

## EXHIBIT A

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

(Updated 08/29/19)

#### Minutes of May 22, 2019 LDRAB/LDRC Meeting

On Wednesday, May 22, 2019, the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the Kenneth S. Rogers Hearing Room (VC-1W-47), at 2300 North Jog Road, West Palm Beach, Florida.

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

##### 1. Roll Call

Chair Mr. Wesley Blackman, called the meeting to order at 2:03 p.m. Mrs. Jan Rodriguez, Code Revision Senior Site Planner, introduced Mr. Jaime M. Plana representing the American Institute of Architects and Mrs. Susan A. Kennedy representing the Environmental Organizations to the Board. Mr. Alexander Biray, Code Revision Zoning Technician, called the roll.

##### Members Present: 15

Joanne Davis (District 1, Commissioner Valeche)\*\*  
Drew Martin (District 2, Commissioner Weiss)

Philip L. Barlage (District 3, Commissioner Kerner)  
Jim Knight (District 4, Commissioner Weinroth)  
Lori Vinikoor (District 5, Commissioner Berger)

Myles Basore (District 6, Commissioner McKinlay)  
Robert J. Harvey (District 7, Commissioner Bernard)

Daniel J. Walesky (Gold Coast Builders Association)

Anna Yeskey (League of Cities)  
Jaime M. Plana (American Institute of Architects)

Susan A. Kennedy (Environmental Organization)  
Derek G. Zeman (Florida Surveying and Mapping Society)

Charles D. Drawdy (Assoc. General Contractors of America)  
Wesley Blackman (PBC Planning Congress)  
Abraham Wien (Alternate At-Large #2)

##### Vacancies: 1

Alternate At-Large #1

##### Members Absent: 2

Terrence Bailey (Florida Engineering Society)  
Frank Gulisano (Realtors Association of the Palm Beaches)

##### County Staff Present: 15

Ramsay J. Bulkeley, Planning, Zoning and Building Executive Director

Jon MacGillis, Zoning Director

Maryann Kwok, Deputy Zoning Director

Jan Rodriguez, Senior Site Planner

Lorraine Fuster, Senior Site Planner

Alexander Biray, Zoning Technician

Leonard Berger, Chief Assistant County Attorney

Scott A. Stone, Assistant County Attorney I

Bob Banks, Chief Land Use County Attorney

Bryan Davis, Principal Planner

Melissa Michael, Senior Planner

Robert Santos-Alborna, Code Enforcement Director

Arthur Kirstein, Agricultural Economic Development Coordinator\*

Danna Ackerman-White, Senior County Commission Administrative Assistant (Commissioner Kerner)\*

Kelley A. Burke, Senior County Commission Administrative Assistant (Commissioner McKinlay)\*

\* County Staff in audience.

\*\* Joanne Davis arrived at 2:06 p.m.

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

Mr. Blackman noted Additions, Substitutions, and Deletions as indicated from the Add/Delete sheet, and Mrs. Rodriguez affirmed nothing else beyond the Add/Delete sheet.

##### 3. Motion to Adopt Agenda

Motion to adopt the Agenda with the Add/Delete sheet by Dr. Vinikoor, seconded by Mr. Knight. Motion passed (14-0).

##### 4. Adoption of April 24, 2019 Minutes (Exhibit A)

Mr. Blackman indicated typos, whereas "size" should be "site" on page iv, second paragraph, and deletion of a repeated "and" on the same page under b. Discussion. Motion to adopt the Minutes with the changes by Dr. Vinikoor, seconded by Mr. Martin. Motion passed (14-0).

##### 5. Public Comments

Mr. Blackman reminded members of the public of time reserved if they wish to speak on something unrelated to items on the Agenda, and to fill out a comment card for any items they wish to speak about and will be given three minutes.

\*\* Mrs. Davis arrived at 2:06 p.m.

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##### B. ULDC AMENDMENTS – NEW

###### 1. Exhibit B Article 2 – Development Order Abandonment

Mrs. Rodriguez explained the changes to remove the requirement that Development Orders (DOs) be advertised in a newspaper because approval is administrative, expand the purpose and intent, address partially and fully implemented DOs, and clarify which body makes the abandonment decision.

###### a. Discussion

Mr. Blackman said he was familiar with some dated Development Orders and was concerned with how they could be affected, and if the Monitoring Section is to expedite the process. Mr. MacGillis responded that Monitoring only applies to DOs following the adoption of the 1989 Comprehensive Plan, and anything prior would be up to the property owner to come in with a subsequent DO to abandon it. Mrs. Kwok added that many DOs come with many conditions which can be costly, and abandoning would allow a restart to a clean slate.

Mrs. Yeskey asked if the same development can be done without old conditions. Mr. MacGillis responded that an application would abandon the BCC approval and be subject to the new rules.

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

Discussion: Mr. Martin asked for further clarification on whether previous conditions would still apply. Mr. MacGillis responded they would not if they were BCC conditions, and new conditions may be added if necessary under DRO review.

The Motion passed (15-0).

###### 2. Exhibit C Article 4 – Electric Vehicle Charging Facility

Mrs. Rodriguez explained the changes to clarify the use as a commercial electric vehicle charging station, and where it should be an accessory use for residential.

###### a. Discussion

A discussion among the Board ensued about technological changes, enforcement, and charging times. Mr. Bulkeley noted it varies by company based on charge length. Mrs. Kwok affirmed installation of facilities would require a permit.

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

###### 3. Exhibit D Article 6 – Parking, On-Street and Improvement Material

Mrs. Rodriguez explained the changed stemmed from Code Enforcement issues of parking all over yards, and clarification that on-street parking is allowed in excess of the required parking and zoning districts like TMDs.

###### a. Discussion

Mr. Martin asked if landscape companies could take advantage of the provisions in residential areas. Mr. MacGillis noted the parking spaces in question are designated spaces, and it is to the Engineering Department's discretion. Mrs. Kennedy asked what the largest lots are in the Urban/Suburban Tier, and if this will create a burden requiring older properties to have improved surfaces for parking. Mrs. Davis asked for clarification on what constitutes an improved surface. Mr. MacGillis responded it is based on criteria set forth by the Land Development Division.

Mr. Walesky asked for clarification regarding existing language on what vehicles are prohibited. Mr. MacGillis responded that Staff will look at the language further.

Motion to approve by Dr. Vinikoor with direction for Staff to look at language, seconded by Mr. Knight.

###### 4. Exhibit E Article 5 – Lighting, Nuisances

Mrs. Fuster presented the changes.

###### a. Discussion

Mr. Martin expressed concern about how lighting affects the environment and wildlife, and if it is regulated elsewhere in the Code. Mrs. Kwok said any restrictions on lighting for wildlife would be in Art. 14, Environmental Standards. Mr. MacGillis explained the amendment is to exempt Single Family residential from submitting a photometrics plan.

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

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##### 5. Exhibit F Articles 3 and 4 – Cottage Homes

Mrs. Kwok gave a PowerPoint presentation on the history of Cottage Homes as it relates to the Code for new LDRAB members, and updates to those who might have not been continually present.

###### a. Discussion

Mr. Plana asked if there are any height limitations and if a four-story home is permitted. Mrs. Kwok responded there are no restrictions as long as the setbacks are met. Mrs. Davis asked if they are permitted anywhere. Mrs. Kwok responded they are subject to the Residential Use Matrix

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

##### 6. Exhibit G Article 4, 5, and 6 – Landscape Service

Mr. Blackman reiterated the three-minute comment rule and procedure, as well as overview of the amendment.

Mr. MacGillis explained amendment's history starting in 2016, and after over 40 meetings with stakeholders, narrowed it down to area percentages.

Mrs. Kwok gave a PowerPoint presentation on existing conditions, findings, and proposals, including: to replace accessory with collocated and establish different rules for residential and nonresidential districts; establish a process based on intensity of Landscape Service and process of agency review, Code requirements, and definitions of each use and activity; detailed site plans delineating boundaries of each use, including nursery, Landscape Service, and common area; and, allow a case-by-case program. The current amendment is recommended to be adopted under a pilot program.

Mr. Davis expressed concern in regards to rules for the Agricultural Reserve (AGR) regarding principal and accessory use percentages at the 30-percent threshold.

Reviewing on a page-by-page basis, Mr. Blackman questioned the effectiveness of the photos on page. Mr. MacGillis noted they dated from the original 2003 Code rewrite. Dr. Vinikoor noted at typo on page 32 (collocatedd). Mr. Martin asked if Staff had a preference for the permeable surface used. Mr. MacGillis responded it is not up to them, rather Engineering. Mr. Blackman reaffirmed Staff will not be reviewing the receipts, but will still need to get a BTR to operate. Mrs. Davis expressed concern about the calculated parking ratio. Mr. Martin brought up that residential exists in the Agricultural Reserve. Mrs. Kwok affirmed the AGR-PUD has residential. He asked if same ownership is required. Mr. MacGillis and Mrs. Kwok said it does, and while they can sub-lease, would still be responsible for the property. Mr. Blackman explained about how a site plan might be more enforceable than receipts. Mr. Santos-Alborna clarified the difference between "receipts" and Business Tax Receipts, as required by Sec. 17-17. - Business tax receipt required. of the PBC Code. Mr. Barlage questioned acreage thresholds. Mrs. Kwok said whichever is less. Mrs. Davis wanted to know how many trucks and trailers can fit on an acre and a half. A discussion ensued about how many trucks would fit.

###### a. Public Comments

Mr. Hank Tanzer, 7309 Park Lane Road, reflected on the changes of what residential and commercial development entail, and they services they require from landscape and irrigation companies. He further argued his business has been in Heritage Farms for at least 15 years, and residents only moved into the area within the last five years. He had been looking for twelve months and cannot find a piece of land to accommodate his business, and disagreed with the requirement being on an Arterial/Collector.

Mr. Mike Glynn of Snapper Creek Tree Farm and Dixie Landscape, 8564 East Park Lane, concurred with Mr. Tanzer, and argued businesses should be vested per County approval 20 years ago.

Mr. Jeff McDougald, 14068 Smith Sundry Road, who operates a 100% nursery business in the Agricultural Reserve, expressed regret about the businesses at stakes, and questioned the Comprehensive Plan's 30-percent maximum as opposed to one and a half acres, and change the cap to per five acres in the AGR or stick with the 30 percent.

Mr. Mark Rynar of Forever Green Lawncare, 10100 92<sup>nd</sup> Place South, expressed frustration for the past three years to solve the problem.

Mr. Todd Grande of Maximum Services, 9732 Happy Hollow Road, provided satellite imagery of his property and said not all properties look like or are run like the ones under Code Violation, and agreed with Mr. Bradley Miller's 70-30 ratio. He further contented that the Heritage Farms controversy is extrapolated.

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Mr. Beril Kruger, on behalf of three nurseries approved in 2016, two of which under violation, argued that the County's decline in nurseries is based on increased difficulty from Code language. He questioned what constitutes the "growing area," and doesn't want nurseries to be on a Collector road in the AR Zoning District, or to go through a full DRO review.

Mr. Brain Duffy of Duffy's Total Care Lawn Service, 10190 52nd Place South, contended that residential neighbors were aware of the businesses in the area and are being unfairly cited while other areas of the County like Jupiter Farms should be reviewed. He also expressed concern over hurricane contracts.

Mr. Scott Bolling, on behalf of the industry, argued Landscape Services are a necessary infrastructure and believes the bigger picture should be looked at.

Mr. Bradley Miller, on behalf of the industry, 508 E. Boynton Beach Boulevard, provided revised satellite imagery showing a color-coded 50-30-20 ratio, and based on restrictions from easement encroachment, recommends for a 50-percent minimum for nurseries of area for nursery, 40 percent maximum for Landscape Services, and the remainder for a common area.

Mr. Mark Perry, on behalf of MDL Bet Holding, 88 E NE 5<sup>th</sup> Ave, Delray Beach, proposed a cap at 1.5 acres per parcel to per five-acre parcel to plan for future growth. While supporting the amendment as is specifically in the AGR, he still had concerns about full DRO approval for Agricultural Residential language and Arterial/Collector requirements.

Dean Turney, on behalf of M&P, was involved in the AGR rules, and argued the proposed amendments would make business difficult. He asked for a definition of on-site activities related to Landscape Services.

Mr. Richard "Chip" Carlson, on behalf of Carly Landco, 2377 Crawford Court, agreed some adjustments to the language are warranted, but is against parking and a pilot program believing it to be cost-prohibitive, and program should just be tweaked instead. He was not aware of conflict with the Comprehensive Plan, and believes consistency can be created as a hybrid use. Furthermore, he wants to be sure to get recommendation to the Board with the staff language for the definition of Landscape Services.

Mrs. Risa McCarahager, on behalf of Heritage Farms residents and one herself, provided two Palm Beach Post articles received into file to be included in the Minutes, and contended Landscape Services are industrial and is against increases in parking.

#### **b. Discussion**

Dr. Vinikoor alluded to Mr. Gulisano's suggestion of raising 35 percent to 45 percent, and questioned the increase, but believes the percentage should be higher at 55 percent to keep it agricultural.

Mr. Blackman suggested removing the easement in calculation of the total area.

Mr. Knight compared Landscape Services to living in an Airport Zone and idea of which came first, but contended more Landscape Service is needed as the County grows and how industrial land has appreciated in value.

Mrs. Kennedy cautioned on the common operations easement issue, and be opposed to change the cap to per five acres because it would change the agriculture nature. She further reflected on the necessity of Landscape Services being a "hidden cost" of development.

Mr. Martin expressed the inconvenience of making businesses going back to full DRO, and the amount of Landscape Services in the back of Heritage Farms creating a cumulative impact on traffic coming in and out of the community at certain times of day, and is localized rather than looking at the County as a whole.

Mr. Barlage suggested there being no need of percent if a cap by acreage is required.

Mr. Drawdy announced his intention to abstain. Various members disclosed contact with attorneys. Mr. Berger noted disclosure is not necessary as it is not a quasi-judicial hearing.

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**c. Staff Comments**

Mr. MacGillis wanted clarification from Mr. Kruger over his question on percentages as it relates to parking. He further explained easements can be signed off on if they are not drainage or as long as encroachments are not encumbering the purposes of the easement. Staff is not set on a pilot program.

Motion to approve with the changes on the Add/Delete sheet and minimum of 55 percent retail wholesale nursery and let Staff and industry continue to discuss other percentages, and up to the BCC to make the final decision by Dr. Vinikoor, seconded by Mrs. Kennedy. Motion failed (3-11-1), with Mrs. Davis, Mr. Martin, Mr. Barlage, Mr. Knight, Mr. Basore, Mr. Harvey, Mr. Walesky, Mrs. Yeskey, Mr. Plana, Mr. Zemen, and Mr. Wein dissenting. Mr. Drawdy abstained due to conflict.

Motion to approve as recommended by Mr. Walesky, seconded by Mr. Knight. Motion passed (10-4-1), with Mrs. Davis, Mr. Martin, Mr. Plana, and Mr. Wien dissenting. Mr. Drawdy abstained due to conflict.

**C. CONVENE AS LAND DEVELOPMENT REGULATION COMMISSION (LDRC)**

**1. Proof of Publication**

The Chair acknowledged Proof of Publication and Mr. MacGillis and Mrs. Kwok also confirmed the publication.

Motion to accept Proof of Publication by Dr. Vinikoor, seconded by Mr. Barlage. Motion passed (15-0).

**2. Consistency Determination for Exhibits B through F**

Mr. MacGillis noted a correction to include Exhibit G. Mrs. Davis noted the Consistency Letter.

Motion to determine Exhibits B through G consistent with the Comprehensive Plan by Mrs. Kennedy, seconded by Dr. Vinikoor. Motion passed (14-0-1). Mr. Drawdy abstained due to conflict.

**D. ADJOURN AS LDRC AND RECONVENE AS LDRAB**

**E. STAFF COMMENTS**

Mr. Berger introduced Mr. Stone as the County attorney for next month (sic).

**F. BOARD MEMBER COMMENTS**

Mr. Martin wanted to know if Staff could get back to him after looking into lighting as it relates to environmental issues. He also wanted HB 7103 addressed to the BCC, believing it to have a negative impact on planning by limiting staff to respond to applicants by 180 days and creating an undue burden.

Mr. Knight thanked Staff for their dedication, and Mr. Blackman thanked everybody for maintaining quorum.

Mr. Plana reflected on the historical premise of zoning as it relates to Landscape Services based on his dissenting votes, and that they failed at the concept of zoning to keep it in industrial or agricultural districts and not residential.

**G. ADJOURN**

The Land Development Regulation Advisory Board meeting adjourned at 4:45 p.m.

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

**EXHIBIT A**

**FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS**

LAST NAME—FIRST NAME—MIDDLE NAME <i>Drowdy Charles Duane</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>LDRAB</i>	
MAILING ADDRESS <i>5960 Michlar Dr Palm Beach</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Lake Worth</i>	COUNTY	<input type="checkbox"/> CITY	<input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED <i>5/22/19</i>		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE	

**WHO MUST FILE FORM 8B**

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

**INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES**

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

**ELECTED OFFICERS:**

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

**APPOINTED OFFICERS:**

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Charles Duane Drawdy, hereby disclose that on May 22, 20 19 :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_ ;
- inured to the special gain or loss of my relative, \_\_\_\_\_ ;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

*Landscape services located in residual areas  
 I own 3.8 ac residential adjacent to landscape services.  
 I also own 7.3 ac light industrial property where  
 I have an office and equipment yard. Both are  
 affected.*

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

May 22, 2019  
Date Filed

Charles Duane Drawdy  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.