



**PZ&B DEPARTMENT**  
**LDRAB LANDSCAPE SERVICE SUBCOMMITTEE**  
**MINUTES**  
APRIL 3, 2019

On Wednesday, April 3, 2019 the LDRAB Landscape Service Subcommittee held a meeting at the Vista Center, Room VC-1E-47 Conference Room at 2300 North Jog Road, West Palm Beach, Florida.

**LDRAB Subcommittee Members:** Dr. Lori Vinikoor, Philip Barlage, Jim Knight, Drew Martin

**Not in Attendance:** Frank Guilsano

**County Staff:** Jon P. MacGillis, Maryann Kwok, Ramsay Bulkeley, Esq., Robert Banks, Shannon Fox, Barbara Pinkston, Bruce Guyton, Lorraine Fuster, Larry Caraccio, Patricia Behn, Scott Cantor, Monica Cantor, William Cross, Robert Santos, Yvonne Wamsley, Ms. Hernandez Hernandez, Jan Rodriguez

**Interested Parties:** Mark Perry, Martin Perry, Bradley Miller, Richard Carlson, James Crowley, Kelley Burke, Danna Ackerman-White, Mark Baker, Todd Grande, Susan Kennedy, Mike Glynn, Michele Burns, Jeff Tyson, Brian Duffy, Marc Rynar, Doug Plaisted

**A Call to Order**

Dr. Lori Vinikoor explained to the public that if they wished to speak to fill out a speaker card and submit it to staff. There will be time on the Agenda after the Staff Presentation for comments by the public.

The meeting convened at 3:03 p.m.

Dr. Lori Vinikoor, Chair, opened the meeting by requesting Subcommittee Members, Staff and Interested Parties to introduce themselves. Once the introductions were done she asked if anyone had time to review the last Subcommittee Meeting Minutes from November 7, 2017 as they were distributed by email. No one had changes to the minutes and they were adopted as presented, Motion by Jim Knight, seconded by Philip Barlage with a vote of 4-0. Philip Barlage, disclosed for the record that he had been in contact with Mark Perry and Richard Carlson over the past couple months on this matter.

The meeting was turned over to Ms. Hernandez Hernandez, Principal Site Planner who proceeded to explain the relevant prior LDRAB Subcommittee LDRAB Meetings and BCC

Hearings since 2017 related to this topic. She explained that staff have been working with Interested Parties since BCC gave Staff direction in May 2018 to prepare code amendments. She explained that there have been several meetings and drafts to get us to the draft before us today.

Ms. Hernandez moved on to explain there are two Exhibits A-AGR Zoning District and B-AR and other Zoning Districts that staff will be presenting Exhibit A first and can open for discussion and comments, and will then proceed to Exhibit B with following discussion. Issue was raised regarding the hand-outs and missing pages. Ms. Hernandez proceeded with a PowerPoint, while staff made new copies of the handouts. Ms. Hernandez summarized each of the headings, describing where staff and industry agreed and changes were made or where there was disagreement and staff changed with our recommendation or did not change.

Following the Exhibit A presentation, Dr. Lori Vinikoor then turned to LDRAB Members and asked them if they had any general comments before turning the meeting over to staff. LDRAB Members had the following general comments:

Drew Martin-Biggest concern is with how it effects the neighborhood and the people around them, and the traffic. Is there any restriction on how many vehicles are going to be in and out? How many people are going to be using the property and putting vehicles on the site, and showing up? Ms. Hernandez responded explaining that any use that comes through the DRO or through the public hearing process, traffic studies and analysis, roadway widths and such would be reviewed by Staff for compliance. Mr. Martin asked about the impacts on the residents and Heritage Farms residents. Staff responded that though there are residents in the AGR, it is a non-residential district, and impacts would be address when it come through the process, as for AR, Staff advised they would discuss that Exhibit next.

Jim Knight-Mr. Knight recalled about 30+ violations. How does this address the violations, where are we? How do the buffers apply with the use is adjacent to commercial or industrial uses. Ms. Kwok responded that the Article 7 required buffers would apply, and the proposed code changes are to address where the growing areas are and allowances for reductions, elimination, or the Alternative language. Robert Santos, CE Director gave an overview of the number of cases currently cited in both the AR (30+) and AGR. Some sites are coming into compliances while others are currently accruing fines. There are a number of violations in the AGR and the cases are in abatement until this code language is adopted. Mr. Knight asked if the language proposed will assist in cleaning up the sites? Mr. Santos said he could not answer the question. Ms. Kwok stated that an issue Staff sees is that there is no site plan to assist Code Enforcement staff in the field. The required approvals Staff will have this plan that indicates where the growing areas are, where the landscape service area is. The size of the landscape area is a percentage of the growing area. This is a solution to assist everyone.

Philip Barlage-Asked if it was 30% of the Growing Area? Ms. Hernandez responded that it was 30% of the Growing Area as an Administrative Approval and up to 45% of the Growing Area as a Class A Conditional Use approval. Mr. Barlage stated if the Growing Area was 1

acre, the landscape Service would be 30% of that. No minimum. He asked about receipts are we going to require receipts? Ms. Hernandez responded that we were taking out the receipts.

Dr. Lori Vinikoor identified some typographical errors in the draft page 2 line 25, page 5 of 10 line 47 "land" and Mr. Hernandez referenced another section. Dr. Vinikoor asked if the container plants in the buffer and their replacement, be difficult thing to enforce? Mr. Caraccio responded. Dr. Vinikoor recognized that these were guidelines. Page 7 Outdoor Site, can you explain the 45% on that plan. Is it in correct proportion? Ms. Hernandez stated that that graphic related to the language of Outdoor Storage and not the percentages of Landscape Service, that Staff would have a graphic for Landscape Services. When would we see that graphic? Ms. Kwok stated that the graphic would include common areas. The percentage of landscape service to the nursery would not be on the common areas that serve the nursery or the landscape service.

Dr. Vinikoor opened it up to interested parties sitting at the table if they had questions only.

Chip Carlson made a statement that the discussion was that there be a certain percentage of nursery with some growing function, to ensure there wasn't a tiny nursery, with a large landscape service. We talked about a 50% threshold, 50% growing area on the property and then you did the calculation of 30%. What happened to using 30% of the gross area of the property? There is going to be a lot of these that are in code enforcement that won't meet these requirements. If you calculated based on the growing area, you have taken a lot of the property out of play. Mr. Carlson questioned the typical on-site uses, and by the on-site use definition you have moved the structures, parking into the landscape services area. Need to break down the schematic. He stated that the previous 30% accessory use, as he understood was based on the overall site and we have changed it to the growing area. Ms. Hernandez corrected with Mr. MacGillis confirmation, which Staff's proposal has always been on the growing area, and never on the lot. Mr. MacGillis stated that as of last Fridays meeting there was discussion about taking a percentage off the top, 10 acres, take an acre off for the common area. We need to make this simple. Staff takes the plans and draws bubbles around the uses. We don't want complicated mathematical calculations where industry will be in disagreement with staff. We are on a time crunch to get this out. We need input from the committee. Dr. Vinikoor said a drawing would be helpful.

Bradley Miller Explained there were discussions on Friday the percentage breakdown being drafted: 50% growing area, a maximum of 30% landscape service, and a maximum of 20% of the common areas. He stated that he has plans that he working all have unique circumstances, and subtracted out unusable areas. 50% of the net as growing area, and 30% of the net area as landscape service.

Mr. Martin question for Staff, crux of problem there were nurseries that were functional but. In order to be profitable had landscape services, and then the nursery wasn't viable. We need to have a viable nursery and not one that stores materials. Mr. Bulkeley said it wasn't the viability of the nursery or the landscape service, but the comparison of 1 acre of nursery to 1 acre of landscape service and the differences in intensities. This is why we chose to

base this on the growing area, because it is more measureable and limits the number of vehicles which is causing the issues. Create standards they can meet, but the standards are to lessen the burdens on the surrounding properties.

Mark Perry asked for clarification on why the Shell Rock parking provisions are limited to 20 spaces with a 50% increase, why is there any limit? Jon MacGillis, Zoning Director- Would like to look further at the shell rock parking and why we have 20 spaces, concerns with not having a maximum and vehicles leaking how does Land Development, ERM or Health deal with this. He would have staff review the code and history to determine why there is a limit to only 20 vehicles.

The meeting proceeded with Dr. Lori Vinikoor asking Ms. Hernandez to move to Exhibit B. Ms. Hernandez explained the approval process in the AR/RSA for a primary use district did not change and many of the recommending amendments are simply making this Exhibit consistent with AGR DRAFT. The proposed changes deleted and relocated the existing Accessory Use requirements for AR and all other Zoning Districts. The proposal will delete the terminology of accessory use as we do not want to apply the requirements of the business receipts. She stated that this would be consistent with the proposed language for AGR. The requirements will remain at a maximum of 30% of the growing area, on a minimum of 3 acres and located on an arterial or collector road. The BCC adopted a Comprehensive Plan amendment in 2018 that currently requires all non-residential uses in a residential future land use to be on a major street. James Crowley stated there are amendments to this use in AR that could impact existing uses.

Dr. Lori Vinikoor asked at this point in the meeting if any LDRAB Members or Interested Parties had general comments on the Exhibits prior to going to the public.

Drew Martin-Trying to determine if this draft will resolve the problem. Nursery business doesn't make money, want landscape business as it is more profitable. The reason why you have the receipts requirement is to determine if the nursery business is viable. If you don't have the receipts how do you determine if the nursery business is viable or they are just running a landscape service business? Large amount of traffic, vehicles coming and going and being stored on the site, disrupting the neighbors. Mr. MacGillis explained that many of the businesses cited do not have any required zoning approvals and site plans. Once we get the percentage worked out and with the establishment of a process with a site plan, then Code Enforcement will be able to use the plan to determine violations. All Mr. MacGillis' years with the County he had one case where he used the receipts and it really isn't a good method for Staff or Code Enforcement. Mr. Martin asked how do we determine too many vehicles, will there be a threshold? Mr. MacGillis stated it will be reverse engineered. Industry will assist, but based on the number we come up with there will be a limitation on the number of vehicles that can be on the property. Landscape Service will have a designated area. Staff believes the site plan, process and percentage of the growing area will help restrict the number of vehicles.

Phil Barlage-Question to Bradley does the percentages proposed by industry establish a maximum growing area for the site? Mr. Miller said, essentially the entire site is the maximum

grow area which would just be a nursery. If you use the net area then a minimum of 50% of the net area must be nursery, and then a maximum of 30% of the net area is landscape Service. Mr. Bulkeley stated that the issue we have is that the 30% is more intense than the 50% net for nursery. We ran rough numbers and on an acre you can bull pin roughly 50 to 80 vehicles, and an acre of nursery doesn't have 50-80 vehicles.

Mark Perry-Staff stated this draft does not address this use in the AGR PUD-Preserves how do we get that discussion going again. Dr. Vinikoor stated that at this time we are not reviewing the AGR-PUD Preserve area and not policy by the Board. Jon MacGillis stated he should to contact Planning Staff and Ramsay Bulkeley to setup a meeting and discuss the AGR-PUD Preserves outside of this amendment. Dr. Vinikoor concurred, and the Subcommittee is to review what they have and it was too bad the percentages aren't resolved. Mark Perry stated that the 70%-30%, by industry was always the entire parcel. He said that on both sides there was miscommunication on the percentages. No blame on anyone.

Bradley Miller-page 2 of 10 Exhibit B, asked staff if in the AR zoning district did you take away accessory use to nursery as permitted by right based on receipts? Ms. Hernandez said she will relook at that since it appears that was overlooked in draft. The intent is not to take away any rights. The draft will be revised to include AR/RSA allowed with the 30% threshold.

Dr. Vinikoor recognized that there were four members of the public who submitted cards and were given 3 minutes to speak.

There were four speakers from the public who spoke their concerns were with the entire process of taking 3 years to draft code language, the draft code language will put some of them out of business in PBC, their industry is critical to the residents of PBC, they are located in close proximity to many of their clients shifting them into more densely populated cities will result in more issues.

- **Interest Party Mark Bakers** - Frustrated with process. Voiced his concerns and indicated the "draft" was confusing. Does not understand concerns on vehicles leaking, when it happens everywhere.
- **Interested Party Todd Grande** - Why can't lakes be counted as Nursery, we will fill in and will damn other properties. Was inquiring on page 4 of 10 of the AGR the Hours of Operation. If the hours are 5pm – 8am no work, then how is he supposed to be able to load his trucks? Staff will review and get back with Mr. Grande for clarification.
- **Interested Party Mike Glynn** – Owns 10acres in Heritage Farms for 23 years. Has been a good neighbor and participated in repairing the roads for the residential community. Feels that complaints made by new residents is what got the County's attention. Would like the soil areas to be larger, so they can use and make soil for the nursery.
- **Interested Party Brian Duffy** - Commented that he has owned his land and been in business for 20 plus years. His property is a Wholesale Nursery located just behind Red Barn. People need to be grandfathered in. Doesn't want to relocate to Broward or Martin County, wants time to work with staff to reduce size of operation and come up with new language.

Dr. Vinikoor thanked the public for coming and participating. She then turned it back to Staff and Interested Parties for final discussion.

Richard Carlson- We talked about the calculus and the fact the buildings are in that area. There is a need to look at it, take the buildings out to a common area. Then the next issue is the parking calculation 1 space/1000 Said the storage area and the employee parking area are the same, feels there is a double calculus proposed. If staff is not wed to 30%, then Mr. Miller could look at the plans. Encourages Staff to see a nursery as it is much more intense than the landscape services use. Believes that landscape service and nursery together area special hybrid use. Would like to see the history of complaints. (Someone from audience asked for complaints as well) Mr. Bulkeley stated requests can be made through public records.

James Crowley- Page 13, 2 of 10 line 17. Stated concerns on the AR district and language regarding the Arterial Collector, and the creation of non-conformities. Currently you can have the use as accessory not on an Arterial or Collector, does not believe anyone will be able to comply with that requirement.

Mark Perry- When we started the process, we proposed a new type of road. I don't believe anyone wants the business to be on an 80-100 foot road. We don't want these roads in the AGR or AR. I don't believe anyone would be happy with that. Need to apply to the real world, unique situation. Nursery was there first, and to enhance their business they incorporated the landscape service. Understand Staff concerns about wanting to restrict the size of the landscape area because of the demands put on the community because of the additional traffic, but to me 70-30 on the entire parcel. Restricting even more.

Martin Perry- Concerned with the percentages. Likes Bryan Davis had a good suggestion, 50-30-20. Dr. Vinikoor asked for clarification. 50 and 30, and the 20% is the unusable area.

Bradley Miller- Reasoning to break down from gross to net was to focus on the growing area. If you do gross area, then the lake areas get filled in. Lake can be a nursery function. Bradley says the 20% presented by Bryan Davis was the common area.

Jim Knight- We know that the use has been out there. We know that we are building more homes. Bothered with the concept that 50 people are out here, we will have 100,000's of people out here upset. We should have a land use process for these businesses, big process and expensive and will take time.

Drew Martin- I don't believe we should be rushing this, we have too many un-answer questions. No one is going to be satisfied. Not going to solve problem if we need to go back. Reduce the bad actors and make more flexible for those that are working well. More flexibility in the process.

Dr. Lori Vinikoor requested staff to provide the next step in the timeline. She would like to have more dates for the subcommittee, because the draft is not completed. If corrected

before LDRAB would be best. Jon MacGillis explained that staff is anticipating presenting the draft to LDRAB at May 22, 2019 Hearing, and have the BCC make a final decision on this. We need to agree to disagree. We will work on the percentages, and a few things that were raised today, even if we are not in full agreement. Staff will make it clear where we are in agreement or disagreement. BCC needs to make the final decision. He said staff and interested parties have been working on this draft since 2017 and we need to move it forward to LDRAB and BCC. We will work to address the issues identified at this meeting today and have any further changes incorporated into the draft for May.

Dr. Lori Vinikoor asked if she could get a motion from LDRAB members to move this forward or have another LDRAB Subcommittee Meeting. Phil Barlage stated he would make a motion to bring a DRAFT to the April LDRAB Hearing that hopefully addresses the issues raised during the meeting today and based on the Full LDRAB discussion perhaps bring the final draft back to LDRAB for a vote in May. Jon MacGillis said that is a viable option and staff could support that. A motion of 3-1 was made by Phil Barlage and second by Jim Knight. Drew Martin did not support the motion stating he felt additional subcommittee meetings were necessary to resolve outstanding issues prior to going to the Full LDRAB

The meeting adjourned at 4:42 pm