

## EXHIBIT A

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

(Updated 09/23/20)

#### Minutes of August 26, 2020 LDRAB/LDRC Meeting

On Wednesday, August 26, 2020, the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the Kenneth S. Rogers Hearing Room (VC-1W-47), at 2300 North Jog Road, West Palm Beach, Florida and via Cisco Webex Events communications media technology (CMT).

#### A. CALL TO ORDER/CONVENE AS LDRAB

##### 1. Roll Call

Chair Mr. Wesley Blackman, called the meeting to order at 2:04 p.m. Mr. Alexander Biray, Code Revision Zoning Technician, called the roll.

##### **Members Present: 17**

Joanne Davis (District 1, Commissioner Valeche)\*\*\*\*

Drew Martin (District 2, Commissioner Weiss)

Glenn E. Gromann (District 4, Commissioner Weinroth)

Dr. Lori Vinikoor (District 5, Commissioner Berger)

Myles Basore (District 6, Commissioner McKinlay)\*

Robert J. Harvey (District 7, Commissioner Bernard)\*

Daniel J. Walesky (Gold Coast Builders Association)\*\*\*

Anna Yeskey (League of Cities)\*

Jaime M. Plana (American Institute of Architects)\*

Terrence Bailey (Florida Engineering Society)\*

Susan A. Kennedy (Environmental Organization)\*

Frank Gulisano (Realtors Association of the Palm Beaches)\*

Jim Sullivan, Florida Surveying and Mapping Society\*

Charles D. Drawdy (Assoc. General Contractors of America)\*

Wesley Blackman (PBC Planning Congress)\*

Tommy B. Strowd (Alternate At-Large #1)\*

Abraham Wien (Alternate At-Large #2)\*

##### **Members Absent: 1**

Ari Tokar (District 3, Commissioner Kerner)

##### **County Staff Present: 9**

Jon MacGillis, Zoning Director

Wendy N. Hernández, Deputy Zoning Director

Jerome Ottey, Site Planner II

Alexander Biray, Zoning Technician

Scott A. Stone, Assistant County Attorney I

Bryan Davis, Principal Planner

Dorine Kelley, Customer Relations Manager

Denise Pennell, Senior Planner\*

Scott B. Cantor, Assistant Land Development Director\*

##### **Vacancies: 0**

\* Present via Webex Events.

\*\* County Staff in audience.

\*\*\* Mr. Walesky arrived at 2:18 p.m.

\*\*\*\* Mrs. Davis was present at the start of the meeting, but Staff and the Board was unable to hear her responses until 2:45 p.m.

##### 2. Additions, Substitutions, and Deletions

Mr. Blackman noted an email sent to the Board the same day with the Community Residential Housing Consultant Study attached, and a presentation is already incorporated into the Agenda. Mr. MacGillis explained the email was previously sent last month, with Mrs. Hernández clarifying July 21st. Mrs. Hernández noted no further additions, substitutions, and deletions.

##### 3. Motion to Adopt Agenda

Motion to adopt the Agenda as amended, by Mr. Gulisano, seconded by Mr. Martin. The Motion passed unanimous (15-0).

##### 4. Adoption of May 26, 2020 Minutes (Exhibit A)

Mr. Gromann noted a typo on page iv under 9.b, Discussion from “fprovisions” to “provisions.”

Motion to adopt the Minutes with the change, by Dr. Vinikoor, seconded by Mr. Martin. The Motion passed unanimous (16-0).

##### 5. Public Comments

Mrs. Hernández noted no members of the public were present in person or via CMT.

#### B. ROUND 2020-02 INITIATION

##### 1. Exhibit B – Initiation of Unified Land Development Code (ULDC) Amendment Round 2020-02

Mrs. Hernández provided an overview of proposed amendments that Zoning Staff, in collaboration with other County Agencies where applicable, are working on for the 2020-02 Round of Amendments, including some presented to the Board the same day. She noted the proposed Medical Use Community Residential Housing amendment may be a standalone Ordinance, and a previous Subcommittee be reconvened.

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**a. Discussion**

Mr. Blackman asked if the Board needs to take action on the item. Mrs. Hernández responded it is just to inform them and no action is required.

Mr. Martin recommended the County should include rain gauges and soil sensor requirements into the proposed codification of the South Florida Water Management District (SFWMD) irrigation model code. He also asked whether the proposed amendment to Art. 7, Landscaping and Art. 14, Environmental Standards will make it easier or harder to remove native vegetation. Mrs. Hernández responded the intent of the amendment is to codify the Environmental Resources Management (ERM) Department's process and procedures for native vegetation, and clarify where Zoning's Permit Review and Landscape Section (Article 7) and ERM (Article 14) are responsible. Mr. Martin asked if there will be a Subcommittee. Mrs. Hernández and Mr. MacGillis responded Staff is still drafting the amendments and will be presented to the Board in the future.

\*\*\* Mr Waleskey arrived at 2:18 p.m.

**C. ULDC AMENDMENTS – NEW**

**1. Exhibit C – Art. 2 and 3, Property Development and Density Bonus Regulations, and Review Procedures for the WCRAO**

Ms. Pennell explained Parts 1 to 3 of the amendment. Part 1 of the amendment simplifies and clarifies processes and procedures as they relate to Zoning applications. Part 2 prohibits or restricts certain commercial and industrial uses in Sub-areas not compatible with their intent or the WCRA Community Redevelopment Plan. Part 3 revises language to address smaller non-residential lot sizes and removes sky exposure plane calculations as they are too complex to understand and have never been used. Ms. Glas explained Part 4 also simplifies and clarifies language for consistency as it relates to recent revisions in the Plan and Workforce Housing Program (WHP) in the Code.

**a. Discussion**

Mr. Gromann noted a typo in the Exhibit title from "Desity" to "Density."

Dr. Vinikoor expressed concern about removing the sky exposure plane as limiting architectural and design diversity. Ms. Glas responded that calculations would divert to supplemental standards taking it into consideration, and Staff are anticipating incremental revisions commensurate to its original intent as the overlay redevelops.

Mr. Martin asked if increased density would increase the risk of flooding and take away open space. Ms. Glas responded that flood mitigation was the first issue the Westgate/Belvedere Homes Community Redevelopment Agency (WCRA) mitigated, and the revisions to the Density Bonus Pool create more flexibility for open space. Mr. Martin asked if green infrastructure would be considered. Ms. Glas responded that while there is a conflict between regulatory requirements and acceptance, green infrastructure is encouraged.

Mr. Blackman noted the original intent of sky exposure planes was to regulate urban high-rise development allowed in parts of the overlay. Ms. Glas explained that smaller developments and vested lots pose a greater issue, but contemplated opportunities for large development may arise to utilize comparable provisions. Mr. Blackman noted the possibility of transit options along Okeechobee Boulevard in the future.

\*\*\*\* Staff confirmed that Mrs. Davis was able to hear Staff and Staff was able to hear Mrs. Davis.

Motion to approve, by Mr. Gromann, seconded by Dr. Vinikoor. The Motion passed unanimous (16-0).

**3. Exhibit D – Art. 3 and 5, Unity of Control**

Mr. Ottey explained the amendment removes the Unity of Title provisions from Zoning Division and County Attorney's Office requirements, as they have been replaced by the Land Development Division (LDD) requirements in Art. 11, Subdivision, Platting, and Required Improvements. He also explained the amendment relocates language in Art. 3.E, Planned Development Districts (PDDs) regarding Unified Control to Art. 5.F, Legal Documents for consolidation purposes, updates applicable references, and adds a provision that Unified Control shall be demonstrated by a Unity of Control or Property Owners' Association (POA).

**a. Discussion**

Mr. Martin asked for clarification whether anything is being changed, or relocated and streamlined. Mr. Ottey responded nothing is being changed, and Mr. MacGillis added existing Code is in multiple conflicting places when it should refer to LDD.

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Dr. Vinikoor asked if it is required to indicate who runs the Unity of Control. Mrs. Hernández responded it would be in the declarations on the plat. Mr. Cantor added the Unity of Control document contains multiple exhibits which stipulate declarations.

Mr. Gromann asked if Unity of Control would apply to a condominium association the same way it would for a POA. Mr. Cantor responded it would not unless part of an overall Planned Unit Development (PUD). Mr. Gromann further asked about platting if he divided a property. Mr. Cantor responded it would have to have an original plat. Mr. Gromann further asked about how ownership is determined when there is a bisecting road. Mr. Cantor responded the maintenance and use documents of the Unity of Control ensure the roadway is maintained.

Mr. Plana asked about existing located language on page 21, line 13 suggesting that “muted” colors be removed as it suggests only one color palette. Mr. MacGillis noted Staff looks for consistent colors.

Mr. Sullivan asked about evidence of a Unity of Control or a POA. Mr. Cantor responded it was as result of removing the obsolete responsibility of the County Attorney’s Office. Mr. Stone clarified it is demonstrated as evidence and is already part of the application.

Motion to approve with change from “muted” to “consistent,” by Mr. Martin, seconded by Mr. Plana. The Motion passed unanimous (16-0).

#### 4. Exhibit E – Art. 3 and 4, Multiple Use Planned Development Freestanding Buildings

Mrs. Hernández explained the history of the provisions proposed to be removed by the amendment discouraging a row of outparcels lining a shopping center and obstructing it from view, and that it has not achieved its intentions of visibility and resulted in ongoing circulation issues. Furthermore, recent Code amendments to access and landscaping result in better design.

##### a. Discussion

Mr. Martin asked if it would remove landscaping and trees. Mrs. Hernández responded it would not. Mr. Martin commended existing language for non-vehicular circulation.

Mr. Gromann asked about prior approval Multiple Use Planned Developments (MUPDs). Mrs. Hernández responded Special Exceptions exist which default to MUPDs, and the proposed amendment is not removing zoning districts.

Motion to approve, by Dr. Vinikoor, seconded by Mr. Gromann. The Motion passed unanimous (16-0).

#### 5. Exhibit F – Art. 5, Workforce Housing Program Exchange Builder Option for Prior Approvals

Mr. Davis explained the amendment was directed by County Administration to allow developments granted a Development Order (DO) prior to the effective date of the WHP rewrite (Ordinance No. 2019-033) to use the Exchange Builder Option with conditions.

##### a. Discussion

Mr. Martin asked if it would encourage the development of workforce housing units rather than approvals never built. Mr. Davis responded that the option would make the delivery of more units viable.

Motion to approve, by Mr. Walesky, seconded by Mr. Martin. The Motion passed unanimous (16-0).

#### D. CONVENE AS LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

The Land Development Regulation Advisory Board convened as the Land Development Regulation Commission at 3:15 p.m.

##### 1. Proof of Publication

Motion to accept Proof of Publication by Dr. Vinikoor, seconded by Mr. Gromann. The Motion passed unanimous (16-0).

##### 2. Consistency Determination for Exhibit F

Mr. Blackman noted the Comprehensive Plan Consistency Determination for Proposed ULDC Amendments letter from Planning stating the proposed amendment Exhibits F is consistent with the Comprehensive Plan.

##### a. Discussion

Mr. Martin asked for clarification on the motion. Mr. MacGillis responded it is to accept Planning’s determination that Exhibit F is consistent with the Plan.

Motion to approve, by Dr. Vinikoor, seconded by Mr. Gromann. The Motion passed unanimous (16-0).

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##### E. ADJOURN AS LDRC AND RECONVENE AS LDRAB

The Land Development Regulation Commission adjourned and reconvened as the Land Development Regulation Advisory Board at 3:18 p.m.

##### F. COMMUNITY RESIDENTIAL HOUSING CONSULTANT STUDY

Mr. MacGillis introduced Mr. Daniel "Dan" Lauber, Attorney/Planner of River Forest, Illinois and consultant for the study. Mr. Lauber gave a PowerPoint presentation on group homes, including overview, findings as they relate to the County, and recommendations for comprehensive reform and to be in compliance with Federal and State law while preventing the clustering of such uses in specific areas. Recommendations include replacing existing Congregate Living Facility (CLF) uses with Community Residences, including Family Community Residences and Transitional Community Residences, as well as Recovery Communities. A Community Residence is intended to emulate the functions of a family as defined by the Code, and be a compatible use in residential zoning districts. Specifically, a Family Community Residence is a long-term accommodation while a Transitional Community Residence is a short-term accommodation until occupants can move to more permanent living arrangements. A Recovery Community is intended to be a traditional institutional use, and would therefore be an incompatible use in residential zoning districts.

##### a. Discussion

Mr. Martin asked about room capacity as it relates to what constitutes a room, and who is considered an occupant. Mr. Lauber responded the County determines it by the Housing Code and whether staff are considered occupants may vary on the degree of disability. Mr. Martin followed up on parking, and shortages which already exist. Mr. Martin responded that it would have to be tailored by the type of Community Residence, but should not be a barrier and will collaborate with Staff further. Mr. Martin further asked about how a regular Multifamily structure would differentiate between a Community Residence. Mr. Lauber responded that it would be regulated by certification, and occupants would be required to pay rent.

Dr. Vinikoor commented on the County's sober home task force as it relates to fire codes and if Mr. Lauber agrees with the findings. Mr. Lauber responded he agrees, but complexities have arisen because of multiple codes involved, and the type of sober home and degree of disability to self-evacuate.

Dr. Vinikoor and Mr. Martin asked about Oxford House. Mr. Lauber responded the standards required would warrant automatic certification, and described its business model and charter standards.

Mrs. Yeskey noted countywide maps shown in the presentation depict visible concentrations, and asked how this will be coordinated with municipalities to prevent further clustering. Mr. Lauber responded the proposed amendment is an inclusionary approach, and the intent will be to prevent clustering.

Mr. Gromann asked if any State preemption exists for the County to require a sub-certification. Mr. Lauber responded that the State does not prohibit extra staff training, but will look into it further. Mr. Gromann further asked about Mr. Lauber's experience with POAs if one were to challenge a group home. Mr. Lauber responded that the Fair Housing Act would prohibit any challenge on the grounds of discrimination.

Mr. Blackman asked about the degree of care being examined. Mr. Lauber responded the primary use is residential, making the degree of treatment irrelevant and is determined by certification. Mr. Blackman also expressed interest to be on a Subcommittee and the proposed timeline.

Mr. Plana expressed concern about struggling with Americans with Disabilities Act (ADA) and conflicting code requirements. Mr. Lauber responded that he would not believe it to be required. He further explained that fire safety codes have incorrectly been classifying group homes as institutional rather than residential, and a State requirement or mediation should be required. Mr. Blackman noted it is a litigious issue.

Mrs. Kennedy asked about the difference between Community Residences and Transitional Community Residences in Single Family districts, and the degree of review. Mr. Lauber responded that the operator would demonstrate the home would not alter the character of the neighborhood by trips and physical characteristics. Mr. Blackman asked how current regulations stand for group homes. Mr. Lauber responded the County would be best served by the recommendations in the study.

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**G. STAFF COMMENTS**

Mr. MacGillis informed the Board follow-up for Subcommittees on Electric Vehicle Charging Stations (EVCS) and Medical Use will continue at the September 23rd meeting.

**H. BOARD MEMBER COMMENTS**

Mr. Blackman asked if the Governor's allowance for CMT will sunset on October 1st. Mr. Stone responded the Governor has been consistently extending it, and Staff is monitoring expiration dates.

**I. ADJOURN**

The Land Development Regulation Advisory Board meeting adjourned at 4:33 p.m.

Recordings of all LDRAB meetings are kept on file in the Palm Beach County Zoning/Code Revision office and can be requested by contacting the Code Revision Section at (561) 233-5243.