



Department of Planning,

Zoning & Building

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Palm Beach County

Board of County

Commissioners

Dave Kerner, Mayor

Robert S. Weinroth, Vice Mayor

Hal R. Valeche

Gregg K. Weiss

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Melissa McKinlay

Mack Bernard

County Administrator

Verdenia C. Baker

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TO: Dave Kerner, Mayor and
Members of the Board of County Commissioners

DATE: January 10, 2020 *JPM*

FROM: Jon MacGillis, ASLA, Zoning Director

RE: **Unified Land Development Code (ULDC) Amendment - Landscape Service Update for January 27, 2020 BCC Zoning Hearing**

At the December 19, 2019 Board of County Commissioners (BCC) Zoning Hearing, the BCC discussed several issues relating to Landscape Service Code Amendment and AGR PUD Preserves. The BCC directed Staff to follow up on several issues, and, provide an update to the BCC at the January 27, 2020 Zoning Hearing:

1. Agricultural Residential (AR) in the Rural Service Area (RSA) – Prepare options on to modify or not, the ULDC for recently adopted Ordinance 2019-039 relating to acreage sizes (**Attachment 1**);
2. Property Control Number (PCN) – Clarify whether a property with more than one PCN can establish a Landscape Service use for each PCN;
3. Access requirements - Amend the ULDC requirements for access reduction to be subject to a Type 2 Waiver rather than a Type 2 Subdivision Variance for a Landscape Service that is located within the AR Zoning District. The BCC will continue discussion and provide direction to Staff regarding Agricultural Reserve (AGR) and other Zoning Districts (**Attachment 2**); and,
4. Landscape Service in the Agricultural Reserve Planned Unit Development (AGR/PUD) Preserves – Amend the ULDC to allow Landscape Service with a Nursery, but only for those businesses that exist in the AGR-PUD Preserves and comply with size limitations of 70/30 (Nursery/Landscape Service).

1. Agricultural Residential (AR) in the Rural Service Area (RSA) – BCC direction on a new Code Amendment relating to acreage sizes

At the October 24th First Reading Hearing, the BCC approved modifications of the proposed Code amendment to allow an increase in the size of the Landscape Service, in the AR/RSA, from 1 acre to 1.5 acre or a maximum of 30% of growing area (whichever is less) if the property is greater than 5 acres. The BCC at that time required it to be subject to a Class A Conditional Use.

At the November 25th Final Adoption Hearing, the BCC, at the request of the Landscape Service Industry, voted to amend the proposed code language, regarding the approval process, for the use located in the AR/RSA, from a Public Hearing Class A Conditional Use to the Administrative Full DRO for both size limitations (1 acre and 1.5 acre). The Board did not discuss modifying the acreage increase as previously agreed at the October hearing. With the modification of the process, the BCC limited the timeframe to submit an application through the lesser processes to 180 days of the effective date of Ordinance 2019-039; and, that the Applicant's submit substantial evidence of their existence prior to the effective date of the ordinance.

At the December 19th Zoning Hearing, Commissioner McKinlay requested the BCC direct Staff to revisit the adopted Ordinance related to the acreage increase for the AR/RSA to 1.5 acres or 30% whichever is less for parcels greater than 5 acres. Staff has evaluated the amendments and offers three options for the Board to consider, outlined in **Attachment A**.

2. Property Control Number (PCN) – clarify whether a property with more than 1 PCN can establish a Landscape Service use for each PCN

The BCC directed Staff to clarify an issue raised by an interested party, during public comments, as it relates to the number of PCNs a site has and if there could be multiple Landscape Service businesses based on PCNs. When an Applicant submits an application to the Zoning Division, Land Development Staff will determine if that lot is



a legal lot of record, meaning it has been legally subdivided pursuant to Article 11 of the ULDC. A legal lot of record may have one or more PCNs, or owned by different property owners. The use occupying the property is based on it being a legal lot, and not based on how many PCNs it has. Therefore, Landscape Services that are collocated with Nurseries would be allowed based on each legal lot of record and compliance with the requirements of the ULDC. For example, two contiguous legal lots of record may have their own Nursery and a Landscape Service on each lot.

3. Landscape Services -Access and Type 2 Waiver in the AR, AGR and AGR-PUD

In addition to the above acreage and approval process discussion, on December 19 BCC directed Staff to amend the ULDC regarding the approval process for deviations from the requirements of Article 11 access standards. The ULDC currently requires all commercial uses to access from a roadway with a minimum of 80-feet of right-of-way and a minimum of 29 feet of pavement unless the Zoning Commission (ZC) approves a Type 2 Subdivision Variance. The BCC's direction was to modify the process from a Type 2 Variance (reviewed by the ZC) to a Type 2 Waiver (reviewed by the BCC), for Collocated Landscape Service uses that are in the AR Zoning District should the existing or proposed access not meet the requirements of Article 11 minimum access standards. As a result of the proposed change to the process, Staff will also present a memorandum on Zoning in Progress (ZIP) for the BCC to vote on which would place a hold on all requests for Variances in the AR Zoning District pending adoption of the code. (**Attachment 2**)

The BCC requested that the discussion and direction regarding access for AGR and AGR-PUD properties be reviewed and discussed at the January 27, 2020 hearing. Staff has evaluated the request and offers options for consideration as discussed in December and described in **Attachment 2**.

4. Landscape Service in the AGR-PUD Zoning District- Preserves

The BCC's direction on December 19th was to further explore the "70/30 option," to allow a Nursery use on at least 70% of the lot, with no more than 30% of the land area used for a Landscape Service. This 70/30 concept would be applicable to existing sites that are already zoned AGR-PUD and designated Preserve, with a demonstrably established Nursery with a Landscape Service. Such uses would be subject to a Development Review Officer (DRO) approval, similar to other efforts with Nursery/Landscape Services uses. Coordination with industry to work out what would be allowed within the 70% Nursery area would be necessary. Furthermore, the BCC's direction included a 1.5-acre limitation for the area devoted to a Landscape Service, regardless of the size of the Nursery (e.g., a 10 acre AGR-PUD Preserve with a Nursery would only be allowed 1.5 acres of land for the Landscape Service, rather than 3 acres (30%)).

Staff has the following timeline options for processing the proposed amendments pending direction by the BCC:

Dates for processing amendment to Landscape Service for AGR-PUD	
Option 1 Add to the 2020-01 Round of Amendments	
BCC Zoning Hearing direction on process	January 27, 2020
Land Development Regulation Advisory Board and Land Development Regulation Commission	May 27, 2020
BCC Zoning Hearing: Request for Permission to Advertise	June 25, 2020
BCC Zoning Hearing: First Reading	July 23, 2020
BCC Zoning Hearing: Final Adoption	August 27, 2020
Option 2 Stand Alone Ordinance	
BCC Hearing approval of ZIP	January 27, 2020
Land Development Regulation Advisory Board and Land Development Regulation Commission	March 25, 2020
BCC Zoning Hearing: Request for Permission to Advertise	April 23, 2020
BCC Zoning Hearing: First Reading	May 28, 2020
BCC Zoning Hearing: Final Adoption	June 25, 2020



Should you have any questions regarding this memorandum, please contact me, Jon MacGillis, Zoning Director at 561-233-5223, Joanne Keller at 561-684-4090, or Patricia Behn at 561-233-5332.

JM/MMK/WH/bd/jk

Attachments:

Attachment 1: Options regarding AR/RSA size restrictions

Attachment 2: ZIP Memo with Ordinance and Memorandum from Land Development regarding Access

C: Patrick Rutter, Assistant County Administrator
Ramsay J. Bulkeley, PZB Executive Director
Robert P. Banks, Chief Land Use County Attorney
Scott A. Stone, Assistant County Attorney I
David Ricks, PE, County Engineer
Patricia Behn, Planning Director
Robert Santos-Alborná, Code Enforcement Director
Joanne Keller, Director of Land Development
Maryann Kwok, Deputy Director Zoning
Bryan Davis, Principal Planner, Planning Division
Wendy Hernández, Principal Site Planner Zoning Division, PZB

ATTACHMENT 1

Option 1: Do not amend the code and leave the AR/RSA language as adopted in 2019-039

h. Collocated Use

Shall be allowed only in conjunction with a Retail or Wholesale Nursery, and both uses shall be operated under the same ownership, subject to the following:

....

4) AR/RSA Zoning District

a) Shall be on a minimum of three acres; and,

b) Approval Process

A Landscape Service shall be subject to a Class A Conditional Use approval process, unless stated otherwise below.

(1) Exception

A Landscape Service may be subject to the Full DRO process if the Applicant submits an application within 180 calendar days of the effective date of Ordinance 2019-039 and provides sufficient evidence that the Landscape Service existed on the subject property prior to that date.

c) Lot size greater than or equal to 3 acres and less than or equal to 5 acres

The area(s) designated for Landscape Service (On-site Activities) shall be a maximum of 30 percent of the Growing Area or 1 acre, whichever is less.

d) Lot size greater than 5 acres

The area(s) designated for Landscape Service (On-site Activities) shall be a maximum of 30 percent of the Growing Area or 1.5 acre, whichever is less. [ORD 2019-039]

Option 2: Delete option for 1.5 acres AR/RSA, leave the 30% or 1 acre size, the approval process and process exception and timeframe for existing uses

h. Collocated Use

Shall be allowed only in conjunction with a Retail or Wholesale Nursery, and both uses shall be operated under the same ownership, subject to the following:

....

4) AR/RSA Zoning District

a) Shall be on a minimum of three acres; and,

b) *The area(s) designated for Landscape Service (On-site Activities) shall be a maximum of 30 percent of the Growing Area or 1 acre, whichever is less.*

c) Approval Process

A Landscape Service shall be subject to a Class A Conditional Use approval process, unless stated otherwise below.

(1) Exception

A Landscape Service may be subject to the Full DRO process if the Applicant submits a sufficient application within 180 calendar days of the effective date of Ordinance 2019-039 (June 2, 2020) and provides sufficient evidence that the Landscape Service existed on the subject property prior to that date.

~~c) Lot size greater than or equal to 3 acres and less than or equal to 5 acres~~

~~The area(s) designated for Landscape Service (On-site Activities) shall be a maximum of 30 percent of the Growing Area or 1 acre, whichever is less.~~

~~d) Lot size greater than 5 acres~~

~~The area(s) designated for Landscape Service (On-site Activities) shall be a maximum of 30 percent of the Growing Area or 1.5 acre, whichever is less. [ORD 2019-039]~~

Option 3: Remove the option for a site that would allow 1.5 acre Landscape Services to be allowed through the Administrative Process during the 180 days

h. Collocated Use

Shall be allowed only in conjunction with a Retail or Wholesale Nursery, and both uses shall be operated under the same ownership, subject to the following:

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4) AR/RSA Zoning District

a) Shall be on a minimum of three acres; and,

b) Approval Process

A Landscape Service shall be subject to a Class A Conditional Use approval process, unless stated otherwise below.

(1) Exception

A Landscape Service may be subject to the Full DRO process subject to the following:

(a) ~~if~~The Applicant submits a ~~n~~ sufficient application within 180 calendar days of the effective date of Ordinance 2019-039 (June 2, 2020) and provides sufficient evidence that the Landscape Service existed on the subject property prior to that date; and,

(b) **Lot size:**

The area(s) designated for Landscape Service (On-site Activities) shall be a maximum of 30 percent of the Growing Area or 1 acre, whichever is less.

c) Lot size greater than or equal to 3 acres and less than or equal to 5 acres

The area(s) designated for Landscape Service (On-site Activities) shall be a maximum of 30 percent of the Growing Area or 1 acre, whichever is less.

d) Lot size greater than 5 acres

The area(s) designated for Landscape Service (On-site Activities) shall be a maximum of 30 percent of the Growing Area or 1.5 acre, whichever is less. **[ORD 2019-039]**



ATTACHMENT 2

PALM BEACH COUNTY
INTER-OFFICE COMMUNICATION
Planning, Zoning & Building

TO: Mayor Dave Kerner and Members of the Board of County Commissioners

FROM: Jon MacGillis, ASLA *JPM*
Zoning Director

DATE: January 27, 2020

RE: Zoning In Progress (ZIP) for Type 2 Variance for Access associated with Landscape Service in the AR-Agricultural Residential Zoning District

Department of Planning,
Zoning & Building
2300 North Jog Road
West Palm Beach, FL 33411-2741
(561) 233-5000

Planning Division 233-5300
Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
Contractors Certification 233-5525
Administration Office 233-5005
Executive Office 233-5228
www.pbcgov.com/pzb

Purpose and Intent:

This memo serves to follow up on direction by the BCC to Staff at the December 19, 2020 BCC Zoning Hearing to review the possibility of establishing interim measures to address Type 2 Variance Zoning applications for access for Landscape Service. Staff is recommending that the BCC invoke a Zoning in Progress (ZIP) at the January 27, 2020 Zoning Meeting, to stop the submittal of Type 2 Variance applications for access for Landscape Service, while the Unified Land Development Code (ULDC) is amended to change the review process from a Zoning Commission Type 2 Variance to a BCC Type 2 Waiver approval process.

The ZIP would remain in effect pending the adoption of amendments to Article 2-Application Process and Procedures; Article 4.B, Supplementary Use Regulations; and Article 11 Subdivision, Platting, and Requirement Improvements in the ULDC, which will be scheduled for the March 26, 2020 BCC Zoning Hearing.

Background and Summary – ZIP/ULDC Amendments:

At the December 19, 2019, BCC Zoning Hearing, the Board directed staff to amend the ULDC to require any deviation from the access to properties that support a Landscape Service business to be processed and reviewed by the BCC as a Type 2 Waiver and not as currently processed under the Zoning Commission as a Type 2 Variance.

The proposed code amendments to the ULDC (see Attachment A) will include additional criteria under the current Type 2 Waiver Standards for access waivers. The criteria will require the BCC to consider whether the applicant has demonstrated that the waiver will or will not create a detrimental situation to the surrounding area of the subject property, and by granting the waiver will not result in an inconvenience or a safety issue to the public.

In addition, Staff is proposing to clarify that access requirements for Landscape Service (see Attachment B) in the AR Zoning District (both Rural Service Area (RSA) and Urban Service Area (USA)) is subject to a Type 2 Waiver in Article 2.B.7, Type 2 Waiver Summary Table and in the Minor Street Chart of Article 11.

■

Palm Beach County
Board of County
Commissioners

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Mary Lou Berger
Melissa McKinlay
Mack Bernard

County Administrator
Verdenia C. Baker

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Staff will also amend Article 4.B.2.C.21, Landscape Service to clarify that “minimum access shall be in accordance with Art 11.E.2.A.2. Minimum Legal Access Requirement, unless a Type 2 Waiver is granted pursuant to Art 2.B.7.D. Type 2 Waiver.”

ULDC Amendment Schedule:

January 27, 2020: BCC discussion and direction on amendment and adopting Zoning in Progress ZIP
February 26 2020: LDRAB/LDRC Meeting
February 27, 2020: BCC Hearing-Permission to Advertise for code amendments
March 26, 2020: BCC Adoption Hearing

Conclusion:

Staff recommends that the Board invoke Zoning in Progress implementing the attached provisions.

If you should have any questions regarding the proposed ZIP or any other related questions pertaining to this matter, please contact me at 561-233-5234.

Attachments: Attachment A- Zip Code Language
Attachment B- Memo from Land Development Director

c. Patrick Rutter, Assistant County Administrator
Ramsay J. Bulkeley, PZB Executive Director
Robert Banks, Chief Land Use County Attorney
Scott Stone, Assistant County Attorney
David Ricks, PE, County Engineer
Joanne Keller, Land Development Director
Maryann Kwok, Deputy Zoning Director
Wendy Hernandez, Principal Site Planner-Code
William J. Cross, Principal Site Planner-CD
Wes Blackman, LDRAB Chair and Board Members

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ATTACHMENT A
ZONING IN PROGRESS
LANDSCAPE SERVICE- ACCESS
(Updated 1/7/2020)

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2 Part 1. ULDC Art. 2.B.7.D, Type 2 Waiver (page 35-36, of 101), Supplement 27 is hereby
3 amended as follows:
4

Reason for amendments: [Land Development/Zoning] For Landscape Services that cannot comply with the access requirements in Article 11, the current Code allows the applicant to request a Type 2 Variance to modify/eliminate the requirements. The proposed amendment is to replace the Type 2 Variance with a Type 2 Waiver process as a result from the BCC's direction on the December 19, 2019 BCC Zoning Hearing on Landscape Service, specifically in the Agricultural Residential Zoning Districts (both Rural Service and Urban Service Areas). The amendment is to 1) add Access for Landscape Service to the Summary Table for Type 2 Waivers in Article 2; and 2) add an additional criterion allowing BCC to make a final decision in whether to support or deny the Waiver request.

5
6 **CHAPTER B PUBLIC HEARING PROCESSES**

7 **Section 7 Types of Applications**

8
9 **D. Type 2 Waiver**

10 **1. Purpose**

11 A Type 2 Waiver is to allow flexibility for mixed use or infill redevelopment projects, or
12 architectural design, site design or layout, where alternative solutions can be allowed, subject
13 to performance criteria or limitations. Type 2 Waivers are not intended to relieve specific
14 financial hardship nor circumvent the intent of this Code. A Type 2 Waiver may not be granted
15 if it conflicts with other Sections of this Code, or the Florida Building Code. **[Ord. 2011-016]**
16 **[Ord. 2012-027] [Ord. 2018-002]**

17 **2. Applicability**

18 Requests for Type 2 Waivers shall only be permitted where expressly stated within the ULDC
19 or indicated in the following Table. **[Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]**
20

Table 2.B.7.D – Summary of Type 2 Waivers

Urban Redevelopment Overlay (URAO)	Table 3.B.16.G, Type 1 and 2 URAO Waivers
WCRAO Expansion of Existing Non-Conforming Parking	Art. 3.B.14.B.1.a, Expansion of Existing Non-Conforming Parking
WCRAO Density Bonus Programs	Art. 3.B.14.H.2, Other Density Bonus Programs
IRO Residential Setbacks	Art. 3.B.15.F.6.e.4)a), Residential Setbacks
URA Residential Setbacks	Art. 3.B.16.E.3.a, Residential Setbacks
PDD Minimum Frontage	Art. 3.E.1.C.2.a.1)a), Type 2 Waiver – Infill Development
PDD Cul-de-sacs	Art. 3.E.1.C.2.a.5)b), Type 2 Waiver for additional percentage
AGR Tier – Parking Structure	Art. 3.F.2.A.2.d.1)a), Type 2 Waiver for Parking Structures
AGR-TMD – Block Structure	Art. 3.F.4.D.9.a, Type 2 Waiver for Block Structure
Commercial Communication Towers	Art. 4.B.9.H.5, Type 2 Waiver from Required Dimensional Criteria
Unique Structure	Art. 5.C.1.E.2, Unique Structure
Hours of Operation	Art. 5.E.5.E, Type 2 Waiver
Large Scale Commercial Development – Parking	Art. 6.A.1.D.2.c.1)d), Type 2 Waiver
Minimum Legal Access for Landscape Services for AR/RSA and AR/USA Zoning Districts	Table 11.E.2.A-2 Chart of Minor Streets
[Ord. 2018-002] [Ord. 2018-018] [Ord. 2019-005]	

21
22
23 **3. Standards for a Type 2 Waiver**

24 When considering a DO application for a Type 2 Waiver, the BCC shall utilize the Standards
25 [a-c](#) indicated below and any other standards specific to a Type 2 Waiver as contained in this
26 Code. For a Unique Structure, refer to the Standards listed in [Art. 2.B.7.D.4](#) below, and for a
27 commercial communication tower, refer to [Art. 4.B.9.H.5.d, Criteria for Granting a Type 2](#)
28 [Waiver. For Landscape Service Access Waiver, refer to Art.11.](#) A Type 2 Waiver, which fails
29 to meet any of the Standards, shall be deemed adverse to the public interest and shall not be
30 approved. **[Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]**

31 a. The Waiver does not create additional conflicts with other requirements of the ULDC, and
32 is consistent with the stated purpose and intent for the zoning district or overlay; **[Ord.**
33 **2010-022] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]**

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Notes:

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- b. The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and, [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]
c. The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties. [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]
d. For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.35.i, the BCC shall make the determination that the location of a medical marijuana dispensing facility promotes the health, safety, and welfare of the community. [Ord. 2017-028] [Ord. 2018-002]

Part 2. ULDC Art. 4.B.2.B.21, Landscape Service (page 42-43, of 199), Supplement 27 is hereby amended as follows:

Reason for amendments: [Land Development/Zoning] Requirements under this Article 4.B, Supplementary Use Regulations are prohibited from a Variance relief, unless stated otherwise. This amendment will allow a Type 2 Waiver process for those landscape services that are located in the AR/RSA if the site does not meet the minimum legal access requirements pursuant to Article 11, Chart of Minor Streets.

21. Landscape Service

a. Definition

An establishment engaged in the maintenance or installation of landscaping. [Ord. 2019-039]

b. Typical On-Site Activities

Includes administrative office; customer and employee parking; and, storage or parking of landscape vehicles, chemicals, fertilizers, landscape materials, and equipment. [Ord. 2019-039]

c. Typical Off-Site Activities

May include, but are not limited to: lawn mowing; trimming of vegetation including trees, shrubs, or hedges; irrigation; fertilizer application; leaf blowing; landscaping design; maintenance; or installation. [Ord. 2019-039]

d. Common Operations Area

A common area that is shared between the Nursery and the Landscape Service, which may include, but is not limited to: drive aisles; customer parking; and, structures that are commonly shared between the Nursery and the Landscape Service. It shall not include areas, structures, or facilities which serve solely the Landscape Service (On-Site Activities). [Ord. 2019-039]

e. Nursery Growing Area

Consists of an area(s) used solely for the propagation, cultivation, growing, storage, and staging of plants. [Ord. 2019-039]

f. Easements

The Applicant may allocate drainage or street/canal right-of-way easements to the Common Operations, Nursery, or Landscape Service Areas based on their proximity to each respective area and the purpose and scope of the easement, subject to the approval by the DRO. [Ord. 2019-039]

g. AR District in RSA

Shall be permitted subject to applicable requirements of a Home Occupation pursuant to Art. 4.B.1.E.10, Home Occupation; Art. 4.B.2.C.21.h, Collocated Use; or, as a principal use subject to the additional requirements as follows: [Ord. 2019-039]

- 1) Shall be located on a Collector or Arterial Street; and [Ord. 2019-039]
2) Shall be on a minimum of three acres. [Ord. 2019-039]

h. Collocated Use

Shall be allowed only in conjunction with a Retail or Wholesale Nursery, and both uses shall be operated under the same ownership, subject to the following: [Ord. 2019-039]

1) AGR, AP, CN, CRE, and PO Zoning Districts

a) Approval Process – Full DRO

- (1) A minimum of 50 percent of the lot area shall be Retail or Wholesale Nursery; [Ord. 2019-039]
(2) A maximum of 30 percent of the lot area or one and one-half acres, whichever is less, shall be Landscape Service (On-Site Activities); and, [Ord. 2019-039]
(3) The areas designated for Common Operations Area shall be a maximum of 20 percent of the lot area. [Ord. 2019-039]

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b) Approval Process – Class A Conditional Use, except the AGR Zoning District

- (1) A minimum of 50 percent of the lot area shall be Retail or Wholesale Nursery; [Ord. 2019-039]
(2) A maximum of 45 percent of the lot area or two acres, whichever is less, shall be Landscape Service (On-Site Activities); and, [Ord. 2019-039]
(3) The areas designated for Common Operations Area shall be a maximum of 20 percent of the lot area. [Ord. 2019-039]

2) CC or CG Zoning Districts

a) Approval Process – Full DRO

- (1) A minimum of 50 percent of the lot area shall be Retail and/or Wholesale Nursery; [Ord. 2019-039]
(2) A maximum of 30 percent of the lot area or one and one-half acres, whichever is less, shall be Landscape Service (One-Site Activities); and, [Ord. 2019-039]
(3) The area designated for Common Operations Area shall be a maximum of 20 percent of the lot area. [Ord. 2019-039]

3) IL, IG, and IND/L, COM, or IND/G Pods of a PIPD Zoning District

A Landscape Service use may be Permitted by Right when collocated with Wholesale or Retail Nursery. [Ord. 2019-039]

4) AR/RSA Zoning District

a) Shall be on a minimum of three acres; and [Ord. 2019-039]

b) Approval Process

A Landscape Service shall be subject to a Class A Conditional Use approval process, unless stated otherwise below: [Ord. 2019-039]

(1) Exception

A Landscape Service may be subject to the Full DRO process if the Applicant submits an application within 180 calendar days of the effective date of Ordinance 2019-039 and provides sufficient evidence that the Landscape Service existed on the subject property prior to that date. [Ord. 2019-039]

c) Lot Size Greater Than or Equal to Three Acres and Less Than or Equal to Five Acres

The area(s) designated for Landscape Service (On-Site Activities) shall be a maximum of 30 percent of the Growing Area or one acres, whichever is less. [Ord. 2019-039]

d) Lot Size Greater Than Five Acres

The area(s) designated for Landscape Service (One-Site Activities) shall be a maximum of 30 percent of the Growing Area or one and one-half acres, whichever is less. [Ord. 2019-039]

e) Access

Minimum access shall be in accordance with Art 11.E.2.A.2. Minimum Legal Access Requirement, unless a Type 2 Waiver is granted pursuant to Art 2.B.7.D, Type 2 Waiver.

5) AR/USA, RE, RT, RM, RS, UC, UI, CH-MUPD, CH-MXPD, NC-TND, and TMD within the U/S, Rural, or Exurban Tiers

a) Shall be on a minimum of three acres; and [Ord. 2019-039]

b) Approval Process – Class A Conditional Use

(1) The area(s) designated for Landscape Service (On-Site Activities) shall be a maximum of 30 percent of the Growing Area or one acre, whichever is less. [Ord. 2019-039]

c) Access

i) Minimum access for a Collocated Landscape Service in the AR/USA Zoning District shall be in accordance with Art 11.E.2.A.2. Minimum Legal Access Requirement, unless a Type 2 Waiver is granted pursuant to Art 2.B.7.D, Type 2 Waiver.

ii) Minimum access for a Collocated Landscape Service in the RE, RT, RM, RS, UC, UI, CH-MUPD, CH-MXPD, NC-TND, and TMD within the U/S, Rural, or Exurban Tiers Zoning Districts shall be in accordance with Art 11.E.2.A.2. Minimum Legal Access Requirement, unless a Subdivision Variance is granted pursuant to Art 2.B.7.E, Type 2 Variance.

....

Part 3. ULDC Table 11.E.2.1-2 –Chart of Minor Streets (page 36 of 45), Supplement 27 is hereby amended as follows:

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ATTACHMENT A

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LANDSCAPE SERVICE- ACCESS
(Updated 1/7/2020)**

Reason for amendments: [Land Development] Revise Chart of Minor Streets to indicate a Type 2 Waiver process is allowed for modification of the minimum legal access requirement for a Collocated Landscape Service in the AR (RSA/USA) Zoning District.

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2 **CHAPTER E REQUIRED IMPROVEMENTS**

3 **Section 2 Access and Circulation Systems**

Table 11.E.2.A-2 – Chart of Minor Streets

Classification	Minimum Width (Feet)		Maximum Allowable ADT	Allowed as Legal Access For (1)	
	Street (2)	Pavement (3)		Commercial	Residential
Non-Plan Collector (6)	80	24	13,100	X	
Marginal Access	50	24	N/A	X	X
Local Residential (4)					
Gutters	50	20	1,500		X
Swales	60	20	1,500		X
Local Commercial (6)	80	24	13,100	X	X
Residential Access					
One Sidewalk	40	20	800		X
No Sidewalk (5)	32	20	40		X
[Ord. 2014-025] [Ord. 2019-034]					
Notes:					
1.	An "X" under the Commercial or Residential column indicates the corresponding street classification is allowed as legal access.				
2.	Street width refers to standard R-O-W or private street tract width.				
3.	Pavement width represents two travel lanes of equal width and does not include the additional width of paved shoulder where required.				
4.	Allowed as legal access for any type of residential provided that the maximum allowable AD is not exceeded. Also, Streets within a rural subdivision shall be at least 60 feet wide when they are to be constructed without a wearing surface. [Ord. 2018-018]				
5.	Use is restricted to streets providing access to up to four lots. [Ord. 2014-025] [Ord. 2019-034]				
6.	<u>Landscape Services in the AR/RSA and AR/USA shall have legal access from a Local Commercial or higher classification street, unless a lesser width is granted by a Type 2 Waiver.</u>				

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26. Access Waiver for Landscape Service in AR Zoning District

The dimensional requirement pursuant to Table 11.E.2.A – 2 Chart of Minor Streets shall be allowed if Standards a-c of Art. 2.B.7.E, Type 2 Waiver and the following is met:

- a. The Waiver shall not be injurious to the area involved or otherwise detrimental to the public welfare.

Notes:

Underlined indicates **new** text. If being relocated destination is noted in bolded brackets **[Relocated to:]**

~~Stricken~~ indicates text to be **deleted**.

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.



ATTACHMENT B

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MEMORANDUM

DATE: January 8, 2020
TO: The Honorable Dave Kerner, Mayor, and the members of the Board of County Commissioners
THRU: Patrick W. Rutter, Assistant County Administrator [Signature]
THRU: David L. Ricks, P.E., County Engineer Department of Engineering and Public Works [Signature]
FROM: Joanne M. Keller, P.E., Director of Land Development Department of Engineering and Public Works [Signature]
RE: Access Approval Options for Landscape Services in the AGR and AGR-PUD Zoning Districts

At the December 19, 2019 Commission hearing, the Board unanimously agreed that the Unified Land Development Code (ULDC) shall be revised to require a Type II Waiver for access to landscape service uses in the AR Zoning District, should the existing or proposed access not meet the ULDC Article 11 minimum access standards. The Board decided that AGR and AGR-PUD Zoning Districts needed a separate discussion and asked that staff bring access options for these districts back to the next zoning public hearing.

Access standards were established for the safety of the traveling public, taking into consideration the amount and type of vehicular traffic expected. These standards are not based on adjoining properties' zoning and should not be different between AR and AGR/AGR-PUD zoning. As such, staff recommends that all commercial uses, including landscape services, be held to the same standard. Specifically, all commercial uses shall require access from a roadway with a minimum of 80-feet of right of way and a minimum of 28-feet of pavement, unless a variance from the ULDC is approved.

The following options are the same options presented for the December 19, 2019 public hearing. However, since the Board approved Option 2 below for landscape services in AR Zoning Districts, staff recommends either Option 1 or 2 for the same use in the AGR and AGR-PUD districts. Currently, all other Zoning Districts follow Option 1 below.



Zoning Commission Approval

1. Add to Article 4 that access shall be in accordance with “Commercial” legal access as shown in accordance Table 11.E.2.A-2 – Chart of Minor Streets unless a Subdivision Variance is granted by the Zoning Commission for lesser access.

This option generally exists today. One Subdivision Variance for access to a landscape services business in AGR has already been granted under these provisions already.

Board of County Commissioners Approval

2. Add to Article 4 that access shall be in accordance with “Commercial” legal access as shown in Table 11.E.2.A-2 – Chart of Minor Streets or a Type II Waiver is approved by the Board of County Commissioners for lesser access. This option requires waiver criteria to be added to Articles 2 and 11.

This option requires the highest level of decision-making and was what the Board decided for AR properties.

Code Approval

3. Add to Article 4 that “minimum access for landscape services shall be any Legal Access existing at the time of application for landscape services approval or, if no Legal Access exists, the access shall be in accordance with any street classification within Table 11.E.2.A-2 – Chart of Minor Streets provided the maximum allowable ADT is not exceeded.”

This gives Industry the most flexibility; generally allows existing access to be acceptable as-is.

County Engineer Approval

4. Add to Article 4 that access shall be in accordance with “Commercial” legal access as shown in Table 11.E.2.A-2 – Chart of Minor Streets or a Subdivision Variance will be required unless otherwise approved by the County Engineer.

This option gives the County Engineer the authority to approve lesser access.

cc: Verdenia C. Baker, County Administrator
Tanya N. McConnell, PE, Deputy County Engineer
Scott Stone, Assistant County Attorney