



LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
MEDICAL USES SUB-COMMITTEE

MAY 7, 2018

AGENDA

2300 NORTH JOG ROAD, KEN ROGERS HEARING ROOM VC-1W-47 – 1ST FLOOR

11:00 AM – 12:30 PM

A. CALL TO ORDER

1. Interested Parties and Staff Introductions
2. Additions, Substitutions and Deletions to Agenda
3. Motion to Adopt Agenda
4. Review of Meeting Summary from April 20, 2018 (Exhibit A)

B. PRESENTATION OF ULDC CONGREGATE LIVING FACILITY (CLF) SUPPLEMENTARY USE STANDARDS

C. REASONABLE ACCOMMODATION PROPOSED LANGUAGE (EXHIBIT B)

D. SUMMARY OF TODAY'S DISCUSSION

E. FUTURE MEETING

F. ADJOURN

EXHIBIT A



LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB) MEDICAL SUB-COMMITTEE

APRIL 20, 2018, 11:00 AM – 12:30 AM
2300 NORTH JOG ROAD, ROOM VC-1W-47
MEETING SUMMARY

A. CALL TO ORDER

Commenced at 11:00 a.m.

Dr. Vinikoor started the meeting by requesting introduction of participants as follows:

LDRAB Subcommittee Members: Philip Barlage, Frank Gulisano, Jim Knight, Drew Martin, Michael Peragine, Dr. Lori Vinikoor, and Anna Yeskey.

Interested Parties: Whitney Lehman, Florida Association of Recovery Residences (FARR); Dave Whelihan, Home Suite Home ALF; Debbie Lytle, Amazing Grace Assisted Living Home I, II III; and, Jeffrey Lynne, BMU Law.

County Staff: Bob Banks, Jon MacGillis, Maryann Kwok, Alan Seaman, Monica Cantor, Jan Rodriguez, Jehan Wallace and Vincent Ubiera.

1. Additions, Substitutions and Deletions to Agenda

None

2. Motion to Adopt Agenda

Motion to adopt the agenda by Mr. Gulisano, seconded by Mr. Peragine (7-0)

3. Review Meeting Minutes from March 29, 2018 (Attachment 1)

Motion to adopt the agenda by Mr. Gulisano, seconded by Mr. Peragine (7-0)

B. Review Proposed ULDC Code Amendments

Dr. Vinikoor noted the meeting was to address the proposed language on Reasonable Accommodation (RA) and noted that the meeting could include questions on items discussed on March 29.

Mr. Banks clarified that at a previous meeting it was discussed to split the items to address first RA and in future meetings Congregate Living Facility, Nursing Homes and Sober Homes. He presented the amendment by indicating that the amendment is for RA provisions which allow waivers for County regulations for persons within the Americans with Disabilities Act (ADA). In addition he noted that:

- This is a very narrow amendment, primarily for recovery residences as defined by Florida Statutes while other disabled persons can still seek that process;
- Persons recovering from addiction and alcoholism, if they are in treatment and not consuming drug or alcohol, are considered disabled and are protected under the ADA;
- Currently applications for RA have to go through the applicable development review process prior to being able to receive RA;
- This amendment is applicable to unlicensed small sober homes facilities seeking to increase the number of residents. The amendment is limited to 10 residents where there is not zoning approval as a Congregate Living Facility (CLF). The number of residents proposed is based on the maximum number of residents in applications already processed. That number is between Type 1 CLF which allows maximum 6 residents and Type 2 CLF which allows no more than 14 residents; and,
- The mechanism is proposed to avoid these small facilities to go through a cumbersome approval while more than 10 residents require an administrative or public hearing approval.

Subcommittee members raised questions concerning RA and the ability of surrounding communities to provide public input. Mr. Banks clarified that notice is not given to surrounding properties or residents as these establishments are not subject to notification, and under Federal Law they are treated as homes. He clarified that if a facility is subject to CLF, it will go through the administrative or public process which ever applies pending on the facility's location.

Mr. Banks noted that RA regulations are not required to be in the Code as they are Federal laws, and explained that the Code needs to clarify the process to apply for RA and provided the reason why there are some provisions already in the ULDC.

To the question pertaining to any form of registration of these facilities and location identification, Mr. Banks indicated that as condition of approval for RA, County staff has been requiring FARR certification. He noted that as part of a larger amendment that will be discussed in future meetings, staff will be looking into whether the County should require certification for recovery residences using a similar approach as the City of Fort Lauderdale. He noted the County keeps a database of CLFs in order to ensure compliance with the separation requirements applicable to small CLFs and he is not aware of any map for recovery residences. He also noted that the agency FARR may be able to indicate how they keep track of those facilities.

To the concern related to recovering residences license, Mr. Banks clarified that those facilities are not required to be licensed by the State, it is voluntary. Requiring a license would be a violation of the ADA and would be a State and Federal issue. He reminded participants that people recovering from addiction are protected by the American with Disabilities Act (ADA) and the Fair Housing Act.

Subcommittee members asked why registration and license cannot be more restrictive in the proposed amendment. Mr. Banks noted that currently there is a condition for RA to provide FARR certification and that the County could consider adding it to the Code. He noted that the proposed language stating that RA applies to recovery residences not licensed by any of the licensing entities referenced in Chapter 419 of the State Statutes, is to exclude CLFs, which are licensed by state agencies, and are subject to specific rules and regulations contained in the Code, including specific administrative or public hearing approval process.

Further discussion took place to identify alternatives for the County to request certification of the recovery residences. The purpose would be to ensure they are operating under national standards, including property inspection, background check, etc., to minimize the possibility of bad operators creating a burden in the neighborhood.

Mr. Banks also suggested to Subcommittee members to postpone this amendment if they do not want to proceed with the changes and address the issue along with CLF, Nursing Home and sober home at later time.

Interested parties had the opportunity to provide their opinion and express their experience as business operators or their involvement in the applicability of the state law.

Member of the Subcommittee suggested modifying the language to say that the particular provision sunsets in a year, which will give staff time to develop a more meaningful change to the Code.

Motion to not approve the proposed language and address later under a more comprehensive review by Mr. Martin. The motion passed (4-3) (Dr. Vinikoor, Mr. Gulisano, and Ms. Yeskey voted against)

C. Summary of Today's Discussion

The subcommittee came to the consensus that an additional meeting would be necessary in order to discuss this topic with the proposed changes prior to May 23 LDRAB meeting.

Subcommittee members requested staff to provide a presentation at the next meeting to establish the difference between CLFs and the proposed RA language.

D. Future Meeting Topics

It was noted that amendments to CLF, Nursing Home and Sober Home will be done round 2018-02.

E. Adjourn

Motion to adjourn by Mr Gulisano, seconded by Mr. Peragine, motion passed (7-0)
Meeting adjourned at 12:22.

EXHIBIT B

ART. 2.C.5.F - REASONABLE ACCOMMODATION SUMMARY OF AMENDMENTS

(Updated 05/03/18)

1
2 Part 1. ULDC Art. 2.C.5.F.2, Applicability [Related to Reasonable Accommodation] (page 52-54
3 of 105), is hereby amended as follows:
4

Reason for amendments: [Zoning]
1. In order to expedite the reasonable accommodation process required pursuant to the Fair Housing Amendments Act and Americans with Disabilities Act, applications for reasonable accommodation of facilities of 10 or less residents shall not be required to apply for the applicable development review process.
2. At LDRAB subcommittee meeting on April 20, 2018, members expressed their concerns related to the approval of recovery residences through Reasonable Accommodation through the streamlined process provided in the amendment. As a result, this amendment requires the Zoning Division to provide a status report to the BCC on the use of this Code provision. Such report is to be provided within one year from effective date of these amendments. Pending the report outcome, the County may consider ULDC amendments addressing recovery residences, drug treatment facilities and congregate living facilities.

5 CHAPTER C ADMINISTRATIVE PROCESSES

6 Section 5. Types of Application

7 F. Reasonable Accommodation

8 1. Purpose

9 The purpose of this section is to establish procedures for processing requests for Reasonable
10 Accommodation from the County's Unified Land Development Code and related rules, policies,
11 practices and procedures, for persons with disabilities as provided by the Federal Fair Housing
12 Amendments Act (42 U.S.C. 3601, et. seq.) (FHA), or Title II of the Americans with Disabilities
13 Act (42 U.S.C. Section 12131, et. seq.) (ADA). Any person who is disabled, or qualifying
14 entities, may request a Reasonable Accommodation, pursuant to the procedures set out in this
15 section. [Ord. 2011-016] [Ord. 2018-002]

16 2. Applicability

17 An applicant shall be required to apply for all applicable Development Review processes
18 available in the ULDC prior to filing a request for Reasonable Accommodation, unless
19 compliance with available Development Review processes would deprive the Applicant, or
20 persons with disabilities served by the Applicant, of an equal opportunity to use and enjoy
21 housing. A recovery residence, as defined in 397.311(37) Fla. Stat. (2017) that is not licensed
22 by one of the licensing entities referenced in Chapter 419, Fla. Stat. (2017) may request a
23 Reasonable Accommodation from the definition of Family contained in Article 1 of the ULDC,
24 from not more than 4 unrelated persons occupying a dwelling unit to not more than 10 unrelated
25 persons occupying a dwelling unit, without being required to apply for all applicable
26 Development Review processes available in the ULDC prior to filing the request. The Zoning
27 Director shall provide a status report to the Board of County Commissioners no later than one
28 year from the date after the effective date of this Ordinance on the utilization of this provision
29 regarding facilities with no more than 10 unrelated persons. [Ord. 2015-006] [Ord. 2018-002]

30 3. Notice to the Public of Availability of Accommodation

31 The County shall endeavor to provide notice to the public, advising that disabled individuals or
32 qualifying entities may request a Reasonable Accommodation. [Ord. 2011-016] [Ord. 2018-
33 002]

34 4. Application Procedures

35 The application forms and requirements for submitting a request for Reasonable
36 Accommodation shall be on forms specified by the County Administrator or designee. [Ord.
37 2011-016] [Ord. 2018-002]

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Notes:

Underlined indicates **new** text.

~~Stricken~~ indicates text to be **deleted**. ~~Stricken and italicized~~ means text to be totally or partially relocated.
If being relocated destination is noted in bolded brackets [**Relocated to:**].

Italicized indicates text to be relocated. Source is noted in bolded brackets [**Relocated from:**].

.... A series of four bolded ellipses indicates language omitted to save space.