*, Dodi Glas*, Jeffrey Lynne*, Valerie Rizzo*

* *Present via Webex Events*

A. Call to Order

Chair Dr. Vinikoor called the meeting to order at 2:21 p.m.

1. Roll Call

Mr. Biray, Code Revision Site Planner I, called the roll. Dr. Vinikoor noted any LDRAB Board members from the prior meeting who are not part of the Subcommittee may stay to listen. Ms. Hernández noted Ms. Glas, Mr. Lynne, and Mr. Farnsworth present on CMT as Interested Parties.

2. Motion to Adopt Agenda

Ms. Hernández confirmed to Dr. Vinikoor that there are no additions, substitutions, or deletions to the Agenda. Motion to adopt the Agenda, by Mr. Blackman, seconded by Mr. Gulisano. The Motion passed unanimous (7-0).

4. Adoption of October 13, 2020 Minutes (Exhibit A)

Ms. Hernández noted Mr. Lynne requested clarification regarding his comments. Mr. Lynne explained his comments on October 13th were not representative of the Palm Beach County Sober Homes Task Force. Motion to adopt the Minutes with clarification on Mr. Lynne's comments, by Mr. Gromann, seconded by Mr. Blackman. No vote was taken.

5. Public Comments

There were no public comments. Dr. Vinikoor noted members of the public and Interested Parties will be allowed to speak during discussion on the Item.

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B. Items

1. **Exhibit B - Article 4: Addition of types of Community Residential Housing (CRH) to the Use Matrices and Supplementary Standards that apply to the uses**

Ms. Hernández explained the Exhibit is language from the consultant incorporated by Staff into Unified Land Development Code (ULDC) format, including definition, intent, approval process, licensing and revocation, maximum occupancy, separation, and emergency generator requirements. She explained the three new uses: Family Community Residence, Recovery Community, and Transitional Community Residence, and the similarities and differences between each. The existing language for Congregate Living Facilities (CLFs) was provided for reference.

Mr. Gromann asked about court challenges with similar ordinances by Mr. Daniel Lauber, the consultant, and if the Board can receive full copies of the court decision. He also asked about where the separation measurements came from, if license revocations would include failure to pay the business tax or Secretary of State, and how issues related to pending investigations would be mitigated. He asked about Community Residence uses in regards to rezoning. Ms. Hernández responded that the rezoning process would ensure the proposed district is consistent with the Comprehensive Plan. If not, Mr. Banks and Mr. Stone clarified a Comprehensive Plan amendment would also be required, and Staff can look further into it.

Mr. Blackman asked for clarification to the Board on the Oxford House model. Mr. Martin asked if there is a definition. Ms. Hernández responded that definitions will be provided in an Exhibit for the next meeting. Mr. Blackman also asked about inspection issues and disconnect in regards to the use (e.g. an assisted living facility inspected as a hospital). He stressed the importance to consider the “chicken and egg” situation for permitting and licensing issues in the approval process. Ms. Hernández responded licensing is proposed to be requested first. He asked if certain uses were included as Community Residences, such as “subacute care” (drive-by doctor), medical treatment, or detox. Mr. Stone responded that medical treatment is incidental to the uses per the working definition subject to change, but may not contemplate formal medical care.

Ms. Kennedy asked for clarification on “conditional site reservations” versus a Conditional Use. Ms. Hernández explained capacity determined by whether the new Conditional Use process and criteria are triggered, and the Article 4 Use Matrices will denote the worst case scenario.

Mr. Martin asked about distance requirements and how HOAs may be able to limit Community Residences. Ms. Hernández responded it would be prohibited by the Fair Housing Act. He further asked about how the impact of relapse and potential crime would be taken into consideration. Mr. Stone responded that case law exists for legal basis on the spacing. He asked about the distance requirements being large. Ms. Hernández responded that is existing language. He further asked about fire department requirements conflicting with other codes. Mr. Blackman added that building code also pose conflicts. Mr. Martin asked about parking requirements. Ms. Hernández responded that it would be discussed in an Exhibit at a later meeting.

Mr. Gulisano inquired about the measurements in existing language and where they are measured from. Ms. Hernández responded it is pursuant to Florida Statutes, and graphics will be drawn for clarification.

Dr. Vinikoor noted Interested Parties and the public will be provided five minutes to speak.

Mr. Lauber responded to Board member comments. The spacing distance is explained in the study and FAQ in relation to lot width and normalization with

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interaction between residents. He further noted the Cities of Delray Beach and Pompano Beach have only had one or two applications for operators to exist within the required distance. He noted existing referenced language is subject to change.

Mr. Gromann asked if the lot size measurements are applicable to Florida or one size fits all, and how it would be taken into account. Mr. Lauber responded the language takes into account larger lots as a unit of measurement where applicable dimensions are greater.

Mr. Martin asked who determines how overcrowding is prevented. Mr. Lauber responded per U.S. Supreme Court decision, housing codes are applicable to Community Residences, and therefore pursuant to the PBC Housing Code. He further noted a provision has been added in the first draft of the amendment that Community Residences shall be treated as the same as the type of residential property is occupies, and dispute exists regarding Florida Statute requirements such as fire sprinkler system requirements as they relate to court decisions. Mr. Stone stated the County will follow Federal codes.

Dr. Vinikoor asked if Mr. Lauber saw the Exhibit. Ms. Hernández responded that he has. She also asked about question marks in the Use Matrices. Ms. Hernández responded decisions are yet to be made on those approval processes.

Mr. Farnsworth introduced himself as the Florida Association of Recovery Residences (FARR) Executive Director and noted Mr. Lauber explained what he had raised his hand for on Webex. He also offered to answer any questions.

Mr. Lynne expressed gratitude to everybody for their time on the topic, and cautioned about vernacular used on the record in regards to disabled persons. He responded to Mr. Gromann's question on the court challenge, that it was regarding the Sailboat Bend neighborhood in Fort Lauderdale on application of fire codes.

Ms. Glas noted the differences between facility operations and that they should not be treated the same based on residents (e.g. adults versus children). She also cautioned timing restraints as it relates to FARR certification, licensing, and the Zoning approval process.

Mr. Gromann addressed that Subcommittee members come from varying backgrounds and are not necessarily versed in U.S. Constitutional law, and what is stated in the meeting is not prejudicial to any rights. He further noted Mr. Lynne's comments were problematic in addressing an information-gathering body. Mr. Stone affirmed the purpose of the Subcommittee is to avoid formulating discriminatory policy, and that debate is encouraged, but voting as LDRAB members for the finalized amendments may cause conflict. Mr. Martin concurred, stating that the Subcommittee is exploratory in nature.

Dr. Vinikoor suggested that more should be looked into regarding Ms. Glas' comments on licensure and timing. Ms. Hernández responded there will be further discussion with Mr. Lauber and Staff to finalize the Exhibit language.

C. Items for Next Meeting

1. Article 1: Adding and modifying definitions relating to CRH

Ms. Hernández noted the definition of Oxford Housing and broad category of Community Residential will be brought to the next Subcommittee meeting.

2. Article 2: Article 2: Addition of Conditional Use standards specifically for CRH; and modifications to Reasonable Accommodation for clarification related to CRH

Ms. Hernández noted the Conditional Use criteria, for when Art. 4, Use Regulations requirements cannot be met, will be brought to the next Subcommittee meeting.

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3. **Article 3: Minor changes under our overlays and zoning districts to refer to the new uses**

Ms. Hernández noted language in Article 3 related to CLFs will be changed to reflect Community Residences, and will be brought to the next Subcommittee meeting.

D. **Open Discussion**

Mr. Blackman commended Dr. Vinikoor as Chair. Mr. Gromann welcomed Mr. Gagnon, commended Staff for their correspondence, and Mr. Lauber on his expertise. Mr. Stone noted Mr. Lauber will be available for later Subcommittee meetings.

E. **Recap/Conclusion**

Ms. Hernández noted Staff will get copies of the court cases, noted Mr. Lynne's comments, and will follow up on licensing issues, the order of approval processes, incidental uses, distances and spacing, and community residence operation types.

Mr. Martin asked if the differences between adults and children will be differentiated in the Code. Ms. Hernández responded it would currently not, but will be discussed further. Mr. Gulisano asked when the next Subcommittee meeting is scheduled. Ms. Hernández and Dr. Vinikoor responded it will be on Tuesday, November 10th at 1:00 p.m. Mr. Blackman asked if the meeting would use Webex. Ms. Hernández responded a physical quorum may be required if the Governor does not extend the Executive Order after November 1st.

F. **Adjourn**

Motion to adjourn, by Mr. Gulisano, seconded by Mr. Gromann. The Motion passed unanimous (7-0).

The LDRAB Community Residential Housing Subcommittee meeting adjourned at 3:45 p.m.