

PALM BEACH COUNTY
LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
ELECTRIC VEHICLE CHARGING STATIONS (EVCSs) SUBCOMMITTEE
(Updated 05/03/21)

Minutes of April 12, 2021 EVCSs Subcommittee Meeting

On Monday, April 12, 2021, the Palm Beach County Land Development Regulation Advisory Board (LDRAB) Electric Vehicle Charging Stations (EVCSs) 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.

Members Present: 3

Dr. Lori Vinikoor (District 5, Commissioner Sachs)
Terrence Bailey (Florida Engineering Society)
Frank Gulisano (Realtors Association of the Palm Beaches)*

Members Absent: 1

Abraham Wien (Alternate At-Large #2)

County Staff Present: 7

Jeff Gagnon, Principal Site Planner, Zoning
Adam Mendenhall, Senior Site Planner, Zoning
Jerome Ottey, Site Planner II, Zoning
Alexander Biray, Site Planner I, Zoning
Scott A. Stone, Assistant County Attorney
Carolina Valera, Senior Planner, Planning*
Jake Leech, Environmental Analyst, OOR
Lorinda J. Goldsmith, Senior Network Administrator*

Interested Parties: 4

Mike Gibaldi (Brickell Energy)*
Emily O'Mahoney (2GHO & Associates, Inc.)*
Linda Smithe (Destination Loop)*
Evan Rosenblatt (Pebb Enterprises)*

* Present via Webex Events.

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. Bailey, seconded by Dr. Vinikoor. The Motion passed unanimously (2-0).

Mr. Gagnon indicated Staff present in person, and Mr. Biray indicated who was present via CMT.

3. Additions, Substitutions, and Deletions to Agenda

Mr. Biray and Mr. Gagnon noted the packet was reformatted to correct some page sizes to legal and fit the Use Matrix since initially distributed, but proposed amendment language had not changed.

4. Motion to Adopt Agenda

Motion to adopt the Agenda, by Mr. Bailey, seconded by Mr. Gulisano. The Motion passed unanimously (3-0).

5. Adoption of Minutes – February 4, 2021 (Exhibit A)

Motion to adopt the Minutes, by Mr. Bailey, seconded by Mr. Gulisano. The Motion passed unanimously (3-0).

B. NEW BUSINESS

1. Review of Draft ULDC Amendment (Exhibit B)

Mr. Gagnon explained the proposed amendment on a page-by page basis.

He explained a summary table indicating major talking points discussed in previous Subcommittee meetings, and comparison between Staff and Subcommittee recommendations, with differences primarily for purposes of being more legally defensible. For existing facilities undergoing substantial renovations, Staff had concluded based on consultation with the Zoning Director to utilize Conditions of Approval that may not account for all elements of existing sites. For Multifamily uses, Staff and the Subcommittee agreed upon 50 units requiring one Level 2 electric vehicle- (EV) Capable space for every 25 units. For Business and Professional Office uses, Staff differed from the Subcommittee, proposing a 10,000-square foot threshold to require one Level 2 EV-Capable space for every 5,000 square feet of floor area, as opposed to a 20,000-square foot threshold to require one fully-installed Level 2 EVCS and one additional per 5,000 square feet. For Retail Sales uses, Staff differed from the Subcommittee, proposing the same requirements as Business or Professional Office, as opposed to a 15,000-square foot threshold to require one fully-installed Level 2 EVCS and one additional per 5,000 square feet. For Retail Gas and Fuel Sales uses, Staff differed from the Subcommittee, proposing an eight-gasoline pump threshold to install two DC Fast Level 3 EV Spaces, as opposed all new ones to install at least one DC Fast Level 3 EVCS and above eight pumps to install two DC Fast Level 3 EVCS.

For amendments to Art. 1, General Provisions, Mr. Gagnon explained the definition of EVCS was relocated from Art. 4, Use Regulations for reader convenience, as well as adding the definitions, with assistance from the Office of Resilience (OOR), for EV-Capable, EV Charging Level, and EV Space. He further explained EV-Capable pertains to the infrastructure, while EV Space is fully installed, and noted as technology evolves, the definitions are subject to change.

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For Art. 4, Use Regulations, Mr. Gagnon explained EVCS Facility is being removed as a use, and merged with Retail Gas and Fuel Sales, as electric vehicle charging is providing fuel or an energy source to a vehicle. He noted text added to recognize prior approvals for Retail Gas and Fuel Sales as legal conforming. He also explained the thresholds for review for principal and collocated uses, allowing up to four EVCSs subject to Development Review Officer (DRO) approval, and greater subject to Class A Conditional Use approval. He reiterated the requirements summarized in the table provided in the Exhibit.

For Art. 6, Parking, Loading, and Circulation, Mr. Gagnon explained provisions related to Electric Vehicle Charging Parking Spaces (EVCPSs) previously proposed to be moved to Article 4, were retained, and differentiation from EVCSs, location, approval process and requirements, and design and construction standards clarified. Mr. Ottey also noted an error omitting the 50-unit threshold will be added.

a. Discussion

Mr. Gulisano expressed concern about there not being any criteria for substantial renovation, as it would be arbitrary to require new criteria to be met. Mr. Gagnon responded that existing development would be reviewed on a case-by-case basis to allow flexibility. Mr. Gulisano noted that if there is no criteria, something in the Code should be added to recognize flexibility. Mr. Gagnon responded that Staff will look into it further. Dr. Vinikoor agreed and asked if Staff could look into it by the LDRAB meeting.

Dr. Vinikoor expressed concern about the definitions of EV-Capable and EV Space, whereas EV-Capable is technically not a space, and asked when it would become live. Mr. Gagnon responded that EV-Capable is an initial step to be cost-neutral, and only applies to Business or Professional Office and Retail Sales uses. Dr. Leech added that the original intent was to reduce the cost of installation when required during development. Dr. Vinikoor asked if the space could be used when EV-Capable. Mr. Bailey noted it could be used for regular vehicles until made live. Mr. Stone noted the actual Code language would specify.

Mr. Bailey expressed concern that Staff deviated from the last meeting based on the Subcommittee requests to being less restrictive, and noted the only use requiring EVCSs being live are Retail Gas and Fuel Sales. Mr. Gagnon responded that Staff focused back on the scope of the directive of the Board of County Commissioner (BCC), but noted nothing prohibiting LDRAB from making suggestions. Mr. Stone agreed with Dr. Leech's explanation. Mr. Gagnon also noted active State Legislature Bills which may preempt Local Government from requiring EVCSs if passed and signed into Laws.

Dr. Vinikoor noted previous discussion about Hotel or Motel use requirements. Mr. Gagnon noted Staff will look into it for the LDRAB meeting.

Mr. Bailey asked if existing development trips the Florida Building Code Improvement Value thresholds would have to follow the proposed Unified Land Development Code (the "Code") requirements. Mr. Gagnon responded that tripping thresholds would create legal non-conformities, and would be subject to the Development Review Officer (DRO), an administrative Site Plan approval, while exceeding the threshold would be BCC approval. Mr. Bailey asked about substantial renovations outside of the scope of Zoning. Mr. Mendenhall noted certain square foot thresholds would require DRO approval if deviating from the Site Plan. Mr. Stone noted a sentence can be added to capture the renovations. Mr. Gulisano suggested adding a definition of renovation to capture what Staff proposes. Mr. Gagnon responded that Staff relies on the current definition of "substantial renovation," but Staff will look into how renovation relates to Building Permit review when Zoning does not see applications.

Dr. Vinikoor asked if an EVCPS is an EV Space. Mr. Bailey suggested adding reference to EVCPS in the definitions. Mr. Ottey responded that an EVCPS is for restricted access to the public for residential uses. Mr. Bailey asked if an EV Space at a clubhouse of a residential development would be considered an EVCPS. Mr. Ottey further noted the difference was previously if a fee was charged, as how it was determined could be arbitrary. Mr. Stone noted the definition for EVCPS could be moved to Article 1. Mr. Gagnon noted that Article 4 is more oriented to if an EVCS is run as a business. Mr. Stone suggested further clarification on terminology. Mr. Bailey agreed. He further asked how the distribution of spaces would be allocated between the public and restricted access. Mr. Gagnon noted there are discrepancies between which spaces would be EV-Capable and EV Spaces. Mr. Stone also noted there are discrepancies depending on an entire use is for employees only. Mr. Bailey suggested a proportional ratio. Mr. Mendenhall responded that it is reflected on Site Plans.

Mr. Stone suggested changing the name of Retail Gas and Fuel Sales to better reflect electric vehicle charging as a fuel. Mr. Bailey added a suggestion to remove "gas." Dr. Vinikoor agreed. Mr. Bailey suggested to mention it to the BCC.

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Dr. Vinkoor noted a grammatical correction to plurality for prior approvals. Mr. Stone suggested “existing approved” uses. Mr. Bailey noted “existing” would indicate built uses with a Certificate of Occupancy. He further asked about if other uses could have similar language. Mr. Gulisano suggested the text was unnecessary as prior approvals are already legally non-conforming. Mr. Stone responded that the addition grandfather the uses as legal conforming uses. Mr. Gagnon responded that it is only for Retail Gas and Fuel Sales. Mr. Bailey expressed concern that pulling tanks would only trip the 50 percent Improvement Value threshold. Mr. Mendenhall noted that it may not need to be incentivized if industry determines a market for it. Dr. Vinikoor noted the Code may change with industry trends. Dr. Vinikoor asked if Staff could look into it by the LDRAB meeting.

Mr. Stone expressed concern about collocated uses for non-residential uses specifically under Retail Gas and Fuel Sales, and suggested moving it to the bottom under the parent Subsection. Mr. Gagnon responded that Staff will look into it further. Mr. Stone also noted a typographical error to add “Sales” specific to the Retail Gas and Fuel Sales use.

Mr. Bailey asked for clarification between an EVCS structure (tower) and space, and suggested alternative language and acronyms. Mr. Stone noted it was existing language moved with existing terminology.

Mr. Bailey asked how the 25-foot requirement from gasoline pumps was derived. Mr. Mendenhall responded it was from the Fire Code, but Staff determined an extra five feet. He further expressed concern about a maximum of 50 percent of the required parking spaces. Dr. Vinikoor suggested it be EV-Capable as the market changes and suggests ten percent. Mr. Bailey suggested 20 percent, and anything greater pursuant to DRO approval. Mr. Mendenhall noted anything greater than five EVCSs would be a Class A Conditional Use approval. Mr. Gulisano noted a developer is only going to install the minimum or what the market dictates, and noted everybody is not necessarily charging their vehicles. Mr. Ottey noted the parking ratio is based on Convenience Stores. Mr. Gulisano noted that gas station make the majority of their revenue from Convenience Stores, and Mr. Bailey noted within an hour of charging that customers will spend money.

Mr. Stone noted a reference correction, and asked for clarification on deeded parking spaces. Mr. Bailey responded that condominiums and other Townhouses have deeded spaces.

2. EVCS Discussion

a. Subcommittee Members

Mr. Gulisano noted he supports requirements for Hotel or Motel and Restaurant uses. Mr. Mendenhall responded that Staff has focused on the BCC directive. Dr. Vinikoor asked that the LDRAB and BCC be informed of the Subcommittee’s suggestion. Mr. Bailey noted as the Code is periodically updated, other uses can be looked at later. Mr. Ottey and Mr. Gagnon noted there are two Amendment Rounds per year.

b. Interested Parties

Mr. Gibaldi suggested adding J1772 connectors applicable to Level 2 EVCSs, under requirements for all EVCSs. He also noted Miami-Dade County requires a minimum ten percent of parking spaces to be EV-Capable, with an increase to 20 percent next year.

Ms. Smithe expressed concern that the proposed requirements are too low, and when projects are in compliance, may be outdated. She also asked about the requirements for an EV-only charging station, including if located with a restaurant. Dr. Vinikoor asked if the use is under Retail Sales. Mr. Ottey responded Restaurants are a different use. Dr. Vinikoor noted many have a lot of parking spaces, and Staff should look into it. Mr. Gagnon responded that planned developments may be taken into consideration as opposed to standalone. Mr. Stone noted the language under the use specified “non-residential uses.” Mr. Bailey expressed concern about de-incentivizing the installation EVCSs if subject to DRO approval. Mr. Ottey responded that the uses discussed will likely require a higher approval.

Mr. Biray read into the record comments in the Webex chat log from Mr. Gibaldi reflecting his spoken comments, as well as that market forces will compel Property Owners to install EV Spaces, clarification on gated access being limited, EV Spaces should be located near entrances to incentive EV ownership and reduce CO2 emissions, and complementary free charging at establishments to encourage spending more. He also read into the record Ms. Smith’s comment agreeing that EV Spaces should be adjacent to entrances after ADA spaces.

c. Public

No public comments.

d. Staff

No further discussion.

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C. FUTURE MEETINGS/ANTICIPATED EXHIBITS

1. May 26, 2021 – LDRAB Review of Final ULDC Amendment

Dr. Vinikoor affirmed that LDRAB will review the final amendment at the May 26th meeting.

D. MEETING RECAP AND CONCLUSION

Mr. Stone noted that Staff will take into account the Subcommittee's direction at the LDRAB meeting.

E. ADJOURNMENT

The LDRAB EVCSs Subcommittee adjourned at 4:04 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) 233-5302.