



**Department of Planning,
Zoning & Building**

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**Palm Beach County
Board of County
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Melissa McKinlay,

County Administrator

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Official Electronic Letterhead

MEMORANDUM

TO: Wesley Blackman, AICP, Chari and Members of the
Land Development Regulations Advisory Board (LDRAB)
FROM: Jon MacGillis, ASLA, Zoning Director
DATE: March 27, 2019
RE: **Cancellation of Meeting March 27, 2019 Land Development
Regulations Advisory Board (LDRAB)/Land Development
Regulation Commission (LDRC)**

Cancelling today's LDRAB/LDRC Meeting

Please note, FPL has just notified Zoning staff late this morning, they would like their PIA Agenda item postponed until the April Hearing. The WFH Agenda Item was also being postponed by the Planning staff. So rather than bringing Board Members to the meeting for just the LDRAB consistency determination we are cancelling the meeting. We do apologize for the late notice.

If you should have any questions or require additional information, please contact me at (561) 233-5234.

JM/wh

C: Digital Copy:
Amendment Round 2019-01

Email Copy:

Patrick W. Rutter, Assistant County Administrator
Ramsay J. Bulkeley, PZ&B Executive Director
Wes Blackman, Chair and Members of the LDRAB
Robert Banks, Chief Land Use Assistant County Attorney
Leonard W. Berger, Chief Assistant County Attorney
Joanne M. Keller, Director of Land Development
Patricia Behn, Interim Planning Director
Maryann Kwok, AICP, Deputy Director, Zoning
Wendy Hernandez, Zoning Manager
Bryan Davis, Principal Planner, Planning
Scott Rodriguez, Senior Planning, Planning
Zoning Division Staff
Ken Tuma, Agent, UDKS
Joni Brinkman, Agent, UDKS

LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
MARCH 27, 2019 MEETING

AMENDMENTS TO THE AGENDA
(Updated 03/21/2018)

Amend PIA 2018-02043, -Exhibit B page 13, line 36-37, to indicate language as proposed.

36 3) For facilities within the Rural, Exurban and Glades tiers greater than 250 acres in size,
37 the following shall apply:

Amend PIA 2018-02043, -Exhibit C page 18, line 31-52, to revise alternative language.

- 31 d. **Perimeter Buffers and Interior Tree Requirements**
32 1) For facilities within the Rural, Exurban and Glades Tiers greater than 250 acres
33 in size, the following shall apply:
34 a4) R-O-W Buffer
35 Shall be exempt from the requirements of Art. 7.C.2.A, R-O-W Buffer provided a
36 six foot high Landscape Barrier is installed. If a hedge is proposed, credit to satisfy
37 the hedge material may be granted for on-site preservation of existing vegetation
38 pursuant to Art. 7. E.3, Credit and Replacement. An additional six-foot high hedge
39 shall be incorporated into the required Compatibility Buffer or R-O-W Buffer.
40 ~~Palms may be substituted for 50 percent of the required Canopy Trees.~~
41 b2) Compatibility Buffer
42 (1a) Shall be exempt from the landscaping requirements of Art. 7 when the site
43 meets or exceeds the minimum 25 foot setback, and is adjacent to a parcel of
44 land with Agricultural or Utility Uses or a Conservation FLU designation; or
45 (2b) Shall be exempt from the landscaping requirements of Art. 7 when the site
46 meets or exceeds a 50 foot setback, and is adjacent to a parcel of land with
47 an existing Landscape Buffer. ~~These facilities shall be exempt from interior~~
48 ~~landscape requirements for the developable area pursuant to Art. 7.~~
49 [Relocated to: ULDC Art. 4.B.7.C.8.d.4), Landscape Buffer and Interior
50 Landscape Requirements]
51 c3) Incompatibility Buffer
52 The Type 3 Incompatibility Buffer may be reduced to 50 percent of the
53 Landscaping materials, excluding the width, and can be a hedge or fence.
54 4) All Tiers
55 These facilities shall be exempt from interior landscape requirements for the
56 developable area pursuant to Art. 7. [Relocated from: ULDC Art. 4.B.7.C.8.d.2),
57 Landscape Buffer and Interior Landscape Requirements]

Amend PIA 2018-02043, -Exhibit C page 19, line 48, to revise alternative proposed

48 d. Renewable Energy Solar Facility, within the Rural, Exurban and Glades Tiers greater than 250
49 acres in size, provided a six foot high Landscape Barrier is installed. If a hedge is proposed, credit
50 to satisfy the hedge material may be granted for on-site preservation of existing vegetation pursuant
51 to Art. 7. E.3, Credit and Replacement.

Amend PIA 2018-02043, -Exhibit C page 20, line 48, to revise alternative proposed

5 d. Renewable Energy Solar Facility, within the Rural, Exurban and Glades Tiers greater than 250 acres
6 in size, provided the site meets or exceeds the minimum 25 foot setback, and is adjacent to a parcel
7 of land with Agricultural or Utility Uses or a Conservation FLU designation.
8 e. Renewable Energy Solar Facility, within the Rural, Exurban and Glades Tiers greater than 250 acres
9 in size, provided the site meets or exceeds a 50 foot setback, and is adjacent to a parcel of land with
10 an existing Landscape Buffer.
11

Notes:

Double underlined indicates new text or previously stricken text to remain.

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

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

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



PALM BEACH COUNTY

LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

MARCH 27, 2019

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)

Jaime Plana (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)

Vacant (Member at Large/Alternate)

Board of County Commissioners

**Mack Bernard
Mayor, District 7**

**David Kerner
Vice Mayor, District 3**

**Hal R. Valeche
Commissioner, District 1**

**Robert S. Weinroth
Commissioner, District 4**

**Mary Lou Berger
Commissioner, District 6**

**Gregg K. Weiss
Commissioner, District 2**

**Melissa McKinlay
Commissioner, District 5**

County Administrator

Verdenia C. Baker



Expires June 30, 2019

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

**WEDNESDAY, MARCH 27, 2019 AGENDA
2300 NORTH JOG ROAD
ROOM VC-1E 47, VISTA CENTER
2:00 P.M.**

A. CALL TO ORDER/CONVENE AS LDRAB

1. Roll Call
2. Additions, Substitutions and Deletions
 - a. Staff
 - b. Board Member
3. Motion to Adopt Agenda
4. Adoption of February 27, 2019 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

1. Exhibit B Workforce Housing

PAGES

1 - 1

C. ULDC AMENDMENTS-REVISIONS

D. PRIVATELY INITIATED AMENDMENTS

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

2 - 20

E. CONVENE AS LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

1. Proof of Publication
2. Continuance of Exhibit B Workforce Housing
3. Consistency Determination for Exhibits C through J
 - a. Exhibit D Article 4 – Home Occupation Nuisance **21 - 21**
 - b. Exhibit E Article 5 – Fuel, Gas and Chemical Storage Tanks **22 - 22**
 - c. Exhibit F Article 2 – Reasonable Accommodation **23 - 23**
 - d. Exhibit G Article 2 – Reasonable Accommodation **24 - 24**
 - e. Exhibit G Article 4 – Agritourism **25 - 25**
 - f. Exhibit H Article 4 and 14 – Environmental Resource Management (ERM) **26 - 29**
 - g. Exhibit I Article 4 – Adult Entertainment **26 - 29**
 - h. Exhibit I Article 4 – Adult Entertainment **30 - 30**
 - i. Exhibit J Article 1 and 11 – Legal Lot and Potentially Buildable Lot **31 - 35**

F. ADJOURN AS LDRC AND RECONVENE AS LDRAB

G. STAFF COMMENTS

1. Office of Resilience follow up
2. LDRAB dates correction **36 - 36**
3. Reconvene Landscape Service Use Subcommittee April 3, 2019, 3pm to 4:30pm

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 (LDRC)**

(Updated 02/28/19)

Minutes of February 27, 2019 LDRAB/LDRC Meeting

On Wednesday, February 27 2019, the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the Ken Rogers Hearing Room, (VC-1E-60), at 2300 North Jog Road, West Palm Beach, Florida.

A. CALL TO ORDER/CONVENE AS LDRAB

1. Roll Call

Chair, Mr. Wesley Blackman, called the meeting to order at 2:03 p.m. Alexander Biray, Code Revision Zoning Technician, called the roll.

Members Present: 11

Drew Martin (District 2)**
Philip Barlage (District 3)
Lori Vinikoor (District 5)
Myles Basore (District 6)
Daniel Walesky Gold Coast Builders Association)*
Anna Yeskey (League of Cities)
Terrence Bailey (Florida Engineering Society)
Frank Gulisano (Realtors Association of the Palm Beaches)
Derek Zeman (Florida Surveying and Mapping Society)
Charles D. Drawdy (Assoc. General Contractors of America)
Wesley Blackman (PBC Planning Congress)

Members Absent: 3

Joanne Davis (District 1)
James Knight (District 4)
Abraham Wien (Member at Large, Alternative #1)

County Staff Present:

Jon MacGillis, Zoning Director
Wendy Hernandez, Principal Site Planner
Jan Rodriguez, Senior Site Planner

Alexander Biray, Zoning Technician
Leonard Berger, County Attorney

Bryan Davis, Principal Planner

Robert Krauss, Senior Site Planner, ERM

John Reiser, Environmental Program Supervisor, ERM

Michael R. Stahl, Deputy Director, ERM

Deborah Drum, ERM Director

Vacancies: 4

District 7
American Institute of Architects
Environmental Organization
Member at Large, Alternative #2

* Mr. Walesky arrived at 2:09 p.m.

** Mr. Martin arrived at 2:11 p.m.

A moment of silence was observed for the late Ms. Barbara Katz.

2. Additions, Substitutions, and Deletions

Mrs. Hernandez indicated modifications to G.2, Attachment 2 2018 LDRAB Attendance, and addition of G.7, Voting of the Chair and the Vice Chair.

3. Motion to Adopt Agenda

Motion to adopt the agenda as amended by Mr. Gulisano, seconded by Dr. Vinikoor. Motion passed (9-0).

4. Adoption of November 14, 2018 Minutes (Exhibit A)

Motion to adopt the Minutes by Mr. Gulisano, seconded by Mr. Zeman. Motion passed (9-0).

5. Public Comments

There were no public comments.

B. ULDC AMENDMENTS – NEW

1. Exhibit B – Article 4, Home Occupation Nuisance

Mrs. Hernandez explained the amendment was requested by Code Enforcement as “an objectionable nature” is subjective language, and Article 5 lists noise levels for the different types of uses in zoning.

Motion to approve by Dr. Vinikoor, seconded by Mr. Barlage.

Discussion: Dr. Vinikoor requested consideration to reference Table 5.E.4.B, Maximum Sound Levels.

*Mr. Walesky arrived at 2:09 p.m.

The Motion passed (10-0).

2. Exhibit C – Article 5, Fuel, Gas and Chemical Storage Tanks

Mrs. Hernandez explained the language for any tanks above three feet in height to comply with setbacks of the specific zoning district and be screened from view, based on discussion with Building and Fire representatives over conflict with Florida Building and Fire Prevention codes.

EXHIBIT A

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

(Updated 02/28/19)

Minutes of February 27, 2019 LDRAB/LDRC Meeting

**Mr. Martin arrived at 2:11 p.m.

Motion to approve by Dr. Vinikoor, seconded by Mr. Drawdy. Motion passed (11-0).

3. Exhibit D – Article 2, Reasonable Accommodation

Mrs. Hernandez explained the language is to clarify that somebody who has received a reasonable accommodation approval cannot transfer that approval to a new owner, and would have to reapply.

Discussion: Dr. Vinikoor requested that “county” be capitalized on line 44.

Motion to approve by Mr. Drawdy, seconded by Dr. Vinikoor. Motion passed (11-0).

4. Exhibit E – Article 4, Agritourism

Mrs. Hernandez explained the language to allow agritourism as a secondary use by Florida Statutes, as long as the principal use is bona fide agriculture. Mr. Berger clarified how a secondary use is established. Mr. MacGillis noted the Florida Department of Agriculture publishes a pamphlet listing complementary uses they would recommend.

Discussion: Dr. Vinikoor asked for clarification on F.S. §570.85 and F.S. §570.86, and whether to reference both. Mr. Berger responded it could just be F.S. §570.85. A discussion ensued between the Board and Mr. MacGillis and Mrs. Hernandez regarding the interpretation on what constitutes agritourism according to Florida Statutes, and how it would relate to the bona fide agricultural principal use.

Motion to approve by Mr. Martin, seconded by Mr. Gulisano. Motion passed (11-0).

5. Exhibit F – Article 14, Environmental Resource Management (ERM)

Mrs. Hernandez explained the multiple parts of the amendment. Mr. Krauss noted the first two parts of the exhibit address the excavation code in Article 4. Mr. Krauss also elaborated on the language added for lifting restrictive covenant agreements on dug lakes, clarity on establishing a preserve, and criteria on relocating preserves with higher standards.

Discussion: Mr. Bailey expressed concern over the language stating “any” water management tract, which Mr. Krauss responded would be nullified if a dug lake is in the same drainage basin. Mr. Krauss also noted restrictive covenants could be transferred to other pods with an amendment. Dr. Vinikoor suggested the provision about gopher tortoises be changed to apply to species generally in case any more are applicable for a relocation permit in the future. Mr. Martin dissented that the added language might make it easier for developers to get out of conservation.

Motion to approve by Dr. Vinikoor, seconded by Mr. Gulisano. Motion passed (10-1). Mr. Martin voted nay.

5. Exhibit G – Article 4, Adult Entertainment

Mrs. Hernandez explained the purpose of the amendment is to reflect a study by consultants to analyze sites available for Adult Entertainment to ensure that the County is still in compliance.

Discussion: Mr. Blackman wanted to know if the report was available online. Mr. MacGillis said it is not, but available from the Zoning division. Mr. Bailey concurred about making the report public, and recommended it be distributed to local municipalities in case a nearby area somebody might believe is within a municipality is in question.

Motion to approve by Mr. Bailey, seconded by Dr. Vinikoor. Motion passed (11-0).

5. Exhibit H – Article 1 and 11, Legal Lot and Potentially Buildable Lot

Mrs. Hernandez explained the language being deleted and relocated from Article 1 to Article 11 with some revisions, because Zoning was receiving double work receiving applications which are delivered to Land Development and Planning. She stressed it is only reorganization and not changing regulations. However, language was removed addressing nonconforming legal lots platted in the early twentieth century which cannot realistically use RS district property development regulations, which Mrs. Hernandez clarified would use percentage instead.

Discussion: Mr. Bailey disclosed to Mr. Berger that his wife works in the Land Development division.

Motion to approve by Dr. Vinikoor, seconded by Mr. Gulisano. Motion passed (11-0).

EXHIBIT A

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

(Updated 02/28/19)

Minutes of February 27, 2019 LDRAB/LDRC Meeting

D. ADJOURN AS LAND DEVELOPMENT REVIEW ADVISORY BOARD (LDRAB) AND CONVENE AS LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

1. Proof of Publication

The Chair acknowledged Proof of Publication and Mr. MacGillis and Ms. Hernandez also confirmed the publication.

Motion to accept Proof of Publication by Dr. Vinikoor, seconded by Mr. Zeman. Motion passed (11-0).

2. Exhibit D, PIA-2018-2043 Renewable Energy Solar Facilities

Motion to continue public hearing next month by Dr. Vinikoor, seconded by Mr. Gulisano. Motion passed (11-0).

E. ADJOURN AS LDRC AND RECONVENE AS LDRAB

The Land Development Regulation Commission adjourned and reconvened as the Land Development Review Advisory Board at 2:38 p.m.

G. Annual Organization Discussion

1-5. Attachments 1-9

Mrs. Hernandez reviewed the Attachments and presented a PowerPoint presentation for upcoming Code Amendments. For Attachment 1, the Mr. Blackman noted confusion with the colors used, specifically red and black. Mrs. Hernandez noted the pending confirmations for Robert J. Harvey and new American Institute of Architects representative to be appointed in March. For Attachment 3.b, Ms. Hernandez addressed the one amendment different from LDRAB approval, where "as amended" was stricken out for FP&L's "Right Tree, Right Place," because the County wants to review any changes. Mr. Gulisano noted a typo in Attachment 7, where the BCC Hearing – 1st Reading for Round 2019-01 was July 25, 2019 instead of July 24, 2019 for Wednesday. Dr. Vinikoor suggested "agro-tourism" be referred to as "agritourism" for consistency. Mr. Bailey asked if the Board can be informed if any changes are made by the BCC.

6. Attachment 10, Sunshine Law Overview

Mr. Berger advised the Board on the Sunshine Law about prohibited communication between members. Mr. Martin asked whether his reply to an email regarding Ms. Katz's passing was technically a violation. Mr. Bailey noted his statement was foreseeable. Mr. Walesky asked how the Sunshine Law would apply to Workshops if more than one Board member attends. Mr. Berger advised as long as Code language is not discussed.

7. Voting of the Chair and the Vice Chair

Motion to nominate Mr. Blackman as Chair by Dr. Vinkoor, seconded by Mr. Gulisano. Motion passed (11-0).

Motion to nominate Dr. Vinikoor as Vice Chair by Mr Gulisano, seconded by Mr. Zeman. Motion passed (11-0).

Discussion: Mr. Bailey suggested rotating Chairs. Mr. Blackman assured that he does not have a lock on the position base on the longevity of his tenure, and would relinquish the Chairmanship if somebody else wanted to take it over.

H. STAFF COMMENTS

Mr. MacGillis explained the Sober House Subcommittee being shut down based on Staff disagreements over Reasonable Accommodation, and that the County would hire the same consultant hired by the City of Delray Beach and City of Boynton Beach for analysis and reconvene in the next round with medical use.

I. BOARD MEMBERS COMMENTS

Mr. Martin wanted to know what discussions Mr. MacGillis had with the Resiliency Coordinator, if there is any opportunity to report back to the Board, and if there are any amendments, adoptions, or recommendations based on the discussion. Mr. MacGillis said their discussions are informal, and County Administration is trying to get her involved with more operations of departments, including Zoning Review, and will update on when the meeting occurred and what results were coordinated. Mr. Martin wondered if there should be an LDRAB subcommittee.

J. ADJOURN

The Land Development Regulation Advisory Board meeting adjourned at 3:03 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) 233-5213.

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MEMORANDUM

TO: Jon MacGillis, Zoning Director

FROM: Patricia Behn, Interim Planning Director 
Planning Division, PZ&B

DATE: March 18, 2019

RE: Request for Continuance of the LDRAB/LDRC Review of Proposed Workforce Housing Program Code Changes

The Planning Division requests that the review of the proposed Workforce Housing Program code changes by the Land Development Regulation Advisory Board and the Land Development Regulation Commission be continued from the March 27, 2019 meeting date to the April 24, 2019 meeting date.

The reason for this request is to allow for consideration of the comments and suggestions provided at an Interested Parties meeting held on March 14, 2019.

cc: Patrick W. Rutter, Assistant County Administrator
Ramsay J. Bulkeley, Esq., PZB Executive Director
Maryann Kwok, Deputy Zoning Director
Wendy N. Hernandez, Principal Site Planner, Zoning Division
Jan Rodriguez, Senior Site Planner, Zoning Division
Maria Bello, Principal Planner, Planning Division
Michael Howe, Senior Planner, Planning Division

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**PALM BEACH COUNTY
PLANNING ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

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 2, Privately Initiated Code Amendment. **Revised Request:** to amend specific sections of the Unified Land Development Code (ULDC) for Renewable Energy Solar Facilities that are greater than 250 acres; to revise the definition; modify and exempt the requirements for perimeter buffer landscaping; and to be exempt from the maximum height for fences.

APPLICATION SUMMARY: The Applicant is requesting to amend the specific sections of the ULDC within Articles 4, 5 and 7, in order to allow for exemptions and administrative waivers to the landscaping requirements within the Rural, Exurban and Glades Tiers, and to revise the definition for a Renewable Energy Solar Facility. In addition, the Applicant is proposing an amendment to provide exemptions from the fence heights. The Applicant 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 (Exhibit A). As part of the Phase 1 review, there were other requests to add an exemption from the rezoning requirements for a Renewable Energy Solar Facility when the use is permitted in both the Rural Residential (RR-10) land use designation and Agriculture Production zoning district, and an exemption to allow for barbed wire, however, the Applicant withdrew these requests.

ULDC ARTICLE	TITLE OF ARTICLE	PROPOSED REVISIONS OF CODE SECTIONS BY APPLICANT
Article 4	Use Regulations	4.B.7.C.8. Renewable Energy Solar Facility Amend Definition; Add Exemptions from: <ul style="list-style-type: none"> Planting requirements for Rights of Way and perimeter buffers.
Article 5	Supplementary Standards	<ul style="list-style-type: none"> 5.B.1.A.2.b.1) Height and Related Standards, Residential District.
Article 7	Landscaping	<ul style="list-style-type: none"> Table 7.B.4.A – Type 1 Waivers for Landscaping, 7.C.2.

RECOMMENDATION: Staff is not in support of the Code amendment proposed by the Applicant, which is described in Exhibit B, as it does not meet Standards 1, 4, 5, and 6 of the ULDC Article 2.D.3.

ACTION BY THE LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB): At the November 14, 2018 LDRAB Meeting, the Applicant and Staff made presentations regarding the proposed Phase 1 initiation of the request. Issues raised by the LDRAB members included the following: not exempting the renewable energy solar facility use from providing landscape in the buffers; maintaining or encouraging the use of native vegetation; retaining the current renewable energy solar facility definition to ensure limitations are imposed on accessory structures; install sufficient landscaping in conjunction with a fence when adjacent to existing residential development, and the limitation of the use of barbed wire in proximity to residential.

ACTION BY THE BOARD OF COUNTY COMMISSIONERS (BCC): At the November 26, 2018 BCC Hearing, the Applicant and Staff made presentations regarding the Phase 1 Initiation of the request. Staff advised the BCC they were in support of the amendment moving forward; however, further discussion was needed with the Applicant on the proposed language. Commissioner Weinroth stated that he preferred a security alternative to barbed wired, and Commissioner McKinlay said staff should work on the requirements for shade trees with the use.

PUBLIC COMMENT SUMMARY: At time of publication, Staff received five contacts from the public requesting information on the proposed amendment. Summary of the comments are concerns on the impacts of the roads generating from this type of Facility; exemptions from the requirements for screening of the use from the residents; and potential impact on the surrounding residential area.

BACKGROUND AND SUMMARY:

U:\Zoning\CODEREV\Code Amendments\2019\2 - LDRAB\03-27-19\4- LDRAB Packet\Exh C PIA-2018-2043 FPL Renewable Engery Solar Phase 3-20-19.docx

ULDC 2009 Amendments that established Renewable Energy provisions in ULDC: At the January 29, 2009 BCC Hearing, the BCC directed Staff to convene a LDRAB Subcommittee and work with interested parties to develop language and revise the ULDC to allow for renewable energy facilities. Eight Subcommittee meetings were held between March 20, 2009 and October 19, 2009, with Planning and Zoning Staff, an LDRAB member, Florida Power and Light (FPL) representatives and other interested parties. Based on the input from these meetings, Ordinance 2009-040 was adopted by the BCC on October 22, 2009 creating the definition and supplement use standards for the new use.

Current Request: According to the Applicant's justification, these amendments are appropriate considering that these Solar Farm sites have to be located in large parcels of land, 250 acres or greater, and therefore, placed in the rural areas of the County. 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 or Agricultural Reserve Tiers in the County.

FOLLOWING PHASE 1 INITIATION: At the Agency Round Table on January 31, 2019, the Applicant presented revised language that took into consideration some of the recommendations provided by LDRAB and Zoning Staff, but held firm their position regarding other recommendations specific to the landscape buffers. Staff further discussed relocating the current landscape requirements for a Renewable Energy Solar Facility to Article 7, Landscaping, where specific landscape waivers could be introduced. The Applicant agreed to consider Staff's suggestion, submitting a final draft on February 4, 2019. The Applicant contacted Staff on February 4, 2019 and advised that further review of the Code the Applicant was not in agreement with including language for the waiver process as the request could still be denied by Staff or additional conditions could be imposed; thereby leaving the Applicant little to no relief. The Applicant is still requesting that the Renewable Energy Solar Facility use be exempt from providing landscape in the buffers.

STANDARDS

Evaluation of a PIA shall include consideration of the following standards:

- 1. Extent to which any other alternatives to a code amendment have been evaluated, a summary of any recommendations or direction provided by the BCC, County staff in prior meetings, and where applicable, why the amendment is being requested in lieu of such alternatives.**

Landscaping (6' hedge): Based on previous meetings Staff is in agreement that the requirement for the additional six foot hedge is not necessary for a Compatibility Buffer or the Right of Way buffer, because the requirements within Article 7 suffice provide for adequate buffering. There are no alternatives within the code that would give an Applicant relief from this requirement and variance relief from Article 4. B, Use Classification and supplementary standards are not allowed. Therefore, the Applicant has to either comply with the current regulations or initiate a code amendment.

Definition: Staff acknowledges that the Applicant cannot seek variances to amend the definition located within Article 4.B. The Applicant has **not** demonstrated a need to modify the definition that currently addresses all types of renewable energy (photovoltaic, thermal, or other). The current definition and renewable energy code requirements are a result of input from the 2009 Subcommittee Meetings that included participation from FPL representatives, in addition to other County Staff and interested parties. The proposed modifications to the definition delete other types of solar facilities previously analyzed by the Subcommittee

Landscaping (Waiver or Exemption): The proposed modifications eliminate or reduce plant material that is required for all uses within the County. The Applicant states that the ULDC requirements within Article 4 and 7, are more for protecting uses within the urban/suburban areas of the County rather than the rural areas. This is incorrect, as the ULDC has multiple requirements in which different regulations are applied based on the Tier the uses are located in. Variances and Waivers are currently an alternative process and Applicant's can request modifications from the landscape requirements specific to the uses unique configuration or circumstance.

Fencing: Variances and Waivers are currently an alternative process the Applicant can request to deviate from those requirements based on the Standards of the ULDC. The Applicant has informed staff that they prefer to amend the regulations rather than seek variance relief where they might not be able to meet the criteria and it is critical these allowances be made for the Solar project to move forward.

- 2. Does not violate State, Federal or other local government laws;**

The proposed requests will not violate any State, Federal or other local government laws.

U:\Zoning\CODEREV\Code Amendments\2019\2 - LDRAB\03-27-19\4- LDRAB Packet\Exh C PIA-2018-2043 FPL Renewable Engery Solar Phase 3-20-19.docx

- 3. Will be consistent with the Comprehensive Plan, or will otherwise be submitted pursuant to or concurrent with an application to amend the Plan;**

The proposed requests will not result in any inconsistency with the with the Comprehensive Plan.

- 4. Will not be in conflict with any other ULDC provisions or amendment will also address the other inconsistencies;**

The Applicant did **not** demonstrate that the amendment is necessary to address contradictions and inconsistencies in the ULDC. The proposed amendment is to reduce requirements.

- 5. The request has been demonstrated to be a new industry trend not anticipated by the Comprehensive Plan or ULDC; and,**

The Applicant has **not** demonstrated that the requests relate to a new industry trend not anticipated by the Plan or the ULDC.

- 6. Identification of examples of similar land development regulations adopted in other jurisdictions under the same circumstances, such as similar FLU designation or Zoning districts, compatibility, buffering, roadway frontage and other similar site considerations.]**

The Applicant provided examples from Martin and St. Lucie County of land development regulations that required the Renewable Energy Solar Facility use to be approved by the Board of County Commission with the Supplementary Standards being approved by Waivers and Variances. In both of these examples, the requests were Public Hearing items where public input was afforded to the changes to the application of the code provisions.

Exhibit A
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

Submittal Date for BCC Initiation: November 5, 2018

Submittal Date for LDRAB Phase 2 Process: ~~January 7, 2019~~

~~January 10, 2019~~

~~February 4, 2019~~

~~February 15, 2019~~

March 5, 2019

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 and Agricultural Reserve Tiers, 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 and the large amount of land area required in order to support solar farms. By virtue of a proposal to require a minimum of 250 acres being, 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, nor in the Agricultural Reserve Tier.

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 not be appropriate considering the rural nature of these areas of the County.

While this request to revise the code would apply to all applicable lands within unincorporated Palm Beach County, with the exception of the Urban/Suburban and Agricultural Reserve Tiers, the property currently under consideration for the solar farm is owned by FPL and includes three parcels of land totaling approximately 1,288 acres within the Rural Tier. The property has a designated future land use of Rural Residential-10 and a zoning designation

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www.udkstudios.com
LCC000035

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 consider the amount of land area that would be required to create what is commonly referred to as a 'Solar Farm' and the availability of that amount of land within the Urban/Suburban or Agricultural Reserve Tier. Instead, many of the code requirements that are included in the current use's supplemental regulations in Article 4 and landscape requirements appear to have been created to protect neighboring uses from negative impacts within more urban/suburban areas of the County, which contrasts with parcels in more rural areas. As such, the Applicant has requested to amend the definition of Renewable Energy Solar Facility to be more applicable to "Solar Farm" type facilities, taking into consideration their likely locations.

Additionally, the Applicant had proposed to add additional detail to the use definition to reflect necessary accessory use areas and structures required for the solar farm. However, pursuant to Article 5., B.,1., A.,1., c. the ULDC already regulates accessory uses and structures to a maximum of 30 percent of the GFA or business receipts of the principal use or uses for nonresidential zoning districts, and within residential zoning districts, any accessory uses and structures are not to exceed the square footage of the principal use. Based on the principal use of the solar farm, the applicant is will be in compliance with the existing code in this regard and is not requesting any revisions to these limitations.

As an integral part of this request, the Applicant has revised Articles 4 and 7 to provide a tiered approach to ensure adequate screening of Renewable Energy Solar Facilities based on the setbacks provided for solar farm projects. This tiered approach requires increased planting requirements within the required landscape buffers as provided setbacks decrease, thereby ensuring adequate screening located within the solar farm's right-of-way, compatibility, and incompatibility buffers from adjacent uses, along with the code allowance to request waivers.

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 and/or minimize any impacts to 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 and security guards. Once open and operating, Solar Farms are un-manned facilities with the only vehicular traffic to the site being maintenance vehicles. Solar Farms require chain link fencing 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

Again, while this request is not site specific, the proposed site is located within unincorporated Palm Beach County (PBC), within the Rural Tier. The site has a designated future land use of Rural Residential-10, and zoning designation of Agricultural Residential (AR). Surrounding uses and land use/zoning designations are outlined in the following chart.

EXISTING USE	ZONING	FUTURE LAND USE (FLU)
Subject Site: Delray Linton Groves / Iota Carol	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 Residential (WCRO)	Western Communities Residential (WCR)
TO THE EAST: Palm Beach West Associates I LLP / Indian Trails Grove	Agricultural Residential (AR) / Western Residential (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 / Agricultural Residential (AR)	Rural Residential-1 dwelling unit per 5 acres (RR-5) / Rural Residential-1 dwelling unit per 10 acres (RR-10)

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 or Agricultural Reserve Tiers, while recognizing the rural character of the most likely locations for the use. The majority of

the proposed revisions reflect relief from screening and landscape/irrigation requirements. It should be noted the proposed revisions are consistent with the regulations required for screening of renewable energy solar facilities within the Urban/Suburban Tier by providing a minimum six foot (6') opaque barrier where adjacent to existing residential uses. 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 is produced, stored, and delivered to the transmission system and consumed off-site.~~

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

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) For facilities in the Rural, Exurban and Glades tiers greater than 250 acres in size, the following shall apply:
- a. **Right-of-Way Buffers**
 - 1) Where adjacent to non-residential uses and a setback of fifty (50) feet or greater is provided, the buffer is exempt from planting requirements. Setbacks shall apply to buildings and solar panels herein.
 - 2) Where adjacent to existing residential uses and a setback of less than eighty (80) feet is provided, a Type 1 Waiver to quantity of buffer planting material is permitted per Table 7.B.4.A.
 - 3) Where adjacent to existing residential uses and a setback of eighty (80) feet or greater is provided, the buffer is exempt from the canopy tree requirements and the shrub requirement may be met via native vegetation to be installed at a minimum height of two (2) feet, to be maintained at a minimum height of six (6) feet at maturity, or utilize a minimum six-foot-tall opaque fence, to create a six-foot opaque barrier.
 - b. **Compatibility Buffers**
 - 1) Where adjacent to Agricultural, Utilities, or Conservation Uses, or a setback of fifty (50) feet or greater is provided, Compatibility Buffers are not required.
 - 2) Where the provided setback is less than fifty (50) feet, a Type 1 Waiver to the quantity of the buffer planting material is permitted per Table 7.B.4.A.
 - c. **Incompatibility Buffers**
 - 1) A six-foot opaque fence is permitted in lieu of a six-foot wall.
 - 2) A Type 1 Waiver to quantity of buffer material is permitted per Table 7.B.4.A.

Article 5.B.1.A.2.b.1.d.

- d) A Renewable Energy Solar Facility (Solar Farm) located within a Residential Zoning District in the Rural, Exurban or Glades Tier is permitted to apply the fence height regulations for nonresidential districts as contained in Art.5. B.1.A.2.b.2).

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

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

Article/Table Reference and Title	Maximum Waiver	Criteria
R-O-W Buffer		
Table 7.D.4.D. Location of Wall or Fence in a Landscape Buffer , Canopy Tree Planting for R-O-W Buffer.	Allow a reduction of 25 percentage of required Canopy trees to be located on the exterior side of the wall or fence for R-O-W Buffers.	<ul style="list-style-type: none"> • Since a wall or fence is not a requirement for a R-O-W Buffer, the Applicant shall demonstrate in the request that the proposed wall or fence is an integral design component for security or aesthetic purpose. • The required trees shall be located on both sides of the wall or fence.

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

Article/Table Reference and Title	Maximum Waiver	Criteria
Table 7.C.2.A. - R-O-W Buffer Landscape Requirements	Allow a reduction of 50 percent of required Canopy tree, palm/pine and groundcover, small and medium shrub buffer planting requirements for Renewable Energy Solar Facilities (Solar Farms).	<ul style="list-style-type: none"> The Solar Farm shall be a minimum of 250-acres and shall be located within the Rural, Exurban or Glades Tier. All plant material shall be native.
Compatibility Buffer		
Table 7.C.2.B – Compatibility Buffer Requirements	Allow a reduction of 50 percent of required Canopy tree and medium shrub planting requirements for Renewable Energy Facilities (Solar Farms).	<ul style="list-style-type: none"> The Solar Farm shall be a minimum of 250-acres and be located within the Rural, Exurban or Glades Tier. A minimum setback of thirty (30) feet to the solar panels and / or equipment must be provided. All plant material shall be native.
Incompatibility Buffer		
Art. 7.C.2.C.1. Elimination of Incompatibility Buffer	Allow to eliminate the requirement of an Incompatibility Buffer for residential pods in a PDD or tracts within a residential subdivision.	<ul style="list-style-type: none"> The pod or tract is located adjacent to open space that is 100 feet or greater in width; or The site layout of the pod or tract will integrate recreational amenities with multi-family units and CLFs.
Table 7.D.4.D. Location of Wall or Fence in a Landscape Buffer, Canopy Tree Planting for Incompatibility Buffer	Allow a reduction of 25 percent of required Canopy trees to be located on the exterior side of the wall or fence for Incompatibility Buffers.	<ul style="list-style-type: none"> The applicant shall demonstrate in the request that the proposed wall or fence is an integral design component for security or aesthetic purpose. The required trees shall be located on both sides of the wall or fence.
Art 7.C.2.C.1. Incompatibility Buffer	Allow a reduction of 50 percent of required Canopy tree, palm/pine and groundcover, small/medium shrub requirements in all Types of Incompatibility Buffers for Renewable Energy Solar Facilities (Solar Farms).	<ul style="list-style-type: none"> The Solar farm must be a minimum of 250-acres and be located within the Rural, Exurban or Glades Tier. The plant material must be provided on the outside of the required opaque fence and the request must include supporting documentation from adjacent property owner(s) to be granted approval. All plant material shall be native.
Berm		
Art 7.D.6.A. Berm, Tier Restrictions	Allow landscape berms within the Exurban, Rural, Agricultural Reserve, or Glades Tiers.	Berms are utilized to improve screening of loading, parking or vehicular use areas, and to address compatibility issues.
Foundation Planting		
Table 7.C.3.B. Foundation Planting and Dimensional Requirements – Facades to be Planted	Allow a 50 percent relocation of required foundation planting.	<ul style="list-style-type: none"> The foundation planting shall be relocated to another façade of the same building or structure; or to an expanded sidewalk that is located within 30 feet of the same building or structure; The relocated foundation planting shall have the minimum planting width; and The overall total square feet for the foundation planting meets or exceeds the required foundation planting.

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

Article/Table Reference and Title	Maximum Waiver	Criteria
Landscape Islands and Parking Structures		
Table 7.C.4.A. Landscape Island and Divider Median - Planting and Dimensional Requirements, Landscape Island Width	Allow the reduction of width of landscape island to 5 feet excluding curbs.	For infill sites with less than 25 parking spaces.
Table 7.C.4.A. Landscape Island and Divider Median - Planting and Dimensional	Allow relocation of shrubs from divider medians to other areas of the site.	For industrial developments that do not have significant public visitation and the nature of the use does not benefit for interior plantings in parking

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

Article/Table Reference and Title	Maximum Waiver	Criteria
Requirements, Divider Median Shrub Planting		areas.
Art. 7.C.4.A.1. Landscape Island Maximum Spacing	Allow to increase the number of spaces or distance to provide larger interior islands.	<ul style="list-style-type: none"> To allow existing vegetation to be preserved or existing vegetation to be relocated within parking areas.
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]		

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 2 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 and/or Agricultural Reserve areas of the County that could have a greater impact on the surrounding residents/uses.

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EXHIBIT B

APPLICANT'S REQUEST
ARTICLE 4 – USE REGULATIONS, ARTICLE 5 SUPPLEMENTARY STANDARDS, AND
ARTICLE 7, LANDSCAPING
SOLAR FARMS
PIA-2018-02043

1 Part 1. ULDC Art. 4.B.7.C.8, Use Regulations, Use Classification, Utility Uses, Renewable Solar Energy
2 Facility (page 115 of 200, Supplement 25), is hereby amended as follows:

Reason for amendments: [Zoning]
1. Revisions are proposed to address landscape requirements for Solar Farms with a minimum of 250 acres in size within the Rural, Exurban, and Glades Tiers by taking into account the rural nature of the area to provide relief to typical perimeter buffer landscape planting requirements. Code revision still provides for screening where the use is adjacent to existing residential uses, provides thresholds that require increased landscape buffer planting as provided setbacks decrease, and takes into account adjacency to existing residential uses.

3 CHAPTER B USE CLASSIFICATION

4 Section 7 Utility Uses

5 ...
6 C. Definitions and Supplementary Use Standards for Specific Uses

7 ...
8 8. Renewable Energy Solar Facility (**Solar Farm**)

9 a. Definitions

10 A facility ~~that uses photovoltaic, thermal or other systems with a principal use of producing electric~~
11 ~~or thermal power from the sun for the production of electric power that utilizes photovoltaic modules~~
12 ~~(e.g. panels) to convert solar energy to electricity whereby the electricity is produced, stored, and~~
13 ~~delivered to the transmission system and consumed off-site.~~

14 b. Lot Size

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

17 c. Setbacks

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

20 1) **Lots 50 Acres or Greater**

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

23 2) **Lots Less than 50 Acres**

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

26 3) **Lots Adjacent to Existing Residential Uses**

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

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

31 d. **Perimeter Buffers and Interior Tree Requirements**

32 1) ~~An additional~~ six-foot high hedge shall be incorporated into the required Compatibility Buffer or
33 R-O-W Buffer. Palms may be substituted for 50 percent of the required Canopy Trees.

34 2) These facilities shall be exempt from interior landscape requirements for the developable area
35 pursuant to Art. 7, Landscaping.

36 3) For facilities within the Rural, Exurban and Glades tiers greater than 250 acres in size, the
37 following shall apply:

38 a) **Right-of-Way Buffers**

39 (1) Where adjacent to non-residential uses and a setback of fifty (50) feet or greater is
40 provided, the buffer is exempt from planting requirements. Setbacks shall apply to
41 buildings and solar panels herein.

42 (2) Where adjacent to existing residential uses and a setback of less than eighty (80) feet is
43 provided, a Type 1 Waiver to quantity of buffer planting material is permitted per Table
44 7.B.4.A.

45 (3) Where adjacent to existing residential uses and a setback of eighty (80) feet or greater
46 is provided, the buffer is exempt from the canopy tree requirements and the shrub
47 requirement may be met via native vegetation to be installed at a minimum height of two
48 (2) feet, to be maintained at a minimum height of six (6) feet at maturity, or utilize a
49 minimum six-foot-tall opaque fence, to create a six-foot opaque barrier.

50 b. **Compatibility Buffers**

51 (1) Where adjacent to Agricultural, Utilities, or Conservation Uses, or a setback of fifty (50)
52 feet or greater is provided, Compatibility Buffers are not required.

53 (2) Where the provided setback is less than fifty (50) feet, a Type 1 Waiver to the quantity
54 of the buffer planting material is permitted per Table 7.B.4.A.

EXHIBIT B

APPLICANT'S REQUEST
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Reason for amendments: [Zoning]
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50 b. **Compatibility Buffers**

51 (1) Where adjacent to Agricultural, Utilities, or Conservation Uses, or a setback of fifty (50)
52 feet or greater is provided, Compatibility Buffers are not required.

53 (2) Where the provided setback is less than fifty (50) feet, a Type 1 Waiver to the quantity
54 of the buffer planting material is permitted per Table 7.B.4.A.

1 **c. Incompatibility Buffers**

2 (1) A six-foot opaque fence is permitted in lieu of a six-foot wall.

3 (2) A Type 1 Waiver to quantity of buffer material is permitted per Table 7.B.4.A.

4
5
6 **Part 2. ULDC Art. 5.B.1.A.2.b.1.d. Supplementary Standards, Accessory Uses and Structures, Supplementary Regulations, Accessory Uses and Structures, Residential Districts, Fences and Walls, Height and Related Standards (page 12 of 110, Supplement 25), is hereby amended**
7 **as follows:**
8
9

Reason for amendments: [Zoning] 1. Amendment proposed to allow for fences for the use to exceed the four-foot fence height within the front setback and the six feet in side, side street and rear setback six-foot fence height and instead utilize the non-residential fence heights of six feet in the front setback and eight feet in the side, side street, and rear setbacks, consistent with the non-residential use of the property.
--

10 **CHAPTER B ACCESSORY USES AND STRUCTURES**

11 **Section 1 Supplementary Regulations**

12 **A. Accessory Uses and Structures**

13 ...

14 **2. Fences and Walls**

15

16 **b. Height and Related Standards**

17 **1) Residential Districts**

18 The maximum height for a fence or wall on or adjacent to a residential lot line or in a landscape
19 buffer shall be as follows: [Ord. 2015-006]

20 **a) Within required front setback:**

21 (1) four feet, or [Ord. 2005-041] [Ord. 2015-006]

22 (2) six feet for property owned by PBC for preservation or conservation purposes. [Ord.
23 2005-041] [Ord. 2015-006]

24 **b) Within required side, side street, and rear setback: six feet. [Ord. 2015-006]**

25 **c) Within a landscape buffer: six feet. [Ord. 2015-006]**

26 **d) A Renewable Energy Solar Facility (Solar Farm) located within a Residential Zoning District
27 in the Rural, Exurban or Glades Tier is permitted to apply the fence height regulations for
28 nonresidential districts as contained in Art.5. B.1.A.2.b.2).**

Figure 5.B.1.A – Typical Example of Residential District Fence and Wall Height

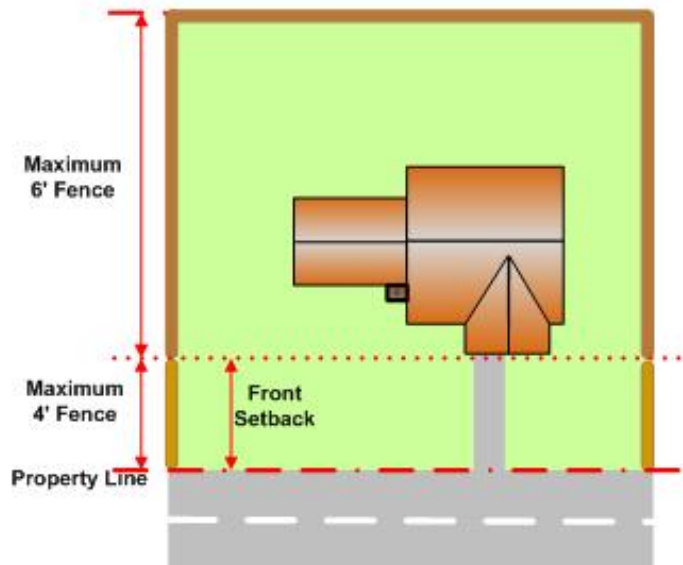
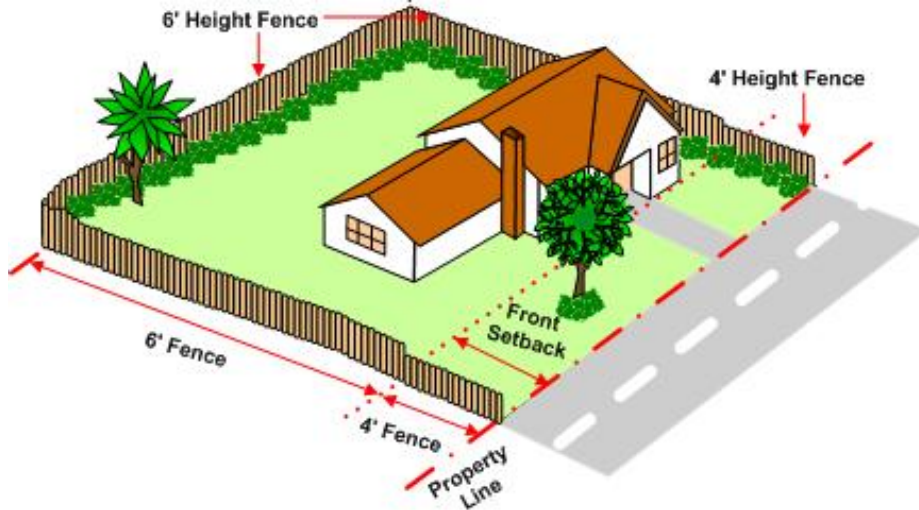


Figure 5.B.1.A – Typical Example of Residential District Fence and Wall Height
 [Ord. 2005-041] [Ord. 2015-006]

2) Nonresidential Districts

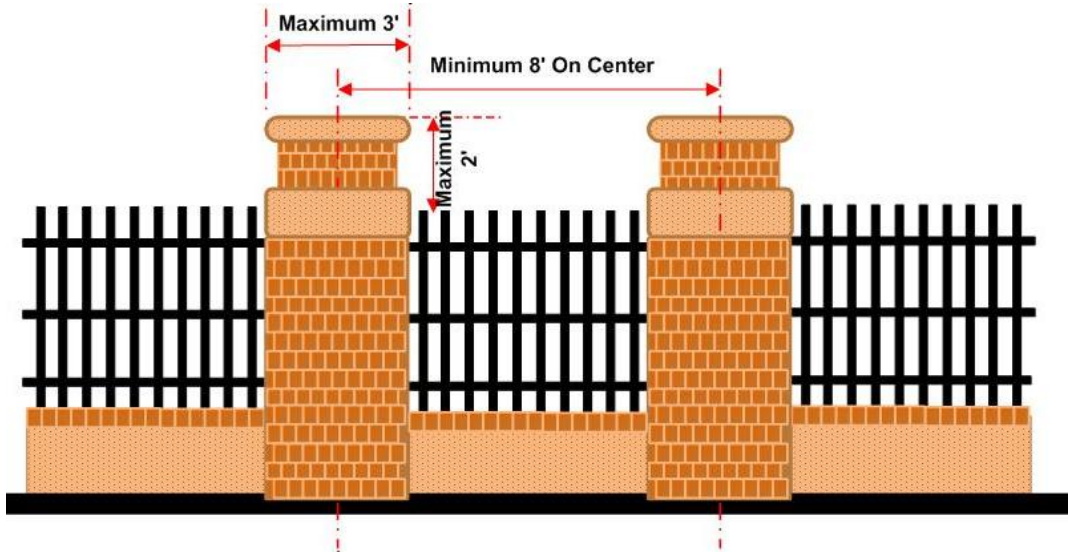
The maximum height for a fence or wall on or adjacent to a lot line or in a landscape buffer shall be as follows: [Ord. 2015-006]

- a) Within the required front setback: six feet. [Ord. 2015-006]
- b) Within the required side, side street, and rear setback: eight feet. [Ord. 2015-006]

3) Attachments

Gates, gateposts, decorative features, and lights attached to a fence or wall in a setback or perimeter buffer shall not exceed three feet in any horizontal distance or two feet in height above the fence or wall. Decorative features and lights shall be spaced a minimum of eight feet apart, measured on center. [Ord. 2015-006]

Figure 5.B.1.A – Attachments to Walls



[Ord. 2015-006]

4) General Exceptions

- a) Fences and walls up to eight feet in height shall be permitted within a street buffer adjacent to a golf course. [Ord. 2015-006]
- b) Fences around tennis courts may exceed six feet in height, subject to the setback requirements in Table 5.B.1.A, Tennis Court Setbacks. [Ord. 2015-006]
- c) The ZC and BCC may require increased heights to ensure adequate screening and buffering between incompatible uses. [Ord. 2015-006] [Ord. 2016-016]
- d) DRO may approve increased fence heights and modify allowable locations for fences with and without barbed wire for minor utilities, water and wastewater treatment plants. [Ord. 2007-013] [Ord. 2015-006]
- e) Schools may increase the fence height to eight feet along the perimeter of the site. [Ord. 2017-007]
- f) Walls subject to noise mitigation shall comply with Art. 7.D.4.B.2, Noise Mitigation Walls. [Ord. 2018-002]

....

Part 3. ULDC Table 7.B.4.A, Landscaping, Applicability and approval process, Type 1 Waivers for Landscaping (pages 11-13 of 54, Supplement 25), is hereby amended as follows:

Reason for amendments: [Zoning]
1. Amendment proposed to permit Type 1 Waivers for Renewable Energy Solar Facility buffers based on thresholds set forth in Article 4 by taking into account the rural nature of the area to provide relief to typical perimeter buffer landscape planting requirements based on provided setbacks, buffer type, and adjacent uses.

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 a Type 1 Waiver, and the applicable Criteria in the following Table have been met. [Ord. 2007-001] [Ord. 2016-042] [Ord. 2018-002]

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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

Article/Table Reference and Title	Maximum Waiver	Criteria
R-O-W Buffer		
Table 7.D.4.D, Location of Wall or Fence in a Landscape Buffer, Canopy Tree Planting for R-O-W Buffer	Allow a reduction of 25 percentage of required Canopy trees to be located on the exterior side of the wall or fence for R-O-W Buffers.	<ul style="list-style-type: none"> Since a wall or fence is not a requirement for a R-O-W Buffer, the Applicant shall demonstrate in the request that the proposed wall or fence is an integral design component for security or aesthetic purpose. The required trees shall be located on both sides of the wall or fence.
<u>Table 7.C.2.A., - R-O-W Buffer Landscape Requirements</u>	<u>Allow a reduction of 50 percent of required Canopy tree, palm/pine and groundcover, small and medium shrub buffer planting requirements for Renewable Energy Solar Facilities (Solar Farms).</u>	<ul style="list-style-type: none"> <u>The Solar Farm shall be a minimum of 250-acres and shall be located within the Rural, Exurban or Glades Tier.</u> <u>All plant material shall be native.</u>
Compatibility Buffer		
<u>Table 7. C.2.B – Compatibility Buffer Requirements</u>	<u>Allow a reduction of 50 percent of required Canopy tree and medium shrub planting requirements for Renewable Energy Facilities (Solar Farms).</u>	<ul style="list-style-type: none"> <u>The Solar Farm must be a minimum of 250-acres and be located within the Rural, Exurban or Glades Tier.</u> <u>A minimum setback of thirty (30) feet to the solar panels and / or equipment must be provided.</u> <u>All plant material shall be native.</u>
Incompatibility Buffer		
Art. 7.C.2.C.1, Elimination of Incompatibility Buffer	Allow to eliminate the requirement of an Incompatibility Buffer for residential pods in a PDD or tracts within a residential subdivision.	<ul style="list-style-type: none"> The pod or tract is located adjacent to open space that is 100 feet or greater in width; or The site layout of the pod or tract will integrate recreational amenities with multi-family units and CLFs.
Table 7.D.4.D, Location of Wall or Fence in a Landscape Buffer, Canopy Tree Planting for Incompatibility Buffer	Allow a reduction of 25 percent of required Canopy trees to be located on the exterior side of the wall or fence for Incompatibility Buffers.	<ul style="list-style-type: none"> The applicant shall demonstrate in the request that the proposed wall or fence is an integral design component for security or aesthetic purpose. The required trees shall be located on both sides of the wall or fence.
<u>Art 7.C.2.C.1, Incompatibility Buffer</u>	<u>Allow a reduction of 50 percent of required Canopy tree, palm/pine and groundcover, small/medium shrub requirements in all Types of Incompatibility Buffers for Renewable Energy Solar Facilities (Solar Farms).</u>	<ul style="list-style-type: none"> <u>The Solar farm must be a minimum of 250-acres and be located within the Rural, Exurban or Glades Tier.</u> <u>The plant material must be provided on the outside of the required opaque fence and the request must include supporting documentation from adjacent property owner(s) to be granted approval.</u> <u>All plant material shall be native.</u>
Berm		
Art.7 .D.6.A, Berm, Tier Restrictions	Allow landscape berms within the Exurban, Rural, Agricultural Reserve, or Glades Tiers.	<ul style="list-style-type: none"> Berms are utilized to improve screening of loading, parking or vehicular use areas, and to address compatibility issues.
Foundation Planting		
Table 7.C.3.B, Foundation Planting and Dimensional Requirements – Facades to be Planted	Allow a 50 percent relocation of required foundation planting.	<ul style="list-style-type: none"> The foundation planting shall be relocated to another façade of the same building or structure; or to an expanded sidewalk that is located within 30 feet of the same building or structure; The relocated foundation planting shall have the minimum planting width; and The overall total square feet for the foundation planting meets or exceeds the required foundation planting.
Landscape Islands and Parking Structures		
Table 7.C.4.A, Landscape Island and Divider Median – Planting and Dimensional Requirements, Landscape Island Width	Allow the reduction of width of landscape island to 5 feet excluding curbs.	<ul style="list-style-type: none"> For infill sites with less than 25 parking spaces.
Table 7.C.4.A, Landscape Island and Divider Median – Planting and Dimensional Requirements, Divider Median Shrub Planting	Allow relocation of shrubs from divider medians to other areas of the site.	<ul style="list-style-type: none"> For industrial developments that do not have significant public visitation and the nature of the use does not benefit for interior plantings in parking areas.
Art. 7.C.4.A.1, Landscape Island Maximum Spacing	Allow to increase the number of spaces or distance to provide larger interior islands.	<ul style="list-style-type: none"> To allow existing vegetation to be preserved or existing vegetation to be relocated within parking areas.

6

Table 7.B.4.A – Type 1 Waivers for Landscaping, continued

Article/Table Reference and Title	Maximum Waiver	Criteria
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.

U:\Zoning\CODEREV\Code Amendments\2019\2 - LDRAB\03-27-19\4- LDRAB Packet\Exh C PIA-2018-2043 FPL Renewable Engery Solar Phase 3-20-19.docx

<p>Art.7.C.5.A.1, Underground Easement Relocation of Trees [Ord. 2018-018]</p>	<p>Allow required trees to be relocated on the same site. [Ord. 2018-018]</p>	<ul style="list-style-type: none"> • The required planting for the planters shall be relocated to other areas of the same property where the parking structure is located. • 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]
<p>Art. 7.C.5.B, Easements in Off-Street Parking Areas – Existing Utilities [Ord. 2018-018]</p>	<p>Allow existing easements to overlap the landscape islands. [Ord. 2018-018]</p>	<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]
<p>[Ord. 2005-002] [Ord. 2012-027] [Ord. 2014-025] [Ord. 2015-031] [Ord. 2016-016] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2018-018] [Ord. 2019-005]</p>		

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B. Pre-Application Appointment (PAA) for a Type 1 Waiver

The applicant shall be required to schedule and attend a PAA with the Zoning Division staff to review and discuss preservation of existing vegetation, possible design alternatives, and any Waivers that may be requested as part of the application. [Ord. 2007-001] [Ord. 2016-042] [Ord. 2018-002]

C. Landscape Plan

The Applicant shall submit Landscape Plan(s) to the DRO to demonstrate graphically the proposed Type 1 Waiver requests. The DRO may allow the alternative designs or waiver requests be incorporated on a Site or Subdivision Plan or any other types of Zoning Plan in lieu of the Landscape Plan. Upon the approval of the Type 1 Waiver(s), the Applicant shall finalize the Landscape Plans as Final Landscape Plans for Building Permit Review, if applicable. [Ord. 2018-002]

EXHIBIT C

STAFF'S ALTERNATIVE
Article 4 – Use Regulations, Article 5 Supplementary Standards, and
ARTICLE 7, LANDSCAPING
Solar Farms
PIA-2018-02043

Part 1. ULDC Art. 4.B.7.C.8, Use Regulations, Use Classification, Utility Uses, Renewable Solar Energy Facility (page 115 of 200, Supplement 25), is hereby amended as follows:

Reason for amendments: [Zoning Staff Alternate Language PIA 2018-2043]

1. In consideration of the use and in an effort to provide reasonable options for screening, the proposed language is suggested as an alternative to the language provided by the Applicant.

CHAPTER B USE CLASSIFICATION

Section 7 Utility Uses

C. Definitions and Supplementary Use Standards for Specific Uses

8. Renewable Energy Solar Facility

a. Definition

A facility that uses photovoltaic, thermal or other systems with a principal use of producing electric or thermal power from the sun- that is then stored and delivered to the transmission system and consumed off-site.

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

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) R-O-W Buffer

Shall be exempt from the requirements of Art. 7.C.2.A, R-O-W Buffer provided a six foot high Landscape Barrier is installed. If a hedge is proposed, credit to satisfy the hedge material may be granted for on-site preservation of existing vegetation pursuant to Art. 7. E.3, Credit and Replacement. 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) Compatibility Buffer

a) Shall be exempt from the landscaping requirements of Art. 7 when the site meets or exceeds the minimum 25 foot setback, and is adjacent to a parcel of land with Agricultural or Utility Uses or a Conservation FLU designation; or

b) Shall be exempt from the landscaping requirements of Art. 7 when the site meets or exceeds a 50 foot setback, and is adjacent to a parcel of land with an existing Landscape Buffer. These facilities shall be exempt from interior landscape requirements for the developable area pursuant to Art. 7. [Relocated to: ULDC Art. 4.B.7.C.8.d.4), Landscape Buffer and Interior Landscape Requirements]

3) Incompatibility Buffer

The Type 3 Incompatibility Buffer may be reduced to 50 percent of the Landscaping materials, excluding the width, and can be a hedge or fence.

4) These facilities shall be exempt from interior landscape requirements for the developable area pursuant to Art. 7. [Relocated from: ULDC Art. 4.B.7.C.8.d.2), Landscape Buffer and Interior Landscape Requirements]

1 **Part 2. ULDC Art. 5.B.1.A.2.b.1) and 2) Accessory Uses and Structures, Fences and Walls, Dangerous**
2 **Material, Allowable Uses for Barbed Wire (page 12-13 of 107, Supplement xx), is hereby amended**
3 **as follows:**

Reason for amendments: [Zoning Staff Alternate Language PIA 2018-2043]
1. To apply the fence height requirements based on the proposed or existing use rather than the zoning districts.

4 **CHAPTER B GENERAL**

5 **Section 1 Supplementary Regulations**

6 **A. Accessory Uses and Structures**

7 ...
8 **2. Fences and Walls**

9
10 **b. Height and Related Standards**

11 **1) Residential ~~Districts~~ Uses**

12 The maximum height for a fence or wall on or adjacent to a residential lot line or in a landscape
13 buffer shall be as follows: **[Ord. 2015-006]**

14 a) Within required front setback:

15 (1) four feet, or **[Ord. 2005-041] [Ord. 2015-006]**

16 (2) six feet for property owned by PBC for preservation or conservation purposes. **[Ord.**
17 **2005-041] [Ord. 2015-006]**

18 b) Within required side, side street, and rear setback: six feet. **[Ord. 2015-006]**

19 c) Within a landscape buffer: six feet. **[Ord. 2015-006]**

20
21 **2) Nonresidential ~~Districts~~ Uses**

22 The maximum height for a fence or wall on or adjacent to a lot line or in a landscape buffer shall
23 be as follows: **[Ord. 2015-006]**

24 a) Within the required front setback: six feet. **[Ord. 2015-006]**

25 b) Within the required side, side street, and rear setback: eight feet. **[Ord. 2015-006]**

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28
29 **Part 3. ULDC Art. 7.C.2, Types of Landscape Buffer, R-O-W Buffer and Compatibility Buffer Exemption,**
30 **(page 15-17 of 54, Supplement 25), is hereby amended as follows:**

Reason for amendments: [Zoning]
1. To cross-reference the exemptions for R-O-W and Compatibility Buffers as shown in the supplementary use standards in Art. 4.B.7.C.8, Renewable Solar Energy Facility.

31 **CHAPTER C LANDSCAPE BUFFER AND INTERIOR LANDSCAPE REQUIREMENTS**

32 **Section 2 Types of Landscape Buffer**

33 **A. R-O-W Buffer**

34 A R-O-W Buffer shall consist of Canopy trees; palms or pines; rows of shrubs, and groundcover. Palms or
35 pines may be used as a substitute for Canopy trees. Clustering of plant materials and opening of tree planting
36 are allowed to provide visibility for a wall sign or an architectural feature of the building; or to accommodate
37 a walkway or an amenity. **[Ord. 2018-002]**

38 **1. Applicability**

39 R-O-W Buffers shall be provided along all public street R-O-W. This shall apply to those lots that are
40 separated by a canal, lake, open space or a combination thereof. **[Ord. 2016-042] [Ord. 2018-002]**

41 **2. Exemptions**

42 R-O-W Buffers are not required for the following: **[Ord. 2018-002]**

43 a. Where the R-O-W is an alley; **[Ord. 2018-002]**

44 b. A lot with a Single Family, ZLL or townhouse unit; and **[Ord. 2018-002]**

45 c. Private streets internal to a PDD, TDD, a subdivision or a lot. If trees are installed within the street
46 R-O-W, installation of the trees shall be subject to the approval by the Engineering Department. **[Ord.**
47 **2018-002]**

48 d. Renewable Energy Solar Facility provided a six foot high Landscape Barrier is installed. If a hedge
49 is proposed, credit to satisfy the hedge material may be granted for on-site preservation of existing
50 vegetation pursuant to Art. 7. E.3, Credit and Replacement.

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53 **B. Compatibility Buffer**

54 A Compatibility Buffer shall consist of Canopy trees and rows of shrubs. Palms or pines may be used as a
55 substitute for Canopy trees. **[Ord. 2018-002]**

56 **1. Applicability**

57 Compatibility Buffers shall be provided between all compatible uses or where a development or a lot is
58 adjacent to lots with a compatible FLU designation, unless stated otherwise herein. **[Ord. 2018-002]**

59 **2. Exemption**

60 Compatibility Buffers shall not be required for the following: **[Ord. 2018-002]**...

61 a. Single Family residential subdivisions or pods adjacent to Single Family residential subdivisions or
62 pods. Cottage Home pods adjacent to Cottage Home pods. **[Ord. 2018-002] [Ord. 2018-018]**

- 1 b. Internal buffers within TDDs, unless specifically stated otherwise; or **[Ord. 2018-002]**
- 2 c. Where residential uses are not adjacent to other incompatible design elements such as roadways,
- 3 useable open space areas; or where residential setbacks are less than adjacent residential
- 4 development. **[Ord. 2018-002]**
- 5 d. Renewable Energy Solar Facility provided the site meets or exceeds the minimum 25 foot setback,
- 6 and is adjacent to a parcel of land with Agricultural or Utility Uses or a Conservation FLU designation.
- 7 e. Renewable Energy Solar Facility provided the site meets or exceeds a 50 foot setback, and is adjacent
- 8 to a parcel of land with an existing Landscape Buffer.
- 9

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**Department of Planning,
Zoning & Building**

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Zoning Division 233-5200
Building Division 233-5100
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**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) wesblackman@gmail.com

FROM: Scott Rodriguez, Senior Planner
Planning Division

DATE: March 20, 2019

RE: Comprehensive Plan Consistency Determination for Proposed
ULDC Amendments

The Planning Division has determined the proposed ULDC amendments, Exhibit C through Exhibit J, of the packet provided by the Zoning Division and scheduled for the March 27, 2019 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: Patricia Behn, Interim Planning Director
Jon MacGillis, ASLA, Zoning Director
Bryan Davis, CNU-A, Principal Planner
Wendy Hernandez, Principal Site Planner
Jan Rodriguez, Senior Site Planner
Zona Case, Zoning Technician

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EXHIBIT D

ARTICLE 4 – USE REGULATIONS SUMMARY OF AMENDMENTS

CR-2018-0056
(Updated 3/8/19)

- 1 Part 1. ULDC Art. 4.B.1.E.10.I, Use Regulations, Use Classification, Residential Uses, Home
2 Occupation, Nuisances [Related to Home Occupation] (page 23 of 208, Supplement 24),
3 is hereby amended as follows:
4

Reason for amendments: [Zoning/Code Enforcement]

1. To remove a subjective standard related to language about noise and default to acceptable sound levels pursuant to Art. 5, Table 5.E.4.B – Maximum Sound Levels. Table 5.E.4.B – Maximum Sound Levels shown below provides measurable levels.

Table 5.E.4.B - Maximum Sound Levels

Receiving Land Use Type	Sound Source	Time of Day	Maximum Sound Level	
			USA	RSA
Residential	Fixed mechanical equipment	Any time	60 dB	60 dB
Residential	Permanent Generator	See Art. 5.B.1.A.18	75 dB	75 dB
Residential	All other sources	7 AM to 8 PM	60 dB	55 dB
		8 PM to 10 PM	55 dB	50 dB
		10 PM to 7 AM	50 dB	50 dB
Commercial Nonresidential	All sources	Any time	70 dB	70 dB
Non-Residential	Permanent Generator	See Art. 5.B.1.A.18	75 dB	75 dB

[Ord. 2006-004]

Unified Land Development Code
Supplement No. 25 (Printed 02/19)

Article 5 – Supplementary Standards
62 of 107

2. The Maximum Sound Levels table lists the maximum sound levels for residential, nonresidential and commercial uses. Objectionable nature referenced in the Home Occupation is subjective and difficult for the Code Enforcement staff to enforce or defend.

5 **CHAPTER B USE CLASSIFICATION**

6 **Section 1 Residential Uses**

7

8 **E. Accessory Residential Use Standards**

9 **10. Home Occupation**

10 **I. Nuisances**

11 No Home Occupation shall involve the use of any mechanical, electrical or other
12 equipment, materials or items, which produce noise, electrical or magnetic interference,
13 vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building.
14 There shall be no storage of hazardous or noxious materials on the site of the home
15 occupation. ~~There shall be no noise of an objectionable nature from the Home Occupation
16 audible at adjoining property lines.~~

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Notes:

Underlined indicates **new** text.

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

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

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EXHIBIT E

ARTICLE 5 – SUPPLEMENTARY STANDARDS FUEL, GAS, OR CHEMICAL STORAGE TANKS

CR-2018-057
(Updated 03/08/2019)

1 Part 1. ULDC Art. 5.B.1.A.7, Supplementary Standards, Accessory Uses and Structures,
2 Supplementary Regulations, Accessory Uses and Structures, Fuel, Gas or Chemical
3 Storage Tanks (page 20-21 of 110, Supplement 24), is hereby amended as follows:

Reason for amendments: [Zoning]
1. To clarify setbacks based on the zoning district setbacks or the Florida Building and Fire Prevention codes. Permitting staff indicated inconsistencies with interpretation and application.
2. In some cases, the 20' setback exceeded those identified in the NFPA 58 Gas Code and thereby made it difficult for the Applicant to comply.

4 CHAPTER B ACCESSORY USES AND STRUCTURES

5 Section 1 Supplementary Regulations

6 A. Accessory Uses and Structures

7

8 7. Fuel, Gas, or Chemical Storage Tanks

9 Above ground accessory fuel, gas, or chemical storage tanks, 3 feet or greater in height shall
10 be subject to the zoning district setbacks or the minimum setbacks required by the Florida
11 Building and Fire Prevention codes, whichever is greater, and screening. New and
12 replacement storage tanks of 20 feet and shall be ~~completely~~ screened from view if adjacent
13 to a residential use or FLU designation and visible from an adjacent R-O-W. The screening
14 shall consist of by a continuous solid an opaque barrier or equivalent landscaping a hedge a
15 minimum of four feet in height equal to the highest point of the storage tanks around the
16 perimeter of the tank enclosure.
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Notes:

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

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EXHIBIT F

ARTICLE 2 – APPLICATION PROCESSES AND PROCEDURES REASONABLE ACCOMODATION

CR-2018-059
(Updated 03/08/19)

1 Part 1. ULDC Art. 2.C.5.F.4, Reasonable Accommodation (page 54 of 105, Supplement 24), is
2 hereby amended as follows:
3

Reason for amendments: [Zoning/County Attorney]
1. To clarify that when a facility that has received a Reasonable Accommodation has a change of owner/operator, a new request for reasonable accommodation is required.
2. This will provide staff the opportunity to review the reasonable accommodation request and either confirm that the facility will continue to operate as previously approved or receive a <u>new</u> determination based on a changed assessment.
3. I have included the entire Reasonable Accommodation provisions in this exhibit, in the event there is a decision to have the newly added regulations located elsewhere in the draft.

4 CHAPTER C ADMINISTRATIVE PROCESSES

5 Section 5 Types of Application

6 F. Reasonable Accommodation

7

8 4. Application Procedures

9 The application forms and requirements for submitting a request for Reasonable
10 Accommodation shall be on forms specified by the County Administrator or designee. **[Ord.**
11 **2011-016] [Ord. 2018-002]**

12

13 k. Change of Owner/Operator

14 When a facility that has received a Reasonable Accommodation Approval changes
15 ownership, the new owner/operator must apply for a new reasonable accommodation. The
16 County will review the request and make a new case-by-case determination based on an
17 individualized assessment.

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EXHIBIT G

ARTICLE 4 – AGRICULTURE, BONA FIDE AGRITOURISM ACTIVITY

CR-2013-015
(Updated 03/8/19)

1 Part 1. ULDC Art. 4.B.6.C.1, Use Classification, Definitions and Supplementary Use Standards
2 for Specific Uses, Agriculture, Bona Fide (page 88-91 of 191, Supplement 25), is hereby
3 amended as follows:

Reason for amendments: [Zoning]
1. To confirm the activity of agritourism specific to a bona fide agricultural use pursuant to the state's interest in promoting agriculture. Agritourism may provide a secondary source of revenue by educating the general public about the agricultural industry in association with a bona fide agricultural use.
2. To recognize an agritourism activity as it relates to any bona fide agricultural use described in F.S. 570.85 and defined in F.S. 570.86.

4 CHAPTER B USE CLASSIFICATION

5 6 C. Definitions and Supplementary Use Standards for Specific Uses

7 1. Agriculture, Bona Fide

8 a. Definition

9 Any plot of land where the principal use consists of the growing, cultivating and harvesting
10 of crops; the raising of animals, inclusive of aviculture, aquaculture, horses and livestock;
11 the production of animal products such as eggs, honey or dairy products; or the raising of
12 plant material. The following standards shall apply to a Bona-Fide Agriculture use, except
13 where pre-empted by State law.

14

15 g. Livestock Raising

16 The breeding, raising and caring for domestic animals including horses.

17 1) Urban Service Area (USA)

18 In the Urban Service Area, livestock raising shall comply with the following standards:

19 a) Lot Size

20 A minimum of five acres.

21 b) Setback

22 All accessory uses and structure, such as troughs, feed mechanisms and storage,
23 shall be setback a minimum of 100 feet.

24

25 h. Agritourism – Refer to F.S. Chapter 570.85-570.87 for applicability.

26 ih. Accessory Agricultural Uses

27 These uses include “U-Pick-Em” operations; sale of on-site produced products; corrals;
28 pens; training facilities; dipping vats; processing of raw material; storage sheds; repair,
29 fabrication, body work and welding of agricultural equipment; freestanding coolers; bulk
30 storage of petroleum products; shipping containers used for temporary storage; washing,
31 cutting, and packing of farm products, and canning, dehydration, and basic preparation of
32 raw food products prior to shipment, and outdoor storage of equipment.

33 ij. Agriculture Marketplace

34 A use that is accessory, incidental and subordinate, to a Bona-Fide Agriculture use in the
35 AGR Tier, conducted to allow for the sale of agricultural products or enhanced opportunities
36 for visitors, which generates income for the owner or operator of the Bona-Fide Agriculture
37 use, adding economic viability to farming operations.

38 1) Approval Process

39 Class A Conditional Use.

40 2) Location Criteria

41

42
43 (Renumber remaining accordingly)

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EXHIBIT H

ARTICLE 14 – ENVIRONMENTAL STANDARDS

CR-2018-061
(Updated 3/8/19)

1 Part 1. ULDC Art. 4.B.10.B.7.c.5), Area of Record (page 195 of 226), is hereby amended as
2 follows:

Reason for amendments: [ERM] The purpose of this amendment is to clarify the process in order to terminate a restrictive covenant agreement.

3 CHAPTER B USE CLASSIFICATION

4 Section 10 Excavation Uses

5 B. Common Provisions and General Standards

6
7 **7. Technical Standards**

8
9 **c. Reclamation Standards**

10
11 **5) Area of Record**

12 All reclaimed littoral and upland planting areas shall be identified graphically and in
13 writing on a separate restrictive covenant. The graphic shall be signed and sealed by
14 a certified engineer or surveyor as applicable, recognized and approved by the FDPR.
15 If a plat is required, pursuant to Art. 11, Subdivisions, Platting and Required
16 Improvements, all planted littoral zones and upland reclamation planting areas shall
17 be identified by reference to the restrictive covenant. The plat and restrictive covenant
18 shall be reviewed and approved by the Zoning Division, ERM, and the County
19 Attorney’s office prior to recordation. A copy of the plat, if applicable, and recorded
20 restrictive covenant shall be provided to ERM and PZB, prior to issuance of written
21 approval of the Notice of Intent to Construct. Within 30 days following plat recordation,
22 a copy of the recorded plat shall be provided to ERM and Zoning Division. An applicant
23 may submit a written request to ERM to approve the termination of a recorded
24 restricted covenant agreement provided the DO has been rescinded and no excavation
25 of any water management tract has occurred. A copy of the termination of the
26 restrictive covenant shall be provided to ERM. A restrictive covenant may be amended
27 upon written request by an applicant and approval by ERM. The littoral area and
28 reclaimed upland planting area shall be specifically and separately reserved to the
29 owner, or if applicable, to the property owners' association as its perpetual
30 maintenance responsibility, without recourse to PBC or any other governmental entity
31 or agency. The plat, if applicable, restrictive covenant and property owners' association
32 documents, shall contain the following statement:
33 It is a punishable violation of PBC Laws, Ordinances, Codes, Regulations and
34 approvals to alter the approved slopes, contours, or cross sections or to chemically,
35 mechanically, or manually remove, damage or destroy any plants in the reclaimed
36 areas and planted littoral zone except upon the written approval from the Director of
37 ERM or Zoning, as applicable. It is the responsibility of the owner or property owners
38 association, its successors or assigns, to maintain the required survivorship and
39 coverage of the reclaimed upland and planted littoral areas and to ensure on-going
40 removal of prohibited and invasive non-native plant species from these areas

42 Part 2. ULDC Art. 4.B.10.B.7.d.3), Area of Record (page 196 of 226), is hereby amended as
43 follows:
44

Reason for amendments: [ERM] The purpose of this amendment is to clarify the meaning of financial interest.

45 CHAPTER B USE CLASSIFICATION

46 Section 10 Excavation Uses

47 B. Common Provisions and General Standards

48
49 **7. Technical Standards**

50
51 **d. Performance Guarantee Requirements**

52
53 **5) Execution**

54 The performance guarantee shall be executed by a person or entity who owns a
55 property in part or in whole or has legal interest in the property with a legal or financial

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EXHIBIT H

ARTICLE 14 – ENVIRONMENTAL STANDARDS

CR-2018-061
(Updated 3/8/19)

1 ~~interest in the property.~~ Transfer of title to the subject property shall not relieve the
2 need for the performance guarantee. The seller shall maintain, in full force and effect,
3 the original performance guarantee until it is replaced by the purchaser.
4

5 **Part 3. ULDC Art. 14.C.7.B.3, Establishing Upland Preserves (page 35 of 52), is hereby amended**
6 **as follows:**

Reason for amendments: [ERM] The purpose of this amendment is to specify the process ERM uses in order to establish upland preserve set-asides.
--

7 **CHAPTER C VEGETATION PRESERVATION AND PROTECTION**

8

9 **Section 7 Application, Process, and General Standards**

10

11 **B. Approval of Development for Commercial Projects, Government Projects, Schools, New** 12 **Construction of Utilities, Road Right-of-Way Projects, Projects Requiring DRO Review and** 13 **Agricultural Operations 10 Acres in Size or Greater**

14

15 **3. Establishing Native Upland Preserves**

16 All approvals for parcels equal to or greater than four acres shall be evaluated by ERM for the
17 establishment of a native upland preserve. Parcels that have significant or unique areas of
18 native upland vegetation, regardless of parcel size shall be required to designate a native
19 upland preserve equivalent to at least 25 percent of the total native upland vegetation on site
20 or otherwise comply with this Chapter. ERM encourages upland preserve areas greater than
21 one half acre in size. New public park facilities constructed on parcels 20 acres in size or less
22 shall be exempt from the preserve requirements of this Chapter.

23 ~~Factors that will determine if a parcel has significant or unique areas of native vegetation~~
24 ~~include, but are not limited to the quality of the native ecosystem, overall quality of its biological~~
25 ~~diversity, the presence of listed species, the wildlife habitat, value grouping of native vegetation,~~
26 ~~and the compactness of the preserve and its proximity to other natural preserve areas and~~
27 ~~corridors.—The applicant shall provide an environmental assessment prepared by an~~
28 ~~environmental professional for parcels with significant or unique areas of native vegetation at~~
29 ~~time of initial application to determine the native upland preserve location, size and~~
30 ~~configuration for evaluation by ERM. The applicant is encouraged to meet with ERM to~~
31 ~~determine the extent of the assessment. The assessment shall include the following with photo~~
32 ~~documentation, at a minimum: Florida Land Use and Cover Classification System (FLUCCS)~~
33 ~~map, a list of native species, quality of the native ecosystem, overall identification and quality~~
34 ~~of the native species, presence of listed species, ecosystem type, uniqueness of wildlife habitat,~~
35 ~~quality and quality of native vegetation (canopy, understory and groundcover), compactness of~~
36 ~~the preserve and the proximity to other natural preserve areas and corridors.~~

37 a.

38 Permanent preserve boundary markers shall be installed and proper documentation
39 submitted to ERM prior to issuance of technical compliance or monitoring release, if
40 applicable, and shall be maintained by the parcel owner ~~in perpetuity in compliance with~~
41 ~~the approved Preserve Management Plan. The County may release the preserve if the~~
42 ~~applicant offers to relocate the preserve to an area that meets the criteria in 14.C.7.B.4.~~

43 b.

44 Said annual reports shall be delivered to ERM within 90 days upon written request, unless
45 extended by ERM in writing.

46

47 g.

48 Parcels with existing and approved preserve areas or that support endangered,
49 threatened, rare, and species of special concern will not be considered for a cash
50 payment in lieu of dedicating a preserve set aside. A parcel owner may submit a cash
51 payment in lieu of setting aside a native upland preserve provided the following criteria
52 are met:

53

54 b) The cash payment shall be equivalent to the per acre value of the ~~per~~ parcel, at
55 the time of permit application, multiplied by the number of acres required to be
56 preserved.

57

58 ~~d) If listed species are determined to be on the parcel, the applicant must~~
59 ~~demonstrate that the proposed action will not preclude the continued survival and~~

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EXHIBIT H

ARTICLE 14 – ENVIRONMENTAL STANDARDS

CR-2018-061
(Updated 3/8/19)

viability of the listed species, or a plan must be approved by all applicable agencies for relocating those species. [Ord. 2008-040]

Part 4. ULDC Art. 14.C.7.B.4, Preserves Previously Dedicated (page 37 of 52), is hereby amended as follows:

Reason for amendments: [ERM] This amendment is intended to detail the process for relocating upland preserves that have been previously dedicated.

CHAPTER C VEGETATION PRESERVATION AND PROTECTION

Section 7 Application, Process and General Standards

B. Approval of Development for Commercial Projects, Government Projects, Schools, New Construction of Utilities, Road Right-of-Way Projects, Projects Requiring DRO Review and Agricultural Operations 10 Acres in Size or Greater

4. Preserves under Dedication

- a. An applicant may propose to relocate a preserve under dedication to an alternate on-site or off-site parcel provided the proposed parcel relocation does not create multiple preserves that are smaller in size than the original preserve unless ERM determines the proposed smaller preserve(s) meets or exceeds the quality and meets or exceeds the quantity of the habitat or vegetation of the existing preserve parcel at the time the dedication was approved by ERM and relocation does not create fragmentation with any other natural system. The applicant shall demonstrate compliance with the approved Preserve Management Plan for the preserve under dedication and provide an environmental assessment per Article 14.C.7.B.3. for the proposed parcel for evaluation by ERM. If the original preserve is contiguous to another natural system then the request will not be considered unless a more favorable habitat is offered.
b. A preserve under dedication that has endangered, threatened, rare, and species of special concern, other than gopher tortoises or any other species being relocated under a Florida Fish and Wildlife Conservation Commission permit, shall not be considered for relocation.
c. A preserve under dedication resulting from a violation or enforcement action shall not be considered for relocation unless Section 14.C.7.B.4.a. and b. are satisfied.

5. Transferring of a Preserve under Dedication

A municipality may request that a preserve under dedication be transferred to their jurisdiction provided: annexation has occurred, the County approved site plan development has not occurred and the preserve under dedication is not a result of an enforcement action or violation.

65. Surplus Native Vegetation

76. Mitigation or Restoration

- c. All vegetation planted to meet mitigation requirements shall be installed using best industry standards and provided with mulch, irrigation and required maintenance to insure ensure survival in perpetuity.

Part 5. ULDC Art. 14.C.8.D., Improved Parcels (page 39 of 52), is hereby amended as follows:

Reason for amendments: [ERM] The purpose of this amendment is to correct a spelling error.

CHAPTER C VEGETATION PRESERVATION AND PROTECTION

Section 8 Exemptions

D. Improve Improved Parcels

Part 6. ULDC Art. 14.C.12.D), Restoration (page 41 of 52), is hereby amended as follows:

Reason for amendments: [ERM] The purpose of this amendment is to require a restoration plan for preserves that have degraded through neglect.

CHAPTER C VEGETATION PRESERVATION AND PROTECTION

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EXHIBIT H

ARTICLE 14 – ENVIRONMENTAL STANDARDS

**CR-2018-061
(Updated 3/8/19)**

Section 12 Violations

D. Restoration

- a. Properties cleared after 1986 without an approval will be required to restore 9 trees per violation. The restoration may be accomplished through on-site planting of native trees or equivalent native vegetation approved by ERM, a contribution to the Palm Beach County Natural Areas Fund that is equivalent to nine trees per violation, or the dedication of equivalent upland quality land cleared. **[Ord. 2008-040] [Ord. 2012-027]**
- b. If a preserve under dedication has degraded due to neglect or lack of compliance with the approved Preserve Management Plan, the property owner shall provide a restoration plan to ERM per Article 14.C.12.D.a. Restoration of the preserve may occur in phases as approved by ERM.

Part 7. ULDC Art. 14, Appendix 8 Invasive Non-Native Vegetation within Preserves (page 50 of 52), is hereby amended as follows:

Reason for amendments: [ERM] The purpose of this amendment is to add species to the list of plants that are prohibited from preserve areas.

APPENDIX 8: INVASIVE NON-NATIVE VEGETATION WITHIN PRESERVES

Common Name	Scientific Name	Type
Arrowhead vine	<i>Syngonium podophyllum</i>	Vine
Asparagus fern	<i>Asparagus densiflorus</i>	Ground cover
Banyan	<i>Ficus bengalensis</i>	Tree
Beach naupaka	<i>Scaevola sericea</i>	Shrub
Bishop-wood	<i>Bischofia javanica</i>	Tree
Caesar weed	<i>Urena lobata</i>	Shrub
Cat's claw	<i>Mimosa pigra</i>	Shrub
Cat's claw vine	<i>Macfadyena unguis-cati</i>	Vine
Castor bean	<i>Ricinus communis</i>	Herb
<u>Chinese privet</u>	<u><i>Ligustrum sinense</i></u>	<u>Shrub</u>
Chinese tallow tree	<i>Sapium sebiferum</i>	Vine
<u>Cogon grass</u>	<u><i>Imperata cylindrica</i></u>	<u>grass</u>
<u>Coral ardisia</u>	<u><i>Ardisia crenata</i></u>	<u>Shrub</u>
<u>Dodder vine</u>	<u><i>Cuscuta exaltata</i></u>	<u>Vine</u>
Downy rose myrtle	<i>Rhodomyrtus tomentosus</i>	Shrub
Gold Coast Jasmine	<i>Jasminum dichotomum</i>	Shrub
Guava	<i>Psidium guajava</i>	Tree
<u>Guinea grass</u>	<u><i>Panicum maximum</i></u>	<u>Grass</u>
<u>Japanese climbing fern</u>	<u><i>Lygodium japonicum</i></u>	<u>Vine</u>
Java plum	<i>Syzygium cumini</i>	Tree
<u>Lantana</u>	<u><i>Lantana camara</i></u>	<u>Shrub</u>
Lather leaf	<i>Colubrina asiatica</i>	Vine
Laurel fig	<i>Ficus microcarpa</i>	Tree
Lead tree	<i>Leucaena leucocephala</i>	Tree
Lofty fig	<i>Ficus altissima</i>	Tree
Mahoe	<i>Hibiscus tiliaceus</i>	Tree
Mother-in-law tongue	<i>Sansevieria hyacinthoides</i>	Ground cover
<u>Natal grass</u>	<u><i>Melinis repens</i></u>	<u>Grass</u>
<u>Oyster plant</u>	<u><i>Tradescantia spathacea</i></u>	<u>Shrub</u>
Pothos	<i>Epipremnum pinnatum</i>	Vine
Portia tree or Seaside mahoe	<i>Thespesia populnea</i>	Tree
Rosary pea	<i>Abrus precatorius</i>	Vine
<u>Sewer vine</u>	<u><i>Paederia cruddasiana</i></u>	<u>Vine</u>
Shoebuttan ardisia	<i>Ardisia solanaceae</i>	Shrub
<u>Skunk vine</u>	<u><i>Paederia foetida</i></u>	<u>Vine</u>
St. Augustine	<i>Stenotaphrum secundatum</i>	Grass
Strawberry Guava	<i>Psidium cattleianum</i>	Tree
Stinking passion vine	<i>Passiflora foetida</i>	Vine
Surinam cherry	<i>Eugenia uniflora</i>	Shrub
<u>Torpedo grass</u>	<u><i>Panicum repens</i></u>	<u>Grass</u>
Tuberous sword fern	<i>Nephrolepis cordifolia</i>	Ground cover
<u>Turkey berry</u>	<u><i>Solanum torvum</i></u>	<u>Shrub</u>
Two leaf nightshade	<i>Solanum diphyllum</i>	Shrub
Wedelia	<i>Wedelia trilobata</i>	Vine
Wild balsam apple	<i>Momordica charantia</i>	Vine
Woman's tongue	<i>Albizia lebbek</i>	Tree
Winged Yam	<i>Dioscorea alata</i>	Vine
[Ord. 2005 – 002]		

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EXHIBIT I

ARTICLE 4 – ADULT ENTERTAINMENT
UPDATE FINDINGS OF FACT

CR-2018-003
(Updated 03/08/19)

1 Part 1. ULDC Art. 4.B.2.C.1.i, Adult Entertainment, Findings of Fact (page 30-31 of 194,
2 Supplement 25), is hereby amended as follows:

Reason for amendments: [Zoning/County Attorney]
1. The Findings of Fact section is being amended to reflect the most recent analysis of the availability of sites for adult entertainment uses.

3 CHAPTER B USE CLASSIFICATION

4 Section 2 Commercial Uses

5 C. Definitions and Supplementary Use Standards for Specific Uses

6
7 1. Adult Entertainment

8 ...
9 i. Findings of Fact

10 Based on the evidence and testimony presented at the October 5, 2004 preliminary reading
11 and the October 19, 2004 and November 16, 2004 Public Hearings before the BCC, and
12 the August 27, 2009 preliminary reading and the September 24, 2009 and October 22,
13 2009 Public Hearings before the BCC, and on the findings incorporated in: the “Final
14 Report to the City of Garden Grove: The Relationship Between Crime and Adult Business
15 Operations on Garden Grove Boulevard,” October 1991; “Adult Entertainment Businesses
16 in Indianapolis: An Analysis” conducted by the Department of Metropolitan Development,
17 Division of Planning, February, 1984; the “Study of the Effects of Concentration of Adult
18 Entertainment Establishments in the City of Los Angeles” conducted by the Los Angeles
19 City Planning Department for the Los Angeles City Council, June 1977; the study
20 conducted by the City of Austin Texas; the “Presentation to the Orange County
21 Commission” by the Metropolitan Bureau of Investigation (MBI) for the Ninth Judicial Circuit
22 (Orlando area); the expert affidavit prepared for Palm Beach County by Eric Damian Kelly,
23 Ph.D, FAICP, dated September 24, 2004; letter from Dale N. Tarvis, M.D.; “Analysis of
24 Availability of Sites for Adult Entertainment in Palm Beach County” prepared for Palm
25 Beach County by Duncan Associates, November 2003; Adult Entertainment Analysis for
26 Palm Beach County, Florida, Final Report, by Cooper Planning Consultants, January 2019;
27 the “Crime-Related Secondary Effects of Sexually-Oriented Businesses – Report to the
28 County Attorney, Palm Beach County, Florida” prepared by Valerie Jenness, Ph.D.,
29 Richard McCleary, Ph.D., James W. Meeker, JD, Ph.D, August 15, 2007; the “Survey of
30 Florida Appraisers – Effects of Land Uses on Surrounding Property Values” prepared for
31 Palm Beach County by Duncan Associates, December 2007 (Report 2008); and
32 information from Tampa, Florida detailing the effects of Adult Entertainment establishments
33 in the Tampa area; the BCC hereby finds the following:

34 ...
35

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EXHIBIT I

ARTICLE 4 – ADULT ENTERTAINMENT
UPDATE FINDINGS OF FACT

CR-2018-003
(Updated 03/08/19)

1 Part 1. ULDC Art. 4.B.2.C.1.i, Adult Entertainment, Findings of Fact (page 30-31 of 194,
2 Supplement 25), is hereby amended as follows:

Reason for amendments: [Zoning/County Attorney]
1. The Findings of Fact section is being amended to reflect the most recent analysis of the availability of sites for adult entertainment uses.

3 CHAPTER B USE CLASSIFICATION

4 Section 2 Commercial Uses

5 C. Definitions and Supplementary Use Standards for Specific Uses

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7 1. Adult Entertainment

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30 Florida Appraisers – Effects of Land Uses on Surrounding Property Values” prepared for
31 Palm Beach County by Duncan Associates, December 2007 (Report 2008); and
32 information from Tampa, Florida detailing the effects of Adult Entertainment establishments
33 in the Tampa area; the BCC hereby finds the following:

34 ...
35

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EXHIBIT J

ARTICLE 1 – GENERAL PROVISIONS, ARTICLE 11 – SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS (Nonconforming Lot, Potentially Buildable Lot and Exceptions to General Requirements)

CR-2018-032 (Updated 03/08/19)

Part 1. ULDC Art. 1.F.2.A, Applicability [Related to Nonconforming Lot and Nonconformities] (page 19-20 of 118, Supplement 24), is hereby amended as follows:

Table with 1 column and 4 rows. Reason for amendments: [Zoning/Land Development]. 1. Portions of the Applicability criteria will be deleted from this Article, re-written and relocated to Article 11... 2. The 2016 amendment that added the minimum setback for nonconforming lot not be less than those for the RS district... 3. The Building Code requires a minimum setback or separation that is less than the current minimum 7.5 foot. 4. This amendment will allow the development of a single family dwelling on a lot width less than 50 feet without seeking a variance.

CHAPTER F NONCONFORMITIES

Section 2 Nonconforming Lot

A. Applicability

This section shall only apply to non-conforming lots that do not meet the minimum lot acreage and dimensional criteria pursuant to Table 3.D.1.A, Property Development Regulations of this Code, if all of the following conditions are met: [Ord. 2008-037] [Ord. 2010-005]

1. Legal Access Requirements

a. Development of a Single-family Dwelling Unit

The lot has legal access in accordance with Art. 1.H.1.B.2, Legal Access. [Ord. 2008-037] [Ord. 2010-005]

b. Development of Non-residential and Residential Other than SFD

The lot has frontage on, and legal access to, a public R-O-W, or any other street that meets the requirements of Table 11.E.2.A, Chart of Access Hierarchy. [Ord. 2008-037] [Ord. 2010-005]

2. Legal Lot of Record

The lot complies with one of the following: [Ord. 2008-037] [Ord. 2010-005]

a. Is depicted on either a plat of record, affidavit of exemption, affidavit of waiver, plat waiver, or lot combination; or [Ord. 2008-037] [Ord. 2010-005] [Ord. 2014-025]

b. Existed prior to February 5, 1973 in its current configuration as evidenced by a chain of title; or [Ord. 2008-037] [Ord. 2010-005]

c. Art. 1.H.1.B.1.b, Option 2 - Creation on or Subsequent to February 5, 1973 and before June 16, 1992. [Ord. 2008-037] [Ord. 2010-005]

31. FLU and Zoning Consistency

The existing zoning or any rezoning is in compliance with the requirements of Art. 3.A.3, Zoning District Consistency with the Future Land Use Atlas (FLUA). [Ord. 2008-037] [Ord. 2010-005]

42. Lot Recombination Requirements

Where applicable, the lot or lots have complied with the lot recombination requirements of Plan FLUE Policy 2.2.1-f, and Art. 11, Subdivision, Platting and Required Improvements. [Ord. 2008-037] [Ord. 2010-005]

B. Subdivision (Includes Lot Combinations)

Non-conforming lots may be combined with any other conforming or non-conforming lot without obtaining variance relief for non-conforming lot dimensions, inclusive of frontage, width, depth and size, if all of the following conditions are met: [Ord. 2008-037] [Ord. 2010-005]

1. The newly created lot complies with the lot dimensions of this Code, or reduces the non-conformity; and, [Ord. 2008-037] [Ord. 2010-005]

2. Can comply with the requirements of Art. 11, Subdivision, Platting and Required Improvements. [Ord. 2008-037] [Ord. 2010-005]

C. Residential Development Regulations

A nonconforming residential lot may utilize the following property development regulations for a single-family dwelling unit only, or for related accessory structures in the AR district in accordance with Art. 5.B.1.A.2.b, Nonconforming Lot Dimensions. [Ord. 2010-005] [Ord. 2016-042]

1. Minimum Setback Requirements

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Notes:

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EXHIBIT J

ARTICLE 1 – GENERAL PROVISIONS, ARTICLE 11 – SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS (Nonconforming Lot, Potentially Buildable Lot and Exceptions to General Requirements)

CR-2018-032 (Updated 03/08/19)

Minimum setback requirements may be in accordance with the percentages listed below, but shall not be less than those for the RS district: [Ord. 2010-005] [Ord. 2016-042]

- a. If the minimum depth dimension is nonconforming: [Ord. 2010-005] Front: 30 percent of lot depth. [Ord. 2010-005] Rear: 20 percent of lot depth. [Ord. 2010-005] b. If the minimum width dimension is nonconforming: [Ord. 2010-005] Side Interior: 15 percent of lot width. [Ord. 2010-005] Side Street: 20 percent of lot width. [Ord. 2010-005]

....

Part 2. ULDC Art. 1.H.1, Lot of Record (page 29-30 of 18, Supplement 24), is hereby amended as follows:

Table with 1 column: Reason for amendments: [Zoning/Land Development]. Rows describe ordinance removal, subdivision confirmation, and language removal.

CHAPTER H – LOT OF RECORD

Section 1 – Potentially Buildable Lot

A. Applicability

The following provisions shall apply to a lot that is not depicted on either a plat of record, affidavit of exemption, or affidavit of plat waiver.

B. Standards

A lot may be considered buildable for the purpose of constructing a single family dwelling and accessory uses or structures only if all of the following criteria are satisfied:

1. Date of Creation

The lot was created under one of the following two options: [Ord. 2007-001]

a. Option 1 - Creation prior to February 5, 1973.

The lot existed prior to February 5, 1973 in its current configuration as evidenced by a chain of title. [Ord. 2007-001]

b. Option 2 - Creation on or subsequent to February 5, 1973 and before June 16, 1992.

1) The lot was created on or subsequent to February 5, 1973 and existed prior to June 16, 1992 in its current configuration as evidenced by a chain of title; and [Ord. 2007-001]

2) The lot complied with the density requirements of the Plan in effect at the time the lot was created, and [Ord. 2007-001]

3) The lot complies with one of the following:

a) Art. 3.D, Property Development Regulations (PDRS), Table 3.D.1.A, Property Development Regulations, or

b) Art. 11.A.4.B, Building Permits and Other Approvals; or

c) The lot exists in its present configuration as shown in the 1989 PBC FLU Atlas adopted August 31, 1989. [Ord. 2007-001]

2. Legal Access

The lot has legal access that ultimately connects to a right of way currently identified on the PBC Thoroughfare R-O-W Identification Map, as follows: [Ord. 2007-001] [Ord. 2013-001]

a. In accordance with Art. 11, Subdivision, Platting and Required Improvements, Table 11.E.2.A, Chart of Access Hierarchy; or [Ord. 2007-001] [Relocated to: ULDC Art.

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EXHIBIT J

ARTICLE 1 – GENERAL PROVISIONS, ARTICLE 11 – SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS (Nonconforming Lot, Potentially Buildable Lot and Exceptions to General Requirements)

CR-2018-032 (Updated 03/08/19)

11.A.8.A, Subdivision, Platting, and Required Improvements, Exceptions to General Requirements]

~~b. From a recorded easement exclusively for the purposes of ingress and egress access, a minimum of 20 feet in width, granting the owner, its successors and assigns a perpetual right of useable access across all properties lying between said lot and a street, provided that the easement was in existence at the time the lot was legally created, and which remains in place. [Ord. 2007-001] [Ord. 2013-001] [Partially Relocated to: ULDC Art. 11.A.8.A, Subdivision, Platting, and Required Improvements, Exceptions to General Requirements]~~

Part 3. ULDC Art. 11.A.6.A, Subdivision, Platting, and Required Improvements, Planned Developments (page 10-11 of 45, Supplement 24), is hereby amended as follows:

Reason for amendments: [Land Development]
1. This amendment is to reflect current practice.

CHAPTER A GENERAL REQUIREMENTS

Section 6 Planned Developments

A. General

Any planned development which is to be subdivided shall comply with the requirements of this Article after approval of a Final Subdivision Plan by the DRO pursuant to Art. 2.C, Administrative Process. For the purpose of this Article, "Planned Development" shall mean any development within a Planned Development district as defined by this Code and regulated pursuant to Art. 3.D, Property Development Regulations (PDRs).

B. Subdivision of Commercial and Industrial Sites

A building site which constitutes all or a portion of a pod or lot designated for commercial or industrial use within a planned development, and for which the detailed development configuration and building permit issuance are subject to prior approval by the DRO of a final site plan, may be exempted by the County Engineer from the subdivision recordation requirement of Art. 11.A.4.B.1, and may be subdivided by fee title conveyance of individual internal lots. Such exemption may be granted by the County Engineer provided that: [Ord. 2014-025]

- 1. Legal access to each interior lot is provided by a common parking lot in full compliance with all requirements of Art. 11.E.2.A.2.c;
2. The layout, location, and construction limits of structures within the building site are regulated by required separation distances between structures rather than by setbacks from interior lot lines;
3. Individual interior lots are not subject to requirements for minimum area or dimensions under the property development regulations of Art. 3.D, Property Development Regulations (PDRs), applicable to the building site;
4. A statement of the developer's intent to subdivide the property pursuant to the platting exemption of this Art. 11.A.6.B, Subdivision of Commercial and Industrial Building Sites, and proposed subdivision lines with bearings and distances are included on the approved final site plan for the building site, in which case said site plan shall constitute the approved final subdivision plan for purposes of compliance with this Article; [Ord. 2011-001]
5. All lands within the perimeter of the building site are subject to a common recorded unity of control or other such maintenance and use covenants for access, parking, stormwater management, and other required common areas or facilities, as approved by the County Attorney pursuant to Art. 5.F, Legal Documents; and
6. The building site is delineated within on a single boundary platted lot of record depicting all existing drainage and utility easements of record and all required limited access easements, water management tracts, and common area tracts, and including appropriate dedications or reservations for same.

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EXHIBIT J

ARTICLE 1 – GENERAL PROVISIONS, ARTICLE 11 – SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS (Nonconforming Lot, Potentially Buildable Lot and Exceptions to General Requirements)

CR-2018-032 (Updated 03/08/19)

1 Part 4. ULDC Art. 11.A.8.A, Subdivision, Platting, and Required Improvements, Exceptions to
2 General Requirements (page 11-12 of 45, Supplement 24), is hereby amended as follows:
3

Reason for amendments: [Land Development]
1. This will allow lots of record that may not have legal access to record new easements for access.

4 CHAPTER A GENERAL REQUIREMENTS

5 Section 8 Exceptions to General Requirements

6 A. Authority

7 The County Engineer is hereby empowered to make certain exceptions to the platting requirement
8 of Art. 11.A.3.A, Platting Requirement, and required improvements installation requirement of Art.
9 11.A.3.B, Required Improvements Installation Requirement, in accordance with the standards and
10 procedures set forth in this Section.

11 B. Legal Lots of Record

- 12 1. A lot that was created pursuant to one of the options below will be considered a legal lot of
13 record and shall not be subject to further subdivision approval:
14 a. The lot is depicted in its entirety on either a plat of record, affidavit of exemption, affidavit
15 of waiver, plat waiver, or lot combination; or
16 b. The lot existed prior to February 5, 1973 in its current configuration; or
17 c. The lot was created after February 5, 1973 and before June 16, 1992 by a subdivision of
18 a legal lot or lots into no more than two lots.

19 2. Legal Access

- 20 The lot has legal access that ultimately connects to a right of way currently identified on the
21 PBC Thoroughfare R-O-W Identification Map, as follows: [Ord. 2007-001] [Ord. 2013-001]
22 a. In accordance with Art. 11, Subdivision, Platting and Required Improvements, Table
23 11.E.2.A, Chart of Access Hierarchy; or [Ord. 2007-001]
24 b. For existing legal lots of record for a single family home From a recorded easement
25 exclusively for the purposes of ingress and egress access, a minimum of 20 feet in width,
26 granting the owner, its successors and assigns a perpetual right of useable access across
27 all properties lying between said lot and a street [Ord. 2007-001] [Ord. 2013-001]
28 [Partially Relocated from: ULDC Art. 1.H.1, Lot of Record]

29 BC. Certified Abstracted Boundary Survey

30 When approved by the County Engineer, a certified abstracted boundary survey may constitute the
31 Subdivision Plan and when the subdivision is not encompassed by a Final Subdivision Plan
32 approved by the DRO. [2014-025]

33 CD. Plat Waiver with Certified Boundary Survey

34 If, after review of the preliminary subdivision plan, the County Engineer determines that the
35 proposed subdivision meets one of the conditions specified in Art. 11.A.8.C.1, Application for Plat
36 Waiver, the requirement to file a plat may be waived and an abstracted boundary survey shall be
37 recorded in lieu of a plat along with an affidavit documenting approval of said waiver and restrictive
38 covenants applicable to the subdivision, as prescribed by this Article. [Ord. 2011-016] [Ord. 2014-
39 025]

40

41
42 (Renumber remaining accordingly)
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45 Part 5. ULDC Art. 11.E.2, Required Improvements, Access and Circulation Systems, Table
46 11.E.2.A-1 Chart of Access Hierarchy (page 35 of 45, Supplement 24), is hereby amended
47 as follows:

Reason for amendments: [Land Development]
1. This amendment will allow residential properties to have access to a Residential Access Street that is
also a public road.

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**ARTICLE 1 – GENERAL PROVISIONS, ARTICLE 11 – SUBDIVISION,
PLATTING, AND REQUIRED IMPROVEMENTS
(Nonconforming Lot, Potentially Buildable Lot and Exceptions to
General Requirements)**

**CR-2018-032
(Updated 03/08/19)**

Table 11.E.2.A-1 - Chart of Access Hierarchy

MAJOR STREETS: Streets which constitute the traffic circulation network as contemplated under the Comprehensive Plan. Listed from highest to lowest category:
EXPRESSWAY
ARTERIAL
PLAN COLLECTOR
MINOR STREETS: Streets which constitute the internal circulation network of a development and which are not classified as a MAJOR STREET. Listed from highest to lowest category.
NON-PLAN COLLECTOR
FRONTAGE ROAD
LOCAL
RESIDENTIAL ACCESS (private streets only):
.40 FOOT
.32 FOOT
ALLEY (secondary access only)
[Ord. 2014-025]

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2
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Part 6. ULDC Art. 11.E.2, Required Improvements, Access and Circulation Systems, Table 11.E.2.A-2 Chart of Minor Streets (page 36 of 45, Supplement 24), is hereby amended as follows:

Reason for amendments: [Land Development]
1. Correct references to footnotes.

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

CLASSIFICATION	MINIMUM WIDTH (FT.)		MAXIMUM ALLOWABLE ADT	ALLOWED AS LEGAL ACCESS FOR (a)	
	STREET (b)	PAVEMENT (c)		COMMERCIAL	RESIDENTIAL
Non-Plan Collector	80	24	13,100	X	
Marginal Access	50	24	N/A	X	X
Local Residential (d)					
Gutters	50	20	1,500		X
Swales	60	20	1,500		X
Local Commercial	80	24	13,100	X	X
Residential Access (e)					
One Sidewalk	40	20	800		X
No Sidewalk (ef)	32	20	40		X
[Ord. 2014-025]					
Notes:					
(a) An 'x' under the commercial or residential column indicates the corresponding street classification is allowed as legal access.					
(b) Street width refers to standard R-O-W or private street tract width.					
(c) Pavement width represents two travel lanes of equal width and does not include the additional width of paved shoulder where required.					
(d) Allowed as legal access for any type of residential provided that the maximum allowable ADT is not exceeded. Also, Streets within a rural subdivision shall be at least 60 feet wide when they are to be constructed without a wearing surface. [Ord. 2018-018]					
(e) Use is restricted to private streets. [Ord. 2018-018]					
(ef) Use is restricted to private streets providing access to up to four lots. [Ord. 2014-025]					

8

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

2019 MEETING DATES

(Updated 03/20/2019)

DATE	DAY
January 23, 2019	Wednesday (4 th)
February 27, 2019	Wednesday (4 th)
March 27, 2019	Wednesday (4 th)
April 24, 2019	Wednesday (4 th)
May 22, 2019	Wednesday (4 th)
June 26, 2019	Wednesday (4 th)
July 24, 2019	Wednesday (4 th)
August 28, 2019	Wednesday (4 th)
September 25, 2019	Wednesday (4 th)
October 23, 2019	Wednesday (4 th)
November 13, 2019**	Wednesday (3 rd)
December 18, 2019**	Wednesday (3 rd)
January 22, 2020	Wednesday (4 th)
Notes:	
<i>* Back-up dates to be used if necessary.</i>	
<i>** Meeting date rescheduled to accommodate holidays</i>	

Meeting location and start times are typically as follows:

Planning, Zoning and Building Department
Vista Center
2300 North Jog Road
West Palm Beach, Florida 33411
Kenneth S. Rogers Hearing Room (VC-1W-47)
Meetings typically commence at 2:00 p.m.

(1) DISCLAIMER: Meetings are subject to change, cancellation, or may be continued, rescheduled, relocated, or commenced at a different time as necessary. (Reasons for the change include but not limited to length of agenda, as needed to respond to Hurricanes or other similar natural disasters, etc.).

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