



PALM BEACH COUNTY

LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

NOVEMBER 14, 2018

BOARD MEMBERS

**Wesley Blackman, AICP, Chair (PBC Planning Congress)
Dr. Lori Vinikoor, Vice-Chair (District 5)**

Joanne Davis (District 1)

Drew Martin, (District 2)

Philip L. Barlage (District 3)

James Knight (District 4)

Myles Basore (District 6)

Robert J. Harvey (District 7)

Daniel J. Walesky (Gold Coast Builders Assoc.)

Anna Yeskey (Palm Beach League of Cities)

Terrence N. Bailey (Florida Engineering Society)

Xavier Salas (American Institute of Architects

Vacant (Environmental Organization)

**Frank Gulisano (Realtor's Assoc. of the Palm
Beaches)**

Derek Zeman (Fl. Surveying and Mapping Society)

**Charles Drawdy (Association Gen. Cont. of
America)**

Abraham Wein (Member at Large/Alternate)

Winifred Park Said (Member at Large/Alternate)

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David Kerner
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County Administrator

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**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
LAND DEVELOPMENT REGULATIONS COMMISSION (LDRC)**

**WEDNESDAY, NOVEMBER 14, 2018 AGENDA
2300 NORTH JOG ROAD
ROOM V-C-1E 60, VISTA CENTER
2:00 P.M.**

A. CALL TO ORDER/CONVENE AS LDRAB

1. Roll Call
2. Additions, Substitutions and Deletions
3. Motion to Adopt Agenda
4. Adoption of October 24, 2018 Minutes (Exhibit A)
5. Public Comments – Any persons wanting to speak on an item shall complete and submit a comment card to the Secretary prior to the item being discussed.

B. ULDC AMENDMENTS-NEW

PAGES

1. Exhibit B Article 4 - Adult Entertainment and Place of Worship

1 - 2

C. ULDC AMENDMENTS-REVISIONS AFTER 10/24 LDRAB

1. EXHIBIT C ARTICLE 7 – LANDSCAPING

3 - 12

D. CONVENE AS LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

1. Proof of Publication
2. Consistency Determination - See Exhibits B and C listed above.

13 - 13

E. ADJOURN AS LDRC AND RECONVENE AS LDRAB

F. PRIVATELY INITIATED AMENDMENTS

1. Exhibit D PIA-2018-2043 Renewable Energy Solar Facilities

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G. STAFF COMMENTS

H. BOARD MEMBER COMMENTS

I. ADJOURN

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EXHIBIT A

**PALM BEACH COUNTY
LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
LAND DEVELOPMENT REGULATION COMMISSION**

(Updated 10/12/18)

Minutes of October 24, 2018 LDRAB Meeting

On Wednesday, October 24, 2018, the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the Ken Rogers Hearing Room, (VC-1W-47), at 2300 North Jog Road, West Palm Beach, Florida.

A. Call to Order/Convene as LDRAB

1. Roll Call

Chair, Wes Blackman, called the meeting to order at 2:00 p.m. Zona Case, Code Revision Secretary, called the roll.

Members Present: 15	Members Absent: 2
Wesley Blackman (PBC Planning Congress)	James Knight (District 4)
Joanne Davis (District 1)**	Xavier Salas, (AIA)
Drew Martin (District 2)*	
Philip Barlage (District 3)	Vacancies: 1
Lori Vinikoor (District 5)	Environmental Organization
Myles Basore (District 6)	
Robert J. Harvey District 7)	County Staff Present:
Frank Gulisano, (Realtor's Assoc. of the Palm Beaches)	Jon MacGillis , Zoning Director
Terrence Bailey,(Fl. Engineering Society)	Wendy Hernandez, Zoning Manager
Derek Zeman (Fl. Surveying & Mapping)	Jan Rodriguez, Senior Site Planner
Daniel Walesky (Gold Coast Bld. Assoc.)**	Leonard Berger , County Attorney
Anna Yeskey, (League of Cities)	Scott Rodriguez, Senior Site Planner
Charles Drawdy (Assoc. Gen. Contractors of America	Zona Case, Zoning Technician, Zoning
Abraham Wien, (Member at Large, Alt. 1)	*Daniel Walesky and **Drew Martin arrived
Winifred Park Said (Member at Large, Alt. 2)	Immediately after roll call

2. Additions, Substitutions, and Deletions

Mr. Blackman noted the distribution of an add/delete sheet and Ms. Hernandez asked that the motion to adopt the agenda include:

- Correction of the September 26, 2018 Minutes by removing Mr. Eric McClellan from the list of attendees as he did not attend the Meeting.
- Correct spelling of drive-thru to "drive through" in Exhibits D and G to be correct and consistent.
- The Chair drew attention to those who missed the motion passed at the last meeting regarding the procedure to be followed when members wish to discuss a substantive matter that is not on the agenda. The procedure would be to introduce the topic under this section as an amendment to the agenda, to allow the Board to vote on including the topic in the agenda. Mr. Blackman emphasized the importance of adhering to the policy

3. Motion to Adopt Agenda

Motion to adopt the agenda including the add delete sheet, the corrections in the September 26, 2018 Minutes and the spelling error mentioned in Exhibits D and G, by Mr. Gulisano, seconded by Dr. Vinikoor. Motion passed (14-0).

4. Adoption of September 26, 2018 Minutes (Exhibit A)

Motion to adopt the Minutes by Dr. Vinikoor, seconded by Mr. Gulisano. Motion passed. (14-0).

5. Public Comments

There were no public comments

B. ULDC AMENDMENTS - NEW

1. Article 2 - Resubmittal

Ms. Hernandez explained that the amendment to the administrative processes is providing an additional opportunity for applicants to provide new documentation on resubmittal date.

Motion to adopt by Dr. Vinikoor, seconded by Mr. Barlage. Motion passed (14-0).

2. Exhibit C –Green Market, Community Vegetable Garden and Landscaping

Ms. Hernandez explained that part 1 of the Exhibit amends Articles 3 and 4 and relates to Community Vegetable Garden in the WCRAO. The intent of the amendments is to:

- o correct scriveners errors and numbering;

EXHIBIT A

PALM BEACH COUNTY LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB) LAND DEVELOPMENT REGULATION COMMISSION

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- clarify that all accessory structures in the WCRAO sub-areas shall be subject to Art. 5 regulations unless stated otherwise in art. 3.B.14.G;
- exempt prohibited materials for fences and walls from WCRAO supplementary standards, and allow chain link fence as a landscape barrier when the site abuts a parcel with a residential use or FLU, creating an open area for residents who are growers.
- exempt from WCRAO form base code regulations, permitted structures accessory to Community Vegetable Garden and Green Market and allow default to Property Development Regulations of the zoning district and Art. 5, Supplementary Standards.

Ms. Joanne Davis joined the meeting at 2:10 p.m.

Ms. Hernandez introduced Mr. Josh Nichols, Consultant for the WCRAO who explained that the amendments originated from a recently approved Community Garden, and looking at past amendments, the desire is to clean up the code to allow elimination of some buffers and some existing fences. He said there is no objection from neighbors, and the main intent is to facilitate future Green Markets and Community Vegetable Gardens in Westgate and the CCRT areas.

Ms. Hernandez continued explanation of Part 2 of the Exhibit which:

- Deletes restrictive hours of operation for Green Market as an accessory use to a Community Vegetable Garden offering residents more flexible hours, in keeping with the intent of a Green Market. The change will allow the hours of operation to default to Code, where the hours are 6 a.m. to 11.00 p.m., 7 days a week, if the Commercial use is within 250 feet of residential zoning.
- Clarifies size limitation for accessory uses and structures. The method of calculation in Art. 5 determines the maximum size for an accessory structure to be 30% of the principal use and structure. A Community Vegetable Garden does not have a structure, and revision is necessary to determine size based on growing area.
- Addresses a standard for screening: where a Green Market use is permitted as accessory to a Community Garden, is adjacent to a residential FLU designated parcel or use; and is compliant with the incompatibility buffer requirements of Art. 7, additional screening would not be required.
- Exempt the Community Garden use when located in the WCRAO or CCRT Areas from requirements of Article 7, unless otherwise stated in Article 4.B.6.C. Traditional landscape buffering in Article 7, is incompatible with the public nature of a Community Garden as it would inhibit views into the site and reduce the food production area.

A discussion on the hours of operation followed and members made suggestions on what they considered more suitable hours for this type of operation. It was decided to retain the current hours of 7:00 a.m. to 7:00 p.m., but change to allow for 7 days a week. Mr. Bailey and Mr. Walesky voiced concerns on this limitation. Mr. MacGillis added that the hours apply to the Green Market only.

Motion to approve to retain the current codified hours by Mr. Martin, seconded by Mr. Drawdy. The Motion passed (14-1). Mr. Walesky voted nay.

3. Exhibit D - Financial Institution

Ms. Hernandez explained that the amendment is to correct an inadvertent omission of CL FLU when Financial Institutions were permitted by right in a Multiple Use Planned Development (MUPD) with a Commercial Low (CL) Future Land Use Designation.

Motion to approve by Dr. Vinikoor, seconded by Mr. Zeman. Motion passed (15-0).

4. Exhibit E – Homeless Resource Center

Ms. Hernandez clarified that lines 22 and 27 corrects reference to a number which was changed due to a PPM update.

Motion to approve by Mr. Gulisano, seconded by Mr. Martin. Motion passed (15-0).

5. Exhibit F - Mobile Retail Sales

Ms. Hernandez clarified that the amendment is to delete the reference to Special Permit, as the process was changed to DRO Zoning Agency Review (ZAR) process.

Motion to approve by Mr. Martin, seconded by Dr. Vinikoor. Motion passed (15-0).

EXHIBIT A

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6. Exhibit G - Article 6, Parking

Ms. Hernandez indicated that this is Phase 1 of an amendment process for Article 6, Parking, analysis is ongoing, and further amendments will be brought to the Board. She noted that added language on page 12, clarifies that non-residential uses in a PDD may apply the standards in Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements, based on the use or the minimum/maximum parking standards, or a combination of both. She added that the Use Regulations Project and subsequent research with several municipalities and agencies have identified the need for amendments to reflect current parking and loading demands by looking at more recent studies and consulting with industry.

Ms. Hernandez did a page by page summary of the topics highlighting the following:

- Reduced parking requirements for CLF based on recent studies and research with many municipalities, resulting in changes which are in agreement with several agencies.
- Consistency in the calculation of office space parking.
- Based on the Use Regulations Project and research, consolidation of similar uses for consistency, deletion of duplicative uses and addition where necessary.
- As indicated on the add/delete sheet, Table 6.A.1.B – Minimum Off-Street Parking and Loading Requirements, Government Services also include Government Facilities.
- Modify spaces for consistency related to over-parking; Offsite parking calculation - coordination with Attorneys offices and Code Enforcement re vehicle parking.
- Clarify parking requirements versus queuing standards.
- No need to limit number of parked vehicles on residential parcels as there have been no issues to warrant limitation, and include parking marine vessels outdoor in residential districts when the applicant meets certain requirements.
- Modify the relative Tables and notes in Art. 6.A.1.B, related to the amendments.

Mr. Blackman expressed the view that there is not enough distinction between medical office and office, and Mr. Gulisano also expressed that there are insufficient spaces for medical offices. Ms. Hernandez indicated that this will be looked at during further analysis.

Mr. Wien suggested looking at alternatives, such as valet parking at medical offices and Mr. MacGillis responded that there are provisions for shared parking studies. Ms. Davis asked what happens to over-parked area and Ms. Hernandez replied that application may be made to increase or decrease parking spaces, using the right process.

Motion to approve by Ms. Davis, seconded by Mr. Knight. Motion passed (15 – 0).

7. Exhibit H, CLR Future Land Use and Residential [Codification of Ord. 2017-036].

Ms. Hernandez explained the amendments in the Exhibit were mainly for consistency with the Comprehensive Plan Ordinances which were adopted by the BCC:

- Ordinance 2017-036 – Established Congregate Living Residential (CLR) Future Land Use and defines residential and medical uses, and updates residential policies and provisions. The CLR, codified as a new acronym, is intended to facilitate the review of Type 3 Congregate Living Facilities which may require Future Land Use amendments to increase residential density and establish criteria to comply with the intent of a CLR.
- Ordinance 2015-044 - Minimum and maximum density were also removed from the Comprehensive Plan.
- Ordinance 2016-041 - Comprehensive Plan was amended to add the Western Communities Residential (WCR) Future Land Use Designation. The Unified Land Development Code was revised at the same time through Ordinance 2017-011.

Code changes resulting from Plan changes are:

- Removal of Type 2 Waiver for the Glades Area Overlay as minimum density was removed.
- Changes to Articles 2 and 3 in the Glades Area, Infill Redevelopment Overlays, and the Property Development Regulations for Standard Zoning Districts, Planned Development Districts and Mobile Home Planned Development Districts. The reference to FLUE Table III.C.1, is being removed as it was deleted.
- Art. 4.B.1.A, Residential Use Matrix is being amended to describe requirements for CLR.,
- Workforce Housing and Affordable Housing Programs - text deleted and added related to density.
- A typo was noted on Page 38, line 25 - the word “in” was repeated.

EXHIBIT A

**PALM BEACH COUNTY
LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
LAND DEVELOPMENT REGULATION COMMISSION**

(Updated 10/12/18)

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Motion to approve by Dr. Vinikoor, including add delete and correction of typo, seconded by Mr. Barlage. Motion passed (15-0).

8. Exhibit I, Residential in MUPD]

Ms. Hernandez said that initially this was a PIA which was presented to the Board in July, staff recommended inclusion in the 2018-02 Round, and it is now brought back to LDRAB as staff initiated. Planning Ordinance 2017-004 incorporated residential uses into the MUPD zoning district, changes were done to the Economic Development Overlay, and language in RH was clarified. The amendment is to codify the incorporation of Residential Uses related to Multiple and Mixed Use Zoning Districts, to indicate that an applicant would be allowed to submit a Preliminary Master Plan for a MUPD and MXPD that utilizes more than one FLU designation - location of uses and property development regulations.

Other code amendments as it relates to policy changes by Planning Ord. 2017-004 are:

- o Modify the FAR, Density and Use Standards for a Planned Development District to allow for both non-residential and residential uses when there is a non-residential FLU and underlying residential FLU.
- o Clarify how to apply property development regulations and uses with the use of a Preliminary Master Plan, when there are two non-residential FLU designations.
- o Modify Design Objectives to require strong pedestrian circulations systems in Planned Development Districts with both residential and non-residential uses through design and building placement connected to a common public space or usable open spaces.
- o Multiple Use Planned Development (MUPD - Allow for both residential and non-residential uses within a project that is designed to foster compatibility within and adjacent to the project.
- o Incompatibility Buffer along the property lines in any area of a MUPD, where mixed and non-residential uses are adjacent to a residential use or undeveloped land with a residential FLU.
- o In addition to the requirements of Article 5.F Parks and Recreation for residential use, a minimum of five percent (5%) of the total development area shall be usable, open space.
- o Exception for bay door orientation for residential within a MUPD, provided there is setback and screening.

Motion to approve by Dr. Vinikoor, seconded by Mr. Gulisano. Motion passed (15-0).

C. ULDC AMENDMENTS – REVISIONS AFTER 9/26/18 LDRAB

10. Exhibit J, Art. Real Estate Sales Model and Management Office

Clean up on page 52 - correction discussed at 9/26/18 LDRAB meeting and correct reference on page 57.

11. Exhibit K – Art. .5 – Mechanical Equipment

Delete reference for Type 1 Waiver in Art. 2 as well as the cross reference on page 67.

Motion to accept corrections by Ms. Davis, seconded by Mr. Gulisano. The motion passed (15-0).

E. CONVENE AS LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

1. Proof of Publication

The Chair acknowledged the Proof of Publication.

Motion to accept Proof of Publication by Ms. Vinikoor, seconded by Ms. Joanne Davis. Motion passed (15 – 0).

2. Consistency

The Chair acknowledged receipt of Consistency Determination from the Planning Division and Mr. Rodriguez confirmed the amendments to Exhibits B through I approved at the meeting, and the changes to Exhibits J and K were consistent with the Comprehensive Plan.

Motion to accept Planning Department Consistency Determination by Ms. Vinikoor, seconded by Mr. Barlage. Motion passed (15 – 0).

E. ADJOURN AS LDRC AND RECONVENE AS LDRAB

F. STAFF COMMENTS

EXHIBIT A

PALM BEACH COUNTY LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB) LAND DEVELOPMENT REGULATION COMMISSION

(Updated 10/12/18)

Minutes of October 24, 2018 LDRAB Meeting

1. Article 2.G- Decision Making Bodies- General Provisions and Appointed Bodies- Land Development Regulation Advisory Board – Rules of Procedure

Ms. Hernandez said the discussion on Decision Making Bodies at the September 26 Meeting was postponed and this section from Article 2 of the ULDC is provided as requested.

Mr. Burger highlighted some of the regulations and stressed that it is important for the Board to be mindful of the Power and Duties, and the topics reviewed by other advisory boards. He expressed that five or six Rules of Debate were created in case they are needed, but this LDRAB is a well working collegiate Board.

Mr. Martin inquired if there is any way for the Board to assist in climate change and Mr. Berger responded that there are other agencies that do that. Mr. Blackman suggested that ideas on that topic could be looked at by the staff for their consideration before presenting to the Board.

Mr. MacGillis informed the Board that the Landscape Service subcommittee is to meet in November. Zoning staff will consult with Delray and Boynton Beach in relation to the Medical Institutions Meeting and seek direction from the County Administrator. Ms. Hernandez reminded members that there will be an LDRAB/LDRC meeting on November 14, 2018.

2. 2018 Attendance and 2019 Reappointments

Mr. MacGillis noted that the Attendance Matrix was also provided indicating re-appointment dates for members.

G. ADJOURN

The Land Development Regulation Advisory Board meeting adjourned at 3:00 p.m.

Recorded tapes of all LDRAB meeting 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) 233-5566.

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EXHIBIT B

ARTICLE 4 – USE REGULATIONS [RELATED TO ADULT ENTERTAINMENT AND PLACE OF WORSHIP] SUMMARY OF AMENDMENTS

CR-2018-055
(Updated 10/2/2018)

1 Part 1. ULDC Art. 4.B.2.C.1.e, Review and Approval Process [Related to Adult Entertainment]
2 (page 31 of 208, Supplement 24), is hereby amended as follows:

Reason for amendments: [Zoning]

1. In 2017 the BCC made comprehensive Code amendments to change the approval process for an Adult Entertainment from Special Permit to DRO. At the time, the County Attorney's office recommended amending the Code to address 1st amendment issues and remove thresholds that could make this use subject to Board of County Commissioners (BCC) approval.

This amendment deletes any possible need for this use to be subject to the BCC approval as there are sections in the Code that require uses that exceed a maximum square footage in certain zoning districts to be subject to BCC approval.

3 CHAPTER B USE CLASSIFICATION

4 Section 2 Commercial Uses

5 C. Definitions and Supplementary Use Standards for Specific Uses

6 1. Adult Entertainment

7 a. Establishment

8 Any adult arcade, adult theater, adult bookstore/adult video store, adult motel, or adult
9 dancing establishment; or any establishment or business operated for commercial gain
10 where any employee, operator or owner exposes his/her specified anatomical area for
11 viewing by patrons, including but not limited to: massage establishments whether or not
12 licensed pursuant to F.S. 480, tanning salon, modeling studio, or lingerie studio. The
13 following definitions and Supplementary Use Standards shall apply to all Adult
14 Entertainment establishments:

15 b. Definitions

16

17 c. Exclusions

18 Excluded from this definition are any educational institutions where the exposure of the
19 specified anatomical area is associated with a curriculum or program.

20 d. License per Palm Beach County Adult Entertainment Code

- 21 1) An establishment that possesses an Adult Entertainment license as indicated in Art.
22 4.B.2.C.1.n.1).c), is presumed to be an Adult Entertainment establishment.
23 2) An Adult Entertainment use approved by the DRO, after March 2, 2017, shall hold a
24 valid Adult Entertainment License pursuant to the "Adult Entertainment Code", Chapter
25 17, Article V of the Palm Beach County Code, as may be amended, prior to issuance
26 of a Business Tax Receipt.

27 e. Review and Approval Process

- 28 1) Applications for new Adult Entertainment establishment or legal nonconforming
29 establishments exceeding the thresholds in Art. 1.F, Nonconformities, shall be subject
30 to DRO approval.
31 2) An Adult Entertainment establishment shall be exempt from the requirements under
32 Development Thresholds in Art. 4, Use Regulations or any thresholds in this Code that
33 require the use to be subject to a Conditional Use approval.
34 3) The Zoning Director shall determine what DRO agencies shall review the application,
35 including but not limited to the Building Division, Fire Department and Zoning Division.
36 DRO shall approve, approve with conditions, or deny the application within 21 days of
37 a determination of application sufficiency as contained in Art. 2.B.2, Sufficiency
38 Review.

39 f. Conditions

40 The Zoning Director shall take into consideration DRO Agency recommended conditions
41 that clearly implement their specific Agency Code provisions.

42 g. Relief from a Decision

43 A Person seeking a DRO approval or a Person holding a previously approved Special
44 Permit or an Adult Entertainment Establishment License, has the right to immediately seek
45 relief from a denial of application sufficiency for a DRO, denial of a DRO application, or
46 revocation or suspension of a Special Permit or DRO approval, as applicable, to the Circuit
47 Court in the Fifteenth Judicial Circuit of the State of Florida.

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Notes:

Underlined indicates **new** text.

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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.

EXHIBIT B

ARTICLE 4 – USE REGULATIONS [RELATED TO ADULT ENTERTAINMENT AND PLACE OF WORSHIP] SUMMARY OF AMENDMENTS

CR-2018-055
(Updated 10/2/2018)

1
2 Part 2. ULDC Art. 4.B.4.C.13.d, Development Thresholds, [Related to Place of Worship] (page
3 79 of 208, Supplement 24), is hereby amended as follows:

Reason for amendments: [Zoning]

1. Place of Worship use approval was amended through Ord. 2017-007 for consistency with the Religious Land Use and Institutionalized Persons Act (RLUIPA). Such provisions do not allow implementing land use regulations that treat religious assembly less than equal to non-religious assembly or institution. As a result, the County Attorney's office recommended amending the Code to address 1st amendment issues concerning existing Code public hearing review process and the approval of the use was changed from Conditional use to DRO.

Currently the Code only exempts the use from Art. 4.A.9, Development Thresholds. This amendment expands the exemptions for Place of Worship from becoming subject to Conditional Use approval from provisions contained in other sections of the Code.

4 **CHAPTER B USE CLASSIFICATION**

5 **Section 4 Institutional, Public and Civic Uses**

6 **C. Definitions and Supplementary Use Standards for Specific Uses**

7 **13. Place of Worship**

8 **a. Definition**

9 An establishment which may include a retreat, convent or other similar use, owned or
10 operated by a tax-exempt religious group that is used periodically, primarily or exclusively
11 for religious worship, activities or related services.

12 **b. Existing Approvals**

13 Applicants may seek abandonment of the existing Place of Worship approval and apply for
14 DRO Approval at any time. Prior approvals may be continued to be utilized or modified
15 subject to the limitations in Art. 2.C.5.B, Administrative Modifications to Prior DOs. A DO
16 exceeding the above thresholds shall be subject to a Development Order Abandonment
17 (ABN) and a concurrent request for a DRO Approval.

18 **c. Location**

19 A Place of Worship shall be prohibited unless in compliance with one of the following:

- 20 1) A Place of Worship greater than or equal to 15,000 square feet, including accessory
21 uses, shall have frontage on and access from an Arterial or Collector Street.
22 2) A Place of Worship greater than or equal to 5,000 square feet and less than 15,000
23 square feet, including accessory uses, shall have frontage on and access from an
24 Arterial, Collector or Local Commercial Street.
25 3) A Place of Worship less than 5,000 square feet, including accessory uses, may have
26 frontage on and access from a Local Residential Street.

27 **d. Development Thresholds**

28 A Place of Worship shall be exempt from the requirements under Development Thresholds
29 in Art. 4, Use Regulations or any thresholds in this Code that require the use to be subject
30 to a Conditional Use approval.

31 **e. Limited Temporary Sales**

32 Temporary sales, such as rummage, or bake sales, shall be Permitted by Right as an
33 accessory use to a Place of Worship for a period of up to three consecutive days, limited
34 to four times a year.

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EXHIBIT C

ARTICLE 7, LANDSCAPING CR-2018-030, CR-2018-047, CR-2018-035 (Updated 11/06/18)

Part 1. ULDC Art. 7.B.4, Landscaping, Applicability and Approval Process, Type I Waiver for Landscaping (pages 12-13 of 53, Supplement 24), is hereby amended as follows:

Reason for amendments: [Zoning]
<u>1. The purpose of this amendment is to remove overhead power lines from the Type 1 Waiver table as the Code is being modified to allow changes to the minimum sizes of trees, palms and pines within proximity of overhead power lines, as described in FP&L's publication "Right Tree, Right Place," as amended, to be done administratively by right.</u>

CHAPTER B APPLICABILITY AND APPROVAL PROCESS

.....

Section 4 Type 1 Waiver for Landscaping

An Applicant may seek minor modifications to the requirements of this Article that are identified in Table 7.B.4.A, Type 1 Waivers for Landscaping. Any requirements that are not listed herein may be eligible to be modified through other applicable processes pursuant to Art. 2, Application Processes and Procedures. The Applicant shall demonstrate in the Justification Statement and provide supporting documents that Art. 2.C.5.E.3, Standards for Type 1 Waiver, and the applicable Criteria in the following Table have been met. **[Ord. 2007-001] [Ord. 2016-042] [Ord. 2018-002]**

A. Applicability

Type 1 Waiver for Landscaping shall not be combined with other Variance requests for the same requirements. **[Ord. 2018-002]**

Table 7.B.4.A –Type 1 Waivers for Landscaping - Continued

Article/Table Reference and Title	Maximum Waiver	Criteria
.....		
Landscape Islands and Parking Structures - Continued		
Art. 7.C.4.F, Parking Structures	Allow perimeter planter requirement be altered if the planters are in conflict with the architectural design of the parking structure.	<ul style="list-style-type: none"> The Applicant is required to submit architectural elevations of the parking structure for Staff review and evaluation. The required planting for the planters shall be relocated to other areas of the same property where the parking structure is located.
Art. 7.C.5.A.1, Underground or Overhead Easement - Relocation of Trees [Ord. 2018-018]	Allow required trees to be relocated on the same site. [Ord. 2018-018]	<ul style="list-style-type: none"> There is no reduction in the total quantity of the required trees; [Ord. 2018-018] A maximum of ten percent of the required trees within the same buffer may be relocated; and, [Ord. 2018-018] The Applicant shall identify on the Alternative Landscape Plan the new location of the tree(s) and whether root barrier will be utilized for the tree. [Ord. 2018-018]
Art. 7.C.5.B, Easements in Off-Street Parking - Existing Utilities [Ord. 2018-018]	Allow existing easements to overlap the landscape islands [Ord. 2018-018]	<ul style="list-style-type: none"> The Applicant shall provide documentation from the Utility easement holder that the easement(s) are recorded, and are not subject to a change in the location; [Ord. 2018-018] The Applicant may utilize a small tree or a palm to satisfy the canopy tree requirement. If the minimum separation between the tree and the utilities cannot be met, the required tree in the island may be relocated within the same site; [Ord. 2018-018] The minimum percentage of Canopy tree pursuant to Table 7.C.4.A, may be reduced to 50 percent and palms may be increased up to 50 percent, and, [Ord. 2018-018] The Applicant shall identify on the Alternative Landscape Plan the new location of the tree(s) and whether root barrier will be utilized for the tree. [Ord. 2018-018]
[Ord. 2005-002] [Ord. 2012-027] [Ord. 2014-025] [Ord. 2015-031] [2016-016] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2018-018]		

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EXHIBIT C

ARTICLE 7, LANDSCAPING

CR-2018-030, CR-2018-047, [CR-2018-035](#)

(Updated 11/06/18)

1 **Part 2. ULDC Art. 7.B.5, Landscaping, Applicability and Approval Process, Tree Removal and**
2 **Replacement (pages 13 of 53, Supplement 24), is hereby amended as follows:**

Reason for amendments: [Zoning]
1. Codify certain parts of the PPM ZO-O-061, Violation for Illegal Tree related to the existing processes for the legal and illegal tree removal. There are 2 parts in this PPM, the first part establishes the Tree Removal Approval Process providing both Staff and Applicant the application submittal requirements, and the process procedures. Part 2 of the PPM refers to how to process violations and application of fines for any illegal tree removal. Staff creates a new section (Section 5) to address the Tree Removal and Replacement process.
2. Clarify the word "Tree" will include trees, palms or pines. Also clarify that these trees, palms or pines are required to be planted on a subject property per Article 7, Landscaping or per Condition(s) of Approval through a Development Order (DO). Therefore, illegal removal of these trees, palms or pines are a violation to either the Code or the DO.

3 4 **CHAPTER B APPLICABILITY AND APPROVAL PROCESS**

5

6 **Section 5 Tree Removal and Replacement**

7 Trees, palms or pines that are required to be planted on a property per Code requirements or through a
8 Condition(s) of Approval shall not be removed without first applying for and being issued a Tree Removal
9 and Replacement Permit. Removal of trees, palms or pines without a valid permit shall be considered a
10 violation of the Code or the DO. For the purpose of this Section, the term tree(s) shall include trees, palm(s)
11 or pine(s).

12 **A. Approval Process**

13 An Applicant may request the removal of existing trees by submitting an application to the Zoning
14 Division, and subject to the following procedures:

15 **1. Pre-Application Site Meeting**

16 Prior to the submittal of an application, the Applicant shall schedule an on-site meeting with
17 staff of the Permit/Landscape Review Section of the Zoning Division to discuss and inspect the
18 trees that are proposed to be removed. Staff shall determine whether the trees are eligible for
19 removal based on the standards listed below. If the trees are eligible for removal, the Applicant
20 shall be provided by Staff a Tree Removal and Replacement Application to be completed for
21 submittal.

22 **2. Application Submittal Requirements**

23 The Applicant shall submit the application to the Permit/Landscape Review Section. The
24 application shall include a Justification Statement providing the reason for the proposed
25 removal of the vegetation. The Applicant shall also submit either a Final Site, Subdivision or
26 Regulating Plan or a Survey of the subject property. The Applicant shall identify the following:
27 specie, size and location of the trees to be removed, and the required replacement of the trees
28 and their proposed specie, size and location.

29 **3. Application Review and Final Decision**

30 Staff shall review the application utilizing the Standards for Removal, that are listed below to
31 consider whether to approve or deny the request. A Tree Removal and Replacement Permit
32 shall be issued upon the approval of the application. The DRO may approve, approve with a
33 Condition of Approval, or deny the request.

34 **4. Standards for Removal and Replacement**

35 In reviewing an application for Tree Removal and Replacement, staff shall consider the
36 following standards to determine whether the removal permit is granted:.

- 37 a. The Applicant's justification for the removal;
- 38 b. The site condition of the area where the existing tree is located, and whether the location
39 has easement overlap [or proximity of the tree to the overhead electric utilities](#);
- 40 c. The health condition of the tree; or,
- 41 d. Any valid safety concerns that may arise if the removal of the tree is not allowed.

42 **B. Replacement**

43 All replacement of trees, shrubs, landscape barrier and ground treatment shall be in compliance
44 with Art. 7.E.3.B, Replacement.

45 **C. Timeline**

46 Staff shall indicate the timeline of removal and replacement of the tree on the Permit to ensure the
47 replacement of the tree is done in accordance with the approval. The Permit is valid for six months
48 from the date of issuance. Failure to comply with the Permit requirements which include the
49 established dates or any imposed Conditions of Approval shall result in enforcement action by PZB.

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EXHIBIT C

ARTICLE 7, LANDSCAPING

CR-2018-030, CR-2018-047, CR-2018-035

(Updated 11/06/18)

D. Inspection

The Applicant shall contact staff when the trees are removed, and staff shall schedule a site inspection to confirm that the trees have been removed, and that any required replacement of trees have been installed in conformance with the Permit.

Part 3. ULDC Art. 7.C.5, Landscaping, Landscape Buffer and Interior Landscaping Requirements, Easements in Landscape Buffers and Off-Street Parking Areas (page 31 of 53, Supplement 24), is hereby amended as follows:

Reason for amendments: [Zoning]
<u>1. To modify the language relating to vegetation within or abutting easements with overhead utilities. Although the Code has references on the FP&L's publication "Right Tree, Right Place," as amended, however, the proposed addition of the Code requirements will further clarify minimum setbacks for vegetation that is planted adjacent to overhead utility lines.</u>
<u>2.4. Remove the reference to the Figure as the figure is pointed to a general situation showing a fire hydrant separation from the tree pit.</u>

CHAPTER C LANDSCAPE BUFFER AND INTERIOR LANDSCAPING REQUIREMENTS

....

Section 5. Easements in Landscape Buffers and Off-Street Parking Areas

A. Easements in Landscape Buffers

1. Underground Utilities

Easements may overlap a required landscape buffer by a maximum of five feet, provided there remains a minimum of five clear feet for planting. If a wall with a continuous footer is used, a minimum of ten clear feet for planting is required. The landscape buffer may be traversed by easements or access ways as necessary to comply with the standards of this Article, and Art. 11, Subdivision, Platting, and Required Improvements, and other PBC codes. Easements shall be identified on the Zoning Plans prior to the application for Building Permit.. **[Ord. 2018-002]** **[Ord. 2018-018]**

2. Overhead Utilities

~~Trees~~ Vegetation that is planted within or abutting any easement with overhead utilities shall comply with the placement planting and maintenance requirements in ~~the latest edition of~~ FP&L's publication "~~Plant the~~ Right Tree, ~~in the~~ Right Place," as amended, available from the Zoning Division, ~~and~~ The Applicant shall take into consideration the mature height and spread of the species beneath or adjacent to overhead utilities. For the purpose of this Section, the term vegetation shall include, trees, palm or pines. If there is conflict between this Code and FP&L's publication "Right Tree, Right Place," as amended, the latter shall apply. Where overhead utilities exist, trees shall be maintained so that the mature tree canopy is a minimum of ten feet from overhead lines.

a. Planting near Overhead Electric Utilities

The setbacks shall be measured from the centerline of the trunk to the outer edge of the overhead utility lines. The following minimum setbacks shall apply:

- 1) Vegetation that at a mature height may grow to 50 feet or greater shall be planted at least 50 feet away from overhead electric utility lines;
- 2) Vegetation that at a mature height may grow to between 14 to 49 feet shall be planted at least 30 feet away from overhead electric utility lines;
- 3) Palms shall be planted at least 20 feet plus the maximum palm frond length away from overhead electric utility lines;
- 4) Only Vegetation that at a mature height grow to less than 14 feet shall be permitted to be planted underneath or adjacent to overhead electric utility line; and,
- 5) Vegetation shall not be planted within eight feet of the front and three feet of the sides of a transformer cabinet.

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Notes:

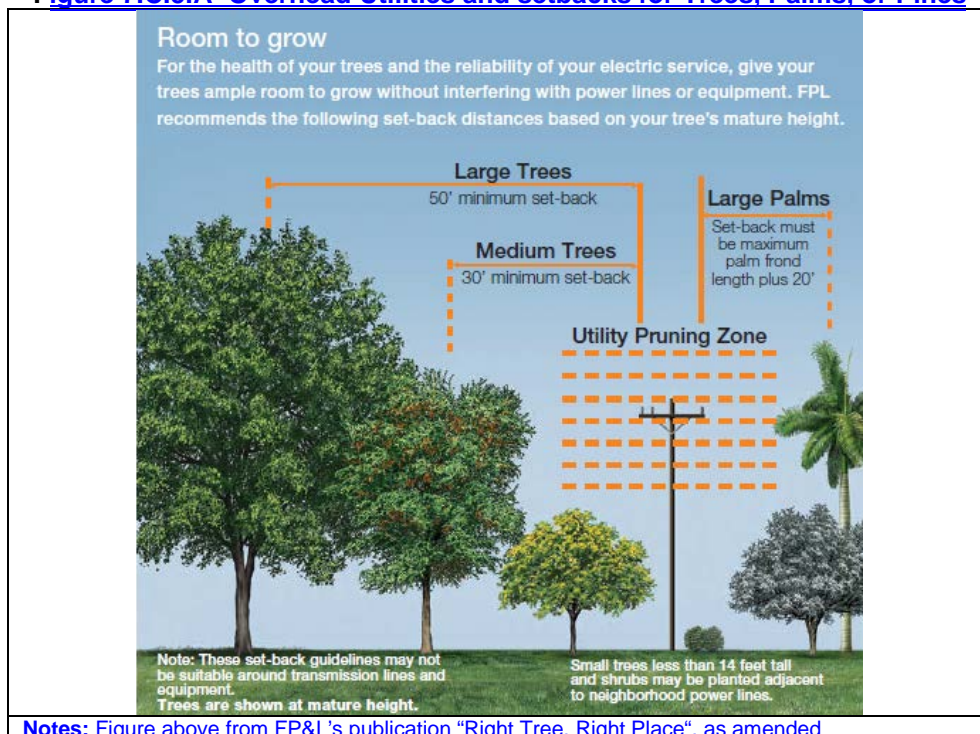
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EXHIBIT C

ARTICLE 7, LANDSCAPING CR-2018-030, CR-2018-047, CR-2018-035 (Updated 11/06/18)

1

Figure 7.C.5.A- Overhead Utilities and setbacks for Trees, Palms, or Pines



2

3

b. Transformer Cabinet in the Overhead Electric Utilities Easement

Planting around transformer cabinet shall be setback from the cabinet a minimum of eight feet on the front and three feet on the sides and rear.

4

5

6

c. Maintenance of Vegetation that is adjacent to Overhead Electric Utilities

Where overhead electric utilities exist, vegetation shall be maintained so that all limbs and branches are a minimum of ten feet from the overhead utility lines.

7

8

9

3 Type 1 Waiver for Landscaping

Plants required in the easement area may be planted elsewhere on the same site subject to a Type 1 Waiver for Landscaping. [Ord. 2018-002] [Ord. 2018-018]

10

11

B. Easements in Off-Street Parking Areas

12

1. Underground Utilities

Utility easements may encroach landscape islands provided there is a sufficient area for the growth of the required tree within the same island. The width and length of the island may be increased by the minimum amount necessary to meet the separation requirements of the utility providers, indicated below. [Ord. 2018-018]

13

14

15

16

17

a. PBC Water Utilities Separation

A minimum of ten feet shall be provided, by measuring from the outer edge of the pipes to the edge of the pit where the tree is to be planted. The Department of Water Utilities (WUD) may allow the separation distance to be reduced to seven feet if tree root barriers are installed. ~~See Figure 7.C.5, Water Utility Separation.~~ [Ord. 2018-018]

18

19

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21

22

b. Fire Rescue Utility Separation

A minimum of five feet shall be provided, measuring from the outer edge of the fire hydrant to the pit where the tree is to be planted. [Ord. 2018-018]

23

24

25

26

27

Part 4. ULDC Art. 7.D.4.D, Landscaping, Landscape Standards, Trees, Palms and Pines (pages 35-36 of 53, Supplement 24); and, Landscaping, Landscape Standards, Trees, Landscape Barrier (pages 39-40 of 53, Supplement 24), is hereby amended as follows:

28

29

30

31

Reason for amendments: [Zoning]
1. <u>To modify the standards for Minimum Trees, Palms and Pines when they are in proximity to easements with overhead utilities, consistent with FP&L's publication "Right Tree, Right Place," as amended.</u>
2. Remove the additional language of the location of the wall or fence to avoid confusion with the setback requirements per Table 7.D.4.D. Walls are only required for a Type 3 Incompatibility buffer, and if an applicant desires to install a fence or wall in other types of buffers such as: R-O-W buffers which ranges from 10 feet to 20 feet in width; Compatibility - 8 feet in width; Type 1 and 2

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EXHIBIT C

ARTICLE 7, LANDSCAPING CR-2018-030, CR-2018-047, CR-2018-035 (Updated 11/06/18)

Reason for amendments: [Zoning]

Incompatibility Buffers which ranges from 10 feet to 15 feet. The Code requires a setback of the wall or fence from the property line, and sufficient area for the accommodation of the required plantings on both side of the fence or wall.

1 **CHAPTER D LANDSCAPE STANDARDS**

2

3 **Section 2 Trees, Palms and Pines**

4 **A. Trees**

5 The size of a Canopy tree shall include the height and caliper pursuant to the Shade Trees, Types
6 One through Five Matrices of the Grades and Standards for Nursery Plant. The minimum size of a
7 Canopy tree shall be 12 feet in height with a two and one half inch caliper at installation, unless
8 stated otherwise below. [Ord. 2014-025] [Ord. 2016-042] [Ord. 2018-002]

9 **1. Average Height**

10 Required Canopy tree size may be achieved by utilizing the average height calculation .

11 a. Average height of total quantity of trees shall have a minimum of 12 feet. A maximum of
12 25 percent of the required trees shall be at a minimum height of eight feet. [Ord. 2018-002]

13 **2. Overhead Utilities with or without an easement**

14 May be exempt from the Average Height, and shall comply with FP&L's publication "Right Tree,
15 Right Place," as amended

16
17 **B. Palms**

18 The size of a palm shall be measured by the height of the clear trunk or the grey wood pursuant to
19 Figure 7.D.2.B - Palm Measurement Standards. The minimum overall height of a palm shall be 12
20 feet, and the minimum height for different species of palms shall be in accordance with Table
21 7.D.2.B – Palm Height Standards.
22

Table 7.D.2.B - Palm Height Standards (1)

Minimum Height	8 foot clear trunk for Sabals and similar species 6 foot grey wood for Royals and similar species 4 foot grey wood for Phoenixes, Canary, Bismarck and similar species
[Ord. 2016-042] [Ord. 2018-002]	
<u>1. May be exempt from the minimum overall height, where there is an adjacent Overhead Utilities with or without an easement, and shall comply with FP&L's publication "Right Tree, Right Place," as amended.</u>	

23
24 **1. Canopy Tree Substitute**

25 Palms planted in groups of three or more may be counted as one required canopy tree, up to
26 a maximum of 25 percent of all trees required in each buffer, subject to the Standards in Table
27 7.D.2.B, Palm Height Standards. In the case of palm species, Paurotis or similar palm species,
28 that characteristically grow in clumps, each clump may be counted as one canopy tree. [Ord.
29 2018-002]

30 **a. Exception**

31 Royal, Bismarck, Phoenix, Canary, Date or similar palm species determined to be
32 acceptable by the Zoning Director may be counted as one required canopy tree. These
33 palms shall be spaced a maximum of 20 feet on center, and the clear trunk or grey wood
34 shall be increased by 40 percent of the minimum requirements. [Ord. 2018-002]

35 **C. Pines**

36 The size of a pine shall include the height and the caliper of the pine. The minimum size of a pine
37 shall be 12 foot in height with a two and one half inch caliper at installation. May be exempt from
38 the minimum height, where there is an adjacent Overhead Utilities with or without an easement,
39 and shall comply with FP&L's publication "Right Tree, Right Place," as amended. [Ord. 2014-025]
40 [Ord. 2016-042]

41 **1. Canopy Tree Substitute**

42 a. Three pines may substitute for one required canopy tree, provided the overall accumulated
43 height of the three pines is 24 feet or more; or [Ord. 2016-042]

44 b. One pine with a minimum height of 14 feet. [Ord. 2016-042]

45 Pines may not be used in excess of 25 percent of the total number of required canopy
46 trees. When using pines in a perimeter buffer, refer to Art. 7.D.2.C, Pines. [Ord. 2014-
47 025]

48 **D. Tree Species Mix**

49 When more than 15 trees are required to be planted to meet the standards of this Article, a mix of
50 species is required. The number of species to be planted shall vary according to the overall number

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EXHIBIT C

ARTICLE 7, LANDSCAPING

CR-2018-030, CR-2018-047, CR-2018-035

(Updated 11/06/18)

1 of trees that are required to be planted pursuant to Table 7.D.2.D, Tree Species Mix. Vegetation
 2 preserved in accordance with Art. 14.C, Vegetation Preservation and Protection, is exempt from
 3 the tree species mix requirement.
 4

Table 7.D.2.D - Tree Species Mix

Required Number of Trees	Minimum Number of Species
16-30	2
31-45	3
46-60	4
61-75	5
76-90	6
91 +	7

5

6 **Section 4 Landscape Barriers**

7 Landscape barriers consist of hedges, walls, or fences. They are utilized to provide continuous opaque
 8 screening, and are required for an Incompatibility buffer. Landscape barriers may be installed in other types
 9 of landscape buffers; the requirement may be modified based on the site situations. **[Ord. 2018-002]**
 10

11 **D. Location of Wall or Fence in a Landscape Buffer**

12 Walls or fences ~~that are~~ utilized in a Landscape Buffer should ~~have be located in the center of the~~
 13 ~~buffer, and run parallel to the length of the buffer.~~ Sufficient area with minimum easement
 14 encumbrances ~~shall be provided to allow for~~ planting on both sides of the wall or fence. **[Ord. 2018-**
 15 **002]**
 16

Table 7.D.4.D - Requirements for a Wall or Fence in a Landscape Buffer

Minimum Requirements	R-O-W	Incompatibility	Compatibility
Setback for the Wall or Fence	10 feet from the edge of the ultimate R-O-W or Base Building Line, whichever is applicable. (1)	10 feet from the edge of the property line.	No setback required. Allow to be located along the property line or inner edge of the Buffer.
Planting Width	7.5 feet on both sides of the wall or fence, or 10 feet if a wall with continuous footer is used. (2) (3)	7.5 feet on both sides of the wall or fence, or 10 feet if a wall with continuous footer is used. (2) (3)	7.5 feet on one side of the fence. If a wall is installed, 10 feet on one side of the wall. (2) (3)
Berm	If a continuous berm is proposed, the wall may be located on top of the berm.	If a continuous berm is proposed, the wall may be located on top of the berm.	No requirement.
Canopy Tree Planting	75 percent of required trees shall be located along the exterior side of the wall or fence. (4)	75 percent of required trees shall be located along the exterior side of the wall or fence. (4)	No percentage requirement.
Shrub Planting	Shrubs shall be planted on both sides of the wall or fence.	Shrubs shall be planted on both sides of the wall or fence.	No percentage requirement.
[Ord. 2018-002]			
Notes:			
(1) Unless waived or reduced by the County Engineer, provided there remains a minimum of seven and one half clear feet for planting. [Ord. 2018-002]			
(2) No easement encumbrances. [Ord. 2018-002]			
(3) If a wall is installed, the minimum width of the landscape buffer shall be increased to have sufficient area for the required planting. [Ord. 2018-002]			
(4) Percentage of required trees to be located on the exterior side of the wall or fence may be reduced subject to a Type 1 Waiver for Landscaping. [Ord. 2018-002]			

17

18

19 **Part 5. ULDC Art. 7.E.3, Landscaping, Existing Native Vegetation, Prohibited and Controlled**
 20 **Plant Species, Tree Credit and Replacement (pages 45-46 of 53, Supplement 24), is**
 21 **hereby amended as follows:**
 22

Reason for amendments: [Zoning]
1. Codify PPM ZO-O-061 related to the existing processes for the legal and illegal tree removal. There are 2 parts in this PPM, the first part establishes the Tree Removal Approval Process providing both staff and applicant the application submittal requirements, and the process procedures. Part 2 of the PPM refers to how to process violations and application of fines for any illegal tree removal.
2. Clarify that vegetation includes trees, palms or pines for the purpose of calculation for replacement. Provide relief for replacement of trees that are damaged by natural disaster, the replacement shall

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EXHIBIT C

ARTICLE 7, LANDSCAPING CR-2018-030, CR-2018-047, CR-2018-035 (Updated 11/06/18)

Reason for amendments: [Zoning]
be based on one in one, and not subject to the Vegetation Credit and Replacement Formula, which is based on the size of the original tree, palm or pine. The size of the replacement tree, palm or pine shall be deferred to Art.7.D, where the specific requirements are located.
3. Provide clarification of the intent of this Section, Tree Credit and Replacement. There are two scenarios where the Tree Credit and Replacement Table is being utilized. 1) In a situation where the Department of Environmental Resources Management and Zoning Division have determined that the size and quality of existing vegetation can be counted as credits to satisfy landscape requirements under a development order approval. 2) In a situation where existing vegetation, which was damaged or infected to a state beyond it can continue to live, and the vegetation must be replaced. For calculation of credit or replacement of vegetation, it is based on the original size (diameter) of the existing vegetation to establish the quantity of the replacement. The size of the replacement vegetation shall be in accordance with the height for trees and pines, and clear trunk or grey wood for palms.

CHAPTER E EXISTING NATIVE VEGETATION, PROHIBITED AND CONTROLLED PLANT SPECIES

....

Section 3 Tree Credit and Replacement

This Section clarifies when existing vegetation can be utilized to satisfy Art. 7.C, Landscape Buffer and Interior Landscaping Requirements and Art. 7, Landscape Standards. In addition, this Section also establishes requirements for quantity and size for replacement. Replacement of vegetation may be required due to injury, damage or removed, which includes: improper pruning, hatracking, or other actions that render existing vegetation unable to achieve its natural and intended form. The quantity and the size of the replaced vegetation is based on the size of the individual vegetation at the time when the vegetation was injured, damaged or removed. For the purpose of this Section, the term Vegetation shall include trees, palms or pines. A preserved upland or drought-tolerant tree or palm meeting the standards in this Article may be substituted for required trees, subject to the following: [Ord. 2018-002]

A. Vegetation Survey

Credit to satisfy Art. 7.C, Landscape Buffer and Interior Landscaping Requirements, and Art. 7.D, Landscape Standards shall be granted for on-site preservation of existing vegetation when accompanied by an approved tree-Vegetation survey. [Ord. 2018-002]

B. Trees Excluded from Credit

Credits shall not be permitted for vegetation ~~that are:~~ [Ord. 2018-002]

1. Required for preservation by Art. 14.C, Vegetation Preservation and Protection (i.e. located in required preservation areas, heritage or champion trees); [Ord. 2018-002]
2. ~~Not properly protected from Irreparably damaged~~ during the construction process, ~~as required in Art. 7, Art. 14.C, Vegetation Preservation and Protection;~~ [Ord. 2018-002]
3. Classified as prohibited or invasive non-native species as defined in Art. 14.C, Vegetation Preservation and Protection; [Ord. 2018-002]
4. Dead, dying, diseased, or infested with harmful insects; or [Ord. 2018-002]
5. Located on a subarea of a planned development that is not intended to be developed for residential, commercial, or industrial use, such as a golf course on an adjacent open space parcel. [Ord. 2018-002]

C. Vegetation Tree Credit and Replacement Formula

~~All existing vegetation that are to be preserved, mitigated on or off site, replaced on or off site shall be credited pursuant to Table 7. E.3, Tree Credit and Replacement. Pines with a caliper of two inch or more shall be subject to preservation, mitigation or replacement.~~

[Ord. 2016-042] [Ord. 2018-002] [Partially relocated to Table 7.E.3.C, **Vegetation Credit and Replacement**]

Existing vegetation that is given credit towards required vegetation, or for the purpose of a replacement shall be subject to the following Table. In addition, the size of the credited or replaced vegetation shall be in compliance with the size requirements pursuant to Art. 7.D.2, Trees, Palms and Pines.

Table 7.E.3.C - Tree-Vegetation Credit and Replacement

<u>Tree or Pine</u> Diameter at 4.5 Feet Above Grade (1,2, 3)	=	<u>Quantity for Credits or</u> <u>for Replacements</u>
Less than 2 in.	=	0
2-6 in.	=	1
7-11 in.	=	2
12-16 in.	=	3

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EXHIBIT C

ARTICLE 7, LANDSCAPING

CR-2018-030, CR-2018-047, [CR-2018-035](#)

(Updated 11/06/18)

Table 7.E.3.C - ~~Tree~~ **Vegetation** Credit and Replacement

17-21 in.	=	4
22-26 in.	=	5
27-31 in.	=	6
32-36 in.	=	7
37 in. or more	=	8
[Ord. 2014-025] [Ord. 2016-042] [Ord. 2018-002]		
Notes:		
1. Fractional measurements shall be rounded down. [Ord. 2018-002]		
2. <u>Pines with a diameter of six inches or more, measured at a height of 4.5 feet above grade shall be subject to preservation, mitigation or replacement.</u>		
3. <u>Quantity: replacement of palms shall be one for one.</u>		

1. Natural Disaster Replacement

Each tree, palm or pine that has been damaged by natural disaster shall be replaced by a similar specie, and subject to the following:

a) Quantity – one for one; and

b) Size – pursuant to Art.7.D.2, Trees, Palms and Pines.

2. Illegal Tree or Pine Removal

If a tree or pine is removed with only the stump remains, the following formula shall be utilized to determine the size of the removed tree or pine.

a) measure the diameter of the tree or pine stump and reduce the measurement by 25 percent; and,

b) replacement of the quantity of the tree or pine shall be based on the reduced diameter measurement, and subject to, the requirements of Table 7.E.3.C, Vegetation Credit and Replacement for estimating the number of trees or pines to be replaced

Part 6. ULDC Art. 7.F.3 Landscaping, Installation and Maintenance, Maintenance (page 48 of 53, Supplement 24), is hereby amended as follows:

Reason for amendments: [Zoning]

1. Current Code only addresses the replacement of trees, which include palms and pines, which are subject to a Permit approval process. Proposed amendment includes the replacement of shrubs or hedge and ground treatment, which are not subject to a permit approval process, but the replacement must be in compliance with Code or Conditions of Approval of the development order. Replacement of walls and fences shall be in compliance with Code or Conditions of Approval, and subject to Building Permit approval process.

CHAPTER F INSTALLATION AND MAINTENANCE

....

Section 3 Maintenance

A. General

PBC is responsible for the care and maintenance of the trees and vegetation on PBC-owned property, unless provided for otherwise by DO condition of approval. For all other properties, which includes vegetation required to be installed under a DO, or existing preserved vegetation, the property owner or successors in interest, contractor, or agent, if any, shall be jointly and severally responsible for the requirements of this Section. Maintenance of the Premises shall also be subject to the Palm Beach County Code, Chapter 14, Article 1, Property Maintenance Code. **[Ord. 2018-002]**

1. Regular maintenance of all landscaping is required. All landscaping shall be free from disease, pests, weeds, and litter. Maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching, or any other actions needed, consistent with acceptable horticultural practices.
2. Regular maintenance, repair, or replacement of landscape barriers and focal points, including landscape structures (e.g., walls, fences, fountains, and benches) in order to keep them in a structurally sound condition.
3. Perpetual maintenance to prohibit the reestablishment of prohibited and non-native invasive species within landscape and preservation areas.
4. Periodic maintenance to remove diseased or damaged limbs, or remove limbs or foliage that present a hazard. All trees and palms shall be allowed to grow to their natural mature height and to full canopy. Maintenance of vegetation beneath the overhead utilities shall comply with FP&L's publication "Right Tree, Right Place," as amended. **[Ord. 2018-002]**

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Notes:

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EXHIBIT C

ARTICLE 7, LANDSCAPING

CR-2018-030, CR-2018-047, [CR-2018-035](#)

(Updated 11/06/18)

1 5. Landscape areas, which are required to be created or preserved by this Article, shall not be
2 used for temporary parking or the storage/display of materials or sale of products or services..

3 **B. Maintenance Replacement of Vegetation**

4 Required ~~or preserved~~ ~~vegetation trees, palms, pines, shrubs, landscape barrier or ground~~
5 ~~treatment~~ that becomes ~~s~~-damaged, diseased, removed or ~~is~~ are dead shall be immediately replaced,
6 and where specified, are subject to the Tree Removal and Replacement Permit process, with plant
7 material to comply with Replacement of vegetation shall comply with the following: the approved
8 standards and height requirements of this Article or conditions of approval, whichever is greater.

9 1. Trees shall be in accordance with Table 7.E.3.C – Vegetation Credit and Replacement, and
10 subject to the Tree Removal and Replacement Permit pursuant to Art. 7.B.5.

11 2. Shrubs shall be in accordance with the original size as required under each type of Buffer
12 consistent with Art.7 Landscaping or Conditions of Approval.

13 3. A wall or fence shall be in accordance with the original height, and the same construction
14 material as required under each type of Buffer consistent with Art.7, Landscaping or Conditions
15 of Approval, and subject to a Permit approval process.

16 4. A hedge shall be in accordance with the original height as required under each type of Buffer
17 consistent with Art. 7, Landscaping or Conditions of Approval, where applicable.

18 5. Ground Treatment shall be in accordance with Art. 7.D.7, Ground Treatment or Conditions of
19 Approval, where applicable.

20 ~~Vegetation that is removed or damaged, shall be replaced in accordance with Table 7.E.3.C, Tree~~
21 ~~Credit and Replacement. Landscape trees planted or preserved to meet the minimum landscape~~
22 ~~code requirements may be removed provided a Tree Removal Permit is approved. [Ord. 2005-~~
23 ~~002] [Ord. 2018-002]~~

24
25
26 **Part 3. ULDC Art. 7.G, Landscaping, Enforcement (pages 51-52 of 53, Supplement 24), is hereby**
27 **amended as follows:**
28

Reason for amendments: [Zoning]
1. Clarify that violation of landscape requirements, which include: trees, pines, palms, shrubs, wall fence, hedge and ground treatment shall be a violation of this Code, and not just Article 7 since there are other references of landscape requirements in other Articles of the ULDC. In addition, landscape requirements may be imposed as a Condition of Approval under a Development Order (DO), and therefore also constitute a violation of a development order.
2. Clarify that violation of illegal removal shall not be just for trees, the proposed amendment will include all types of landscape requirements.

29 **CHAPTER G ENFORCEMENT**

30 **Section 1 Purpose**

31 This Chapter establishes enforcement procedures to ensure compliance with the ULDC and applicable
32 DQs.

33 **Section 1.2 Temporary Suspension of Landscape Standards**

34 The Executive Director of PZB may temporarily suspend the standards of this Article and establish
35 timeframes and guidelines to replace destroyed or damaged landscape material through a Departmental
36 PPM in the following situations: a hurricane; a freeze resulting in unavailability of landscape materials; a
37 period of drought resulting in restrictions on water usage imposed by a governmental authority; or a similar
38 event. [Ord. 2005-041]

39 **A. Performance Surety**

40 If the landscape standards of this Article are suspended pursuant to this Article, the property owner
41 may enter into an agreement with PBC to allow issuance of the permit or CO or Certificate of
42 Completion provided the property owner includes as part of this agreement adequate guarantee or
43 surety that the terms of this Article will be met after the suspension period has been lifted. The
44 guarantee shall consist of a performance bond or other surety agreement approved by the County
45 Attorney in an amount equal to 110 percent of the direct costs of materials and labor and other
46 costs incidental to the installation of the required landscaping completion agreement. Performance
47 bonds or other guarantees required pursuant to this subsection shall name PBC as a beneficiary
48 and specify the time-frame for the completion of the landscape standards of this Article. [Ord. 2005-
49 041]

50 **B. Application Requirements**

51 An application for a temporary suspension of landscape standards shall be accompanied by a
52 landscape plan identifying the plantings that have been postponed, the proposed planting schedule,

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EXHIBIT C

ARTICLE 7, LANDSCAPING

CR-2018-030, CR-2018-047, CR-2018-035

(Updated 11/06/18)

1 and the costs of the suspended planting. Planting cost estimates may be independently verified by
2 PBC.

3 Section 23 Enforcement

4 Failure to install or maintain landscape requirements, or when vegetation has been illegally removed, or
5 has been irreparably damaged, landscaping according to the terms of this Article or any approved plan or
6 permit shall constitute a violation of the Article Code or a DO. PZB may issue a Cease and Desist Order or
7 withhold a CO or Certification of Completion until the provisions of this Article have been met. In the
8 alternative, PZB may refer any violation of this Article to Code Enforcement for corrective action or penalties
9 set forth in Art. 10, Enforcement.

10 A. Fines

11 *Violations of the provisions of this Section shall be subject to the following fines or requirements:*

12 *1. ~~Such fines, site improvements and replacement landscaping as may be required by Art. 10,~~*
13 *~~Enforcement, or the PBC Code Enforcement Citation Ordinance; or [Ord. 2005 – 002]~~*

14 *2. ~~Such fines and imprisonment as provided for in F.S. 125.69. [Relocated to Art. 7.G.3.D,~~*
15 *Fines]*

16 B. Violations

17 The following deficiencies shall be considered a separate and continuing violation of this Article or
18 a DO:

19 1. ~~Each tree or shrub that is not properly installed or properly maintained on site as required~~
20 ~~by this Section; Each required tree, palm, pine, or other vegetation not properly installed~~
21 ~~or maintained shall be considered a separate and continuing violation of the ULDC or~~
22 ~~applicable DO. Each row of shrubs and ground treatment shall be considered as a separate~~
23 ~~and continuing violation. Each wall or fence not properly installed or maintained shall be~~
24 ~~considered a separate and continuing violation.~~

25 2. Each day in which landscaping is not properly installed or properly maintained on site as
26 required by this Section or by the order of the Special ~~Magistrate Master; and [Ord. 2018-~~
27 ~~002]~~

28 ~~3. Each tree removed without a permit.~~

29 B. Corrective Actions

30 PBC shall determine appropriate corrective actions, including, but not limited to the replacement of
31 landscape material.

32 1. Replacement

33 a. Replacement of vegetation shall comply with the size and quantity pursuant to Art. 7.E.3,
34 Credit and Replacement or the Conditions of Approval of the DO.

35 b. Any other landscape materials shall be replaced pursuant to Art. 7.D, Landscape
36 Standards. [Ord. 2018-002] [Partially relocated from Art. 7.G.3.C.1, Additional
37 Sanctions as it related to Enforcement]

38 C. Additional Sanctions

39 PBC may take any appropriate legal action, including, but not limited to requiring replacement of
40 landscape material which has been hatracked, damaged and rendered unable to achieve its natural
41 and intended form, administrative action, requests for temporary and permanent injunctions, and
42 other sanctions to enforce the provisions of this Section. **[Ord. 2005-002]**

43 1. Replacement of Landscaping

44 ~~a. Canopy trees shall be replaced pursuant to Art. 7.E.3, Tree Credit and Replacement. [Ord.~~
45 ~~2018-002]~~

46 ~~b. Any other landscape materials shall be replaced pursuant to Art. 7.D, Landscape~~
47 ~~Standards. [Ord. 2018-002] [Partially relocated to Art. 7.G.3.B.1, Corrective Actions~~
48 ~~as it related to Enforcement]~~

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**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



**Palm Beach County
Board of County
Commissioners**

Melissa McKinlay, Mayor
Mack Bernard, Vice Mayor

Hal R. Valeche
Paulette Burdick

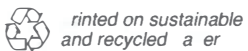
Dave Kerner

Steven L. Abrams
Mary Lou Berger

County Administrator

Verdenia C. Baker

"An Equal Opportunity
Affirmative Action Employer"



**INTER-OFFICE COMMUNICATION
DEPARTMENT OF PLANNING, ZONING AND BUILDING
PLANNING DIVISION**

TO: Wesley Blackman, AICP, Chairman, and
Members of the Land Development Regulation Advisory Board
(LDRAB) wblackman@gmail.com

FROM: Scott Rodriguez, Senior Planner
Planning Division

DATE: November 6, 2018

RE: Comprehensive Plan Consistency Determination for Proposed
ULDC Amendments

The Planning Division has determined the proposed ULDC amendments in Exhibit B and Exhibit C of the packet provided by the Zoning Division and scheduled for the November 1, 2018 LDRAB/LDRC meeting are generally consistent with the Comprehensive Plan.

Additional review will be required for any revision(s) to an amendment other than for the purpose of correcting grammatical or spelling errors.

cc: Lorenzo Aghemo, Planning Director
Jon MacGills, ASLA, Zoning Director
Bryan Davis, NU-A, Principal Planner
Wendy Hernandez, Principal Site Planner
Jan Rodriguez, Senior Site Planner
Zona Case, Zoning Technician

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EXHIBIT D
PIA-2018-02043- REVISIONS TO ARTICLES 3, 4 AND 5
SUMMARY OF AMENDMENTS

CR-2018-054
(Updated 11/07/2018)

Application No.: PIA 2018-02043
Application Name: Florida Power & Light (FPL) Renewable Energy Solar Facility
Applicant: Ken Tuma, Urban Design Kilday Studios
Agent: Ken Tuma, Urban Design Kilday Studios
Brian Seymour, Gunster, Yoakley & Steward, PA
Telephone No.: (561) 366-1100, (561) 650-0621
Project Manager: Jan Rodriguez, Senior Site Planner

Title: Phase 1, Initiation of Code Amendment. **Request:** to amend specific sections of the Unified Land Development Code (ULDC), as shown in the table below, for Renewable Energy Solar Facilities, greater than 300 acres, to revise the definition; to allow for an exemption from rezoning to the consistent Zoning District (Rural Residential 1 units per 10 acres (RR-10) FLU with an Agricultural Residential (AR) Zoning); to modify and exempt the requirements for perimeter landscaping; to be exempt from the maximum heights for fences; and, to allow barbed wire.

APPLICATION SUMMARY: The Applicant is requesting to amend the specific sections of the ULDC within Articles 3, 4 and 5, to add an exemption from the rezoning requirements for a Renewable Energy Solar Facility when the use is permitted in both the existing land use designation and zoning district. The Applicant is also requesting to revise the definition of Renewable Energy Solar Facility and the supplemental regulations associated with the Solar Energy Facilities within the Rural and Exurban Tiers. The proposed amendment would provide exemptions from the fencing heights and barbed wire allowances, as well as Landscaping widths and planting requirements of Article 7. The Agent states that the majority of the proposed revisions reflect relief from screening the use from adjacent rights of way or properties and landscape/irrigation requirements. **(Attachments A-C)**

ULDC ARTICLE	TITLE OF ARTICLE	PROPOSED REVISIONS OF CODE SECTIONS BY APPLICANT
Article 3	Overlays & Zoning Districts	3.A.3.B.1. Standard District Exceptions and Limitations
Article 4	Use Regulations	4.B.7.C.8. Renewable Energy Solar Facility Amend the definition; Add Exemptions from: <ul style="list-style-type: none"> • Planting requirements for Rights of Way and perimeter buffers within Article 7; • Reduction of buffer widths within Article 7 • 5.B.1.A.2.b.1.a. Height and Related Standards, Residential Districts; and, • 5.B.1.A.2.b.2. Height and Related Standards, Non-Residential Districts.
Article 5	Supplementary Standards	5.B.1.A.2.b.5).e.1).a) Allowable Uses for Barbed Wire ⁵

BACKGROUND AND SUMMARY:

According to Applicant these proposed revisions are appropriate in order to consider the rural nature of the likely locations for these types of facilities (based on a minimum 300 acres of land area that would be required). The Applicant states that because they have included a minimum acreage for lot size, it is highly unlikely that this proposed use of Renewable Energy Solar Facility (Solar Farm), would ever be proposed within the Urban/Suburban Tier in the County. Based on the documentation submitted to date, additional research and discussion with the Applicant will be required as it relates to consistency with the Comprehensive Plan and other ULDC requirements for the exemption on rezoning and landscaping and how it impacts the County as a whole and not site specific.

This PIA will be scheduled for the November 26, 2018 BCC Hearing for final recommendation and direction to Staff.

STAFF RECOMMENDATION:

The proposed PIA-2018-2043 merits consideration for revisions, based on their own schedule, and not to be incorporated into the 2019-01 Round of Amendments.

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EXHIBIT D
PIA-2018-02043- REVISIONS TO ARTICLES 3, 4 AND 5
SUMMARY OF AMENDMENTS

CR-2018-054
(Updated 11/07/2018)

Attachment A- General Application Form 117 provided by Applicant/Agent-

PALM BEACH COUNTY - ZONING DIVISION

FORM # 117



Palm Beach County Zoning Division
2300 N. Jog Road
West Palm Beach, Florida 33411
Phone: (561) 233-5200
Fax: (561) 233-5165

PRE-APPLICATION APPOINTMENT (PAA) - PIA

Pursuant to the Unified Land Development Code (ULDC) Article 2.D, ULDC Privately Initiated Amendment (PIA), a PIA application may be submitted upon completion of the mandatory Pre-application Appointment (PAA) and favorable decision by the responsible PBC Official. Refer to the Article 2.D for all applicable standards and requirements.

Complete this form and submit it to Zoning Division Code Revision Staff at least 3 days prior to the PAA, email to PZBCCodeRevision@pbcgov.org. A Justification Statement must be attached to provide detailed and specific information relevant to the PIA request.

Description of PIA: (enter a brief description of the PIA request, a separate sheet may be used)

The Applicant is requesting an approval of a text amendment to Palm Beach County Unified Land Development Code (ULDC) to provide for certain exemptions to specific code requirements for renewable energy solar facilities at a minimum of 300 acres outside of the Urban-Suburban Tier.

Applicant or Agent Name: Ken Tuma/Brian Seymour

Name of Firm/Company: Urban Design Kilday Studios/Gunster

Representing: Florida Power & Light

Phone: 561-366-1100 **Email:** ktuma@udkstudios.com / BSeymour@gunster.com

The proposed amendment is:

- Countywide or;**
- Area Specific** Tier x Overlay _____ Zoning District _____ FLU * _____

A. Control No (if applicable): _____ **Control Name (if applicable):** _____

B. Application Name: _____

C. Property Control Number (PCN): (List additional PCNs on separate sheet and attach to application)
PCN: n/a

*May require a companion Text Amendment of the Comprehensive Plan.

PIA INITIAL EVALUATION

1. Have alternatives of Code Amendments already been evaluated? Explain:
This code amendment includes amendments to the text in the supplemental regulations in Article 4 for a specific use. Variances as an alternative are not permitted.

2. Is the PIA request the result of:
a. BCC direction/ recommendation at a hearing on _____;
b. Direction from County Staff _____ (enter staff's name) at a meeting on _____ or through written communication (attach document).

3. Explain why the amendment is requested in lieu of the alternatives noted above?
This code amendment includes amendments to the text in the supplemental regulations in Article 4 for a specific use. Variances as an alternative are not permitted.

4. **a.** Will a Comprehensive Plan Amendment be required: [] Yes [X] No
b. The amendment will be [X] Stand Alone Ordinance; or [] developed with a round of amendments.

5. Is the proposed amendment consistent with the Comprehensive Plan? [X] Yes [] No

**EXHIBIT D
PIA-2018-02043- REVISIONS TO ARTICLES 3, 4 AND 5
SUMMARY OF AMENDMENTS**

CR-2018-054
(Updated 11/07/2018)

PALM BEACH COUNTY - ZONING DIVISION

FORM # 117

6. Does the proposed amendment contradicts or violate any Federal, State or local laws and regulations? If yes, explain:

No

7. Is this request a new industry trend? Explain A result of the large acreage needed to support a solar energy facility

8. Have other jurisdictions established similar regulations? Yes [] No (Provide examples)

9. Identify all Articles in the ULDC that may be impacted by the proposed amendment (use a separate sheet if more space is needed).

ULDC Article #	Title of Article	Page Nos.	Current Language
See attached.			

STAFF NOTES AND COMMENTS

Articles to be amended:

Article 1:

Article 2:

Article 3:

Article 4:

Article 5:

Article 6:

Article 7:

Article 8:

EXHIBIT D
PIA-2018-02043- REVISIONS TO ARTICLES 3, 4 AND 5
SUMMARY OF AMENDMENTS

CR-2018-054
(Updated 11/07/2018)

**Attachment B- ULDC PIA Supplementary Table Form 80a provided by Applicant/Agent-
ULDC PRIVATELY INITIATED AMENDMENT (PIA) - SUPPLEMENTARY TABLE**

Form# 80a

Instructions: Submit this form together with PIA Application Form #80. Complete all sections below, refer to the example in the gray box. Attach all supporting documents relative to the request(s).

#	A. Article/Title	B. Proposed Amendment <i>See footer for how to format proposed text. If Code language includes tables or figures provide as individual attachment.</i>	C. Reason for Amendment	D. List and Attach Supporting Documentation
EXAMPLE	6.A.1.D. Off-Street Parking	a. Definition The use of a lot or a structure for one detached dwelling unit.	Briefly describe what the amendment is for. Include all reasons necessary that justifies the code amendment and mention any specific federal or state laws, Comprehensive Plan policies or regulations that created the need for the amendment.	1. F.S.163.XX (Attachment 1) 2. Example of municipal zoning regulations (Attachment 2) 3. Industry Trends (Attachment 3) ...etc.
1.	3.A.3.B.1. q.	q. <u>A rezoning shall not be required for the installation or replacement of a Renewable Energy Solar Facility (Solar Farm) located outside of the Urban/Suburban Tier.</u>	Exempt these facilities from rezoning when the use is permitted in both the existing land use designation and the existing zoning district.	See attached justification narrative.
2.	4.B.7.8.	See proposed revisions under separate attachment.		See attached justification narrative.
3.	5.B.1. A.5.e1. a. <u>(15)</u>	<u>Renewable Energy Solar Facility (Solar Farm)</u>	Allow Renewable Energy Solar Facility (Solar Farm) to use Barbed Wire	See attached justification narrative.
Insert additional rows above if needed.				

Web Format 1/31/2018

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EXHIBIT D
PIA-2018-02043- REVISIONS TO ARTICLES 3, 4 AND 5
SUMMARY OF AMENDMENTS

CR-2018-054
(Updated 11/07/2018)

Attachment C- Justification Statement provided by Applicant/Agent-

**RENEWABLE ENERGY SOLAR FACILITY
(SOLAR FARM)
JUSTIFICATION STATEMENT**



Request: Text Amendments to provide for Solar Farms in Palm Beach County
Pre-Application Meeting Date: October 30, 2018

Urban Planning and Design
Landscape Architecture
Communication Graphics

INTRODUCTION & PROPERTY LOCATION

On behalf of Florida Power & Light Company (FPL), Urban Design Kilday Studios (UDKS) is requesting a Privately Initiated Amendment (PIA) to amend the Palm Beach County Unified Land Development Regulations (ULDC). While the request would apply to all future Renewable Energy Solar Facilities outside of the Urban/Suburban Tier, FPL has recently purchased lands within the Rural Tier and is moving forward with a Development Review Officer (DRO) Site Plan, as permitted by the ULDC, on a portion of the land area, with a future Site Plan to be processed for the balance of the land.

These proposed revisions are appropriate in order to consider the rural nature of the likely locations for these types of facilities (based on a minimum amount of land area that would be required). Based on the amount of land area required for these types of facilities, it is highly unlikely that the proposed use of Renewable Energy Solar Facility (Solar Farm), would ever be proposed within the Urban/Suburban Tier in the County.

Also, in recognition of the rural nature of the areas that will accommodate these facilities, and the fact that there may be limited existing residential uses in the surrounding area, some of the requirements that would be appropriate within an urban area, such as screening, large buffer areas, and extensive landscape materials/irrigation would serve no purpose or benefit to the surrounding area.

The property is located within unincorporated Palm Beach County and includes three parcels of land totaling approximately 1,288 acres. The site has a designated future land use of Rural Residential-10 and a split zoning designation of Agricultural Production (AP) and Agricultural Residential (AR). Attached is a recent aerial showing the location of the site.

The subject property is generally located north and south of Orange Boulevard (aka Louise Street), approximately three miles west of the intersection of Seminole Pratt Whitney Boulevard and Orange Boulevard, within the Rural Tier. The subject property includes three parcels of undeveloped land and is located in unincorporated Palm Beach County and has previously been referred to as the Iota Carol property.

A review of the current ULDC regulations that apply to the current use of Renewable Energy Solar Facility do not appear to

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Suite CU02
West Palm Beach, FL 33401
561.366.1100 561.366.1111 fax
www.udkstudios.com
LCC000035

EXHIBIT D
PIA-2018-02043- REVISIONS TO ARTICLES 3, 4 AND 5
SUMMARY OF AMENDMENTS

CR-2018-054
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consider the amount of land area that would be required to create what is commonly referred to as a 'Solar Farm'. Instead, many of the code requirements that are included in the current use's appear to have been created to protect neighboring uses from negative impacts within the Urban/Suburban Tier which would not be applicable to parcels in more rural areas, such as the Rural and/or Exurban Tiers. As such, the Applicant has amended the definition of Renewable Energy Solar Facility to be more applicable to "Solar Farm" type facilities.

Photovoltaic Statement

This portion of narrative has been written to outline the general characteristic associated with a photovoltaic solar energy facility ("Solar Farm"). A typical Solar Farm can generate up to 74.5 MW of electricity, which has the capacity to serve approximately 15,000 homes with clean renewable energy. This reduces emissions equivalent to removing 12,000 cars from the road each year.

Solar Farms provide clean, renewable energy by converting sunlight via photovoltaic solar arrays into direct current (DC) electricity and converting it into alternating current (AC) utilizing power inverters. The zero-emissions electricity is then carried to the collector yard where the voltage is boosted for transmission through the electric grid.

Solar Farms utilize low impact construction techniques and are consistent with surrounding agricultural and residential uses. Solar Farms are typically located on existing agricultural land that has been disturbed from its natural state. The solar panels are strategically arranged to avoid environmentally sensitive areas and wetlands. The solar panels stand approximately two feet off the ground and are approximately six to eight feet in height at their peak.

The solar panels are assembled on site onto racks which are supported by metal "U" beams driven into the ground. The only land disturbance associated with the Project is for the access paths, stormwater management facilities, and a collector yard. The internal pathways will be constructed at grade, as non-paved private paths for the exclusive use of maintenance personnel.

Solar facilities are very quiet, low traffic generating uses. There are no full time, onsite employees. The facility is monitored remotely and crews typically visit only for maintenance. Typically, the only maintenance associated with a solar facility is vegetation management, along with as-needed component repairs and maintenance. There are minimal health or safety risks associated with the facility, and such risks are primarily associated with energized electrical equipment, which will be located within a fenced perimeter. The solar panels emit no odors or chemicals and all electricity conducted by the panels is typically distributed to the collector yard through insulated, buried lines.

Construction of a Solar Farm can usually be accomplished in 10 months. Physical security during construction is located at the site entrance in the form of security fencing

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and security guards. Once open and operating, Solar Farms are un-manned facilities with the only vehicular traffic to the site being maintenance vehicles. As such there is no minimum parking, loading or bicycle parking needed for Solar Farms. Solar Farms require chain link fencing with barbed wire for security purposes and are not lit at night, with the exception of security lighting around the collector yard.

EXISTING ZONING AND FUTURE LAND USE PLAN DESIGNATIONS

As mentioned, the property is currently located within unincorporated Palm Beach County (PBC). The site has a designated future land use of Rural Residential-10, and a split zoning designation of Agricultural Production (AP) and Agricultural Residential (AR).

EXISTING USE	ZONING	FUTURE LAND USE (FLU)
Subject Site: Delray Linton Groves / Iota Carol	Agricultural Production (AP) / Agricultural Residential (AR)	Rural Residential- 1 dwelling unit per 10 acres (RR-10)
TO THE NORTH: Palm Beach West Associates I LLP / Indian Trails Grove	Agricultural Residential (AR) / Western Communities Residential Overlay (WCRO)	Western Communities Residential (WCR)
TO THE EAST: Palm Beach West Associates I LLP / Indian Trails Grove	Agricultural Residential (AR) / Western Communities Residential Overlay (WCRO)	Western Communities Residential (WCR)
TO THE SOUTH: Indian Trail Improvement District / Indian Trails Grove	Agricultural Residential (AR)	Rural Residential- 1 dwelling unit per 10 acres (RR-10)
TO THE WEST: Miscellaneous Rural Residential and Farmland	Agricultural Production (AP) / Agricultural Residential (AR)	Rural Residential- 1 dwelling unit per 5 acres (RR-5) / Rural Residential- 1 dwelling unit per 10 acres (RR-10)

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SUBJECT REQUEST

The request includes as stated above a revised definition for Renewable Energy Solar Facility (Solar Farm). The revisions to the supplemental regulations associated with the Solar Energy Facility serve to still protect the surrounding properties should this type of facility ever be proposed within the Urban/Suburban Tier while recognizing the rural character of the most likely location for the use, that being in either the Rural or Exurban Tier. The majority of the proposed revision reflect relieve from screening, buffer widths, and landscape/irrigation requirements. Additionally, the Applicant has proposed modifications to Article 3 thereby exempting these facilities from rezoning when the use is permitted in both the existing land use designation and the existing zoning district to create consistency between the comprehensive plan's provisions and the ULDC for a use encouraged in both the Plan and the code. Finally, pursuant to standard security procedures for renewable energy solar facilities, the Applicant is proposing to modify Article 5 with other uses permitted to use barbed wire. The specific proposed code language follows.

Article 4, Chapter B, Section 7

8. Renewable Energy Solar Facility (Solar Farm)

a. Definition

A facility that uses photovoltaic, thermal or other systems with a principal use of producing electric or thermal power from the sun for the production of electric power that utilizes photovoltaic modules (e.g. panels) to convert solar energy to electricity whereby the electricity that is produced is delivered to the transmission system and consumed off-site. Renewable Energy Solar Facilities consist principally of photovoltaic modules, a mounting/racking system, power inverters, transformers, and associated components. Solar generation is generally the principal use of the property, but Solar Farms may also include administration/maintenance buildings, transmission lines, collector yard(s), energy storage equipment and related accessory uses and structures.

b. Lot Size

Lots shall comply with the minimum lot dimension requirements pursuant to Table 3.D.1.A, Property Development Regulations, or the applicable PDD requirements.

c. Setbacks

Accessory electric poles, distribution and transmission lines shall be exempt from the minimum setback requirements indicated below:

1) Lots 50 Acres or Greater

Setbacks shall be a minimum of 25 feet from the side and rear property lines. The facility shall comply with the minimum front and side street setbacks of the applicable zoning district.

2) Lots Less than 50 Acres

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Setbacks shall be a minimum of 15 feet from the side and rear property lines. The facility shall comply with the minimum front and side street setbacks of the applicable zoning district.

3) Lots Adjacent to Existing Residential Uses

Setbacks shall be a minimum of 35 feet or the zoning district setback, whichever is greater, along the affected property line.

4) Additional Setback

One additional foot of setback shall be required in addition to the minimum setback indicated above for each one foot of height, or fraction thereof, over 20 feet.

d. Perimeter Buffers and Interior Tree Requirements

- 1) ~~An additional~~ six-foot high hedge shall be incorporated into the required Compatibility Buffer or R-O-W Buffer. Palms may be substituted for 50 percent of the required Canopy Trees.
- 2) These facilities shall be exempt from interior landscape requirements for the developable area pursuant to Art. 7.
- 3) Renewable Energy Solar Facilities (Solar Farm) outside of the Urban/Suburban Tier:
 - a) Shall be exempt from the planting requirements in Article 7 for right of way and perimeter buffer planting requirements. Property lines abutting platted roadways and/or roadways identified on the Thoroughfare Identification Map, shall not qualify for this exemption.
 - b) Landscape Buffer widths required in Article 7 may be reduced to five feet in width where not adjacent to platted roadways and/or roadways identified on the Thoroughfare Identification Map.
 - c) Property lines adjacent to existing residential uses shall maintain existing native vegetation, supplemented as necessary, or utilize an eight-foot fence to create an eight-foot opaque barrier. The aforementioned fence shall be exempt from the maximum height restrictions in 5.B.1.A.2.b.1.a.
 - d) Property lines adjacent to non-residential uses, shall be exempt from the maximum height restrictions in 5.B.1.A.2.b.2.

e. Collocation with Existing Electric Power Plant

Renewable Energy Solar Facilities located on a site with an existing Electric Power Plant may be approved pursuant to the approval process indicated in the appropriate use matrix, and shall not be subject to a Development Order Amendment pursuant to Art. 2.B.7.C, Development Order Amendment.

Article 3.A.3.B.1.q.

Standard District Exceptions and Limitations

Renewable Energy Solar Facility

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g. A rezoning shall not be required for the installation or replacement of a Renewable Energy Solar Facility (Solar Farm) located outside of the Urban/Suburban Tier.

Article 5B.1.A.5.e.1.a. Allowable Uses for Barbed Wire

(15) Renewable Energy Solar Facility (Solar Farm)

The chart attached also reflects the relief to the requirement to rezone the AP to the AR district in the future for these uses. This is based on the fact that the proposed use is permitted in AP, as well as the RR-10. Renewable Energy Solar Facilities such using solar energy are permitted in all land use categories other than conservation. The proposed note creates consistency between the comprehensive plan's provisions and the ULDC, while providing for a limitation to those areas that would be least impactful (e.g., a larger property that is in rural areas). Further, Renewable Energy Solar Facilities are permitted through Development Review Officer (DRO) approval in both the AP zoning district and the RR-10 Future Land Use category. The note that is consistent with these provisions do not require additional process for Renewable Energy Solar Facilities, which are encouraged in both the comprehensive plan and ULDC.

CONCLUSION

It is being requested that the Zoning Division place this request on the next available Land Development Regulation Board agenda and the next available Board of County Commission Agenda as part of the Phase 1 Process for Privately Initiated Text Amendments for consideration. Based on the land area that will be required for these facilities, it appears appropriate that regulations that consider the surrounding uses in the area be crafted in order to encourage and permit these uses in Palm Beach County. This can be accomplished without impacting what would be required should this use ever be proposed within urban areas of the County that could have a greater impact on the surrounding residents/uses.