

**EXHIBIT A**

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

**Minutes of May 22, 2013 Meeting**

On Wednesday, May 22, 2013 the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the Ken Rogers Hearing Room, (VC-1W-47), at 2300 North Jog Road, West Palm Beach, Florida.

**A. Call to Order/Convene as LDRAB**

**1. Roll Call**

Chair Wes Blackman called the meeting to order at 2:05 p.m. Zona Case, Code Revision Zoning Technician, called the roll.

**Members Present: 13**

Wesley Blackman (PBC Planning Congress)  
Jim Knight (District 4)  
Lori Vinikoor (District 5)  
Michael Zimmerman (District 6)  
Henry Studstill (District 7)\*  
Gary Rayman (Fl. Surveying & Mapping Society)  
Joni Brinkman (League of Cities)  
Terrence Bailey (Florida Eng. Society)\*  
Jerome Baumoehl (AIA)  
Edward Tedtmann, Environmental Organization)  
Barbara Katz (District 3)  
James M. Brake (Member at Large/Alternate)  
Leo Plevy (Member At Large/Alternate)

**Members Absent: 4**

David Carpenter (District 2)  
Richard Kozell (District 1)  
Frank Gulisano (PBC Board of Realtors)  
Raymond Puzzitiello (Gold Coast Build. Assoc.)

**Vacancies: 2**

(Assoc. General Contractors of America)  
(Condominium Association)

**County Staff Present:**

Leonard Berger, Assistant County Attorney  
Bryan Davis, Principal Planner, Planning  
William Cross, Principal Site Planner, Zoning  
Monica Cantor, Senior Site Planner, Zoning  
David Nearing, Site Planner 1, Zoning  
Zona Case, Zoning Technician, Zoning

**2. Additions, Substitutions, and Deletions**

Chair Wes Blackman noted that there were no additions, substitutions, and deletions. He requested that a motion be made to allow presentation of a plaque on behalf of Palm Beach County to Mr. Martin Klein who served on the Land Development Review Advisory Board for nine years. This will be done after adoption of Item A.4.

Motion by Ms. Vinikoor, seconded by Barbara Katz. Motion passes (12 - 0)\*.

**3. Motion to Adopt Agenda**

Motion to adopt the agenda by Ms. Vinikoor, seconded by Ms. Katz. Motion passes (12 - 0)\*.

**4. Adoption of April 24, 2013 Minutes (Exhibit A)**

Motion to adopt by Ms. Vinikoor, seconded by Ms. Katz. Motion passes (12 - 0)\*.

**RECOGNITION OF FORMER BOARD MEMBER: MARTIN KLEIN**

Chair, Wes Blackman, presented the plaque to Mr. Martin Klein and expressed both pleasure in having served with Mr. Klein and regret that he no longer serves on the Board. In responding, Mr. Klein spoke about his warm regards for former fellow members and the honor and gratitude he felt for being afforded the opportunity to serve with them and to work with an excellent Zoning staff. He wished good health and happiness for all.

**B. ULDC AMENDMENTS**

**1. Exhibit B - Adult Day Care**

Mr. Cross explained that the Facilities Development and Operations (FDO) Department brought to Zoning's attention language in the Day Care section of the ULDC which is in conflict with State agencies' regulations and that Mr. Eric McClellan, Senior Planner in that department was present to respond to questions. Zoning agrees and this minor amendment means that an adult day care is no longer required to meet the minimum square footage for outdoor activities specified in the ULDC and required for child day care facilities. This is in keeping with the Florida Administration Code (FAC) and Agency for Health Care Administration (AHCA).

Mr. Baumoehl, Mr. Knight and Mr. Tedtmann cited health concerns for clients which will result from lack of exercise due to insufficient space to move around freely.

Mr. Eric McClellan responded that a play area is not mandated by law. The Director of Senior Services had been consulted and it was agreed that it was best left to the market

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to determine future needs as the clientele being served is varied. Some clients might not be physically able to use outdoor space and providing and maintaining extra space is costly and could present liability issues for the facility. He further said that an expansive area is not necessary as the adults are there only during the day and all are not required to be outside at the same time, as mostly happens in a child day care. At any given time there might be one or two adults in that area.

Motion by Ms. Vinikoor, seconded by Mr. Rayman.

Motion by the Chair for vote on a roll call. The Secretary called the roll. The motion passes (8 - 4)\*. Mr. Baumoehl, Mr. Tedtmann, Mr. Knight and Mr. Brake voted nay.

#### 2. Exhibit C - Murals

Mr. David Nearing, Site Planner I, outlined the main points in the exhibit, as follows:

- A definition for "Mural", and establishing that the County Administrator or a designee is authorized to review and approve, or deny mural applications.
- Restrictions on placement and application procedures.
- Review procedures established by The Public Art Committee Resolution 2010-2092.
- Design criteria, requirements for installation and time allocated for completion.
- Inspection is required to ensure compliance, and enforcement details in the event of non-compliance are clearly explained.

A brief discussion followed in which Mr. Knight questioned the six-month time frame and Ms. Vinikoor expressed concern that neon lights might be used in the murals.

\*The Chair noted the arrival of Mr. Bailey at 2:35 p.m.

Mr. Berger explained that the six-month timeframe is merely for internal convenience due mainly to Building Department procedures. Mr. Nearing added that six months is a typical building permit cycle and if additional time is needed the Building Department will extend the permit as long as progress is being made. He also pointed out that neon lighting requires a building permit and line 64 on page 14 of the Exhibit states that there is restriction on moving mechanical or electrical parts on murals.

Motion by Mr. Rayman, seconded by Ms. Katz. The Motion passes (13 - 0).

#### 3. Exhibit D - Freestanding ATM

Mr. Nearing explained that this privately initiated amendment on behalf of Bank of America, was discussed at the BCC Hearing in October, 2012. Zoning was directed by the Board to process amendments to the ULDC to allow freestanding Automated Teller Machines in walk-up and drive-thru structures, which will be unmanned and provide a full range of banking services. He summarized the amendment as follows:

- Non-proliferation in parking lots to prevent excessive disruption of the traffic flow.
- Appropriate landscaping with particular attention to security lighting or Crime Prevention Through Environmental Design (CPTED) guidelines.
- Customer access to the interior is prohibited.
- Parking requirements must be satisfied; with provision for handicapped parking.
- Structures must be at least 1,000 ft. apart; maximum size is 100 sq. ft, excluding canopies for weather protection.
- Wall signage would be permitted in accordance with the same standards applicable to buildings, with exception to minimum tenant provisions intended for occupied businesses.
- The related financial institution is required to have at least one manned full service operation in the County.

Ms. Brinkman suggested that ATMs be allowed in the UC and UI (Urban areas) and asked why these small structures should have to comply with architecture design guidelines.

Mr. John Heron from the law firm of Gray and Robinson, representing Bank of America, provided further rationale for the need to provide freestanding machines:

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- Older type ATMs found in grocery stores are being phased out.
- Technical advances are encouraging more people to do their banking from home.
- There is more use of debit cards and many employers are converting to the debit card system to pay their employees.
- Access to the machines will assist many people who do not own a vehicle or a computer.

Mr. Heron further said that he agrees with Ms. Brinkman's opinion that the machines should be allowed in the UC and UI districts and he requested a simpler formula for calculating signage than the percentage method suggested.

Mr. Cross said that during the discussion, Mr. Bryan Davis, Principal Planner, Planning Division, conveyed to him that it might be possible to allow ATMs in the URA and if so a change could be made to the Exhibit. (Editor's note: The exhibit was subsequently amended to include the UC and UI districts as requested.)

Motion by Ms. Vinikoor, seconded by Ms. Brinkman Ms. Vinikoor emphasized the importance of the 1000 ft separation in the amendment. The Motion passes (11 - 2). Mr. Baumoehl and Mr. Plevy voted nay.

#### 4. Exhibit E - Private Gun Range

Mr. Cross stated that complaints of a firearm being discharged on private property prompted research of Florida Statutes, and after further consultation with the County Attorney's Office, it was determined that the County cannot regulate this use. Mr. Berger added that State law regulates private gun ranges and the County can only regulate public gun ranges.

Motion by Ms. Vinikoor, seconded by Mr. Knight. The motion passes (13 - 0).

#### 5. Exhibit F - Bona-Fide Agriculture

Mr. Cross explained the background to the amendment, as follows:

- ULDC provision duplicate requirements delegated to the Property Appraisers Office per Florida Statutes.
- Presently a farm cannot be started without the bona-fide agriculture classification from the Property Appraiser, but the classification cannot be obtained until the farm has started and is in production.
- The language being stricken should not be in the ULDC. Zoning can regulate where a farm is located.

Mr. Berger added that with the bona-fide classification a number of tax exemptions are available through the Property Appraiser and there are some activities which are entitled to exemption whether the operation is bona-fide agriculture or not.

Ms. Brinkman said there is confusion and the Building department does not seem to know how to handle it. She inquired whether the Building Division uses as their basis to exempt an AR property owner from the building process the fact that the owner completed all the required documentation.

Mr. Berger clarified that non-residential farm buildings do not require building permits. Many applicants live in the building after agreeing not to do so, to avoid the impact fees and building permit requirements and it is dangerous for them to live in an unpermitted building. The system has been abused and the State law changes almost every year. Recently attempts have been made to resolve the situation with the Building department and the process is still under review.

Mr. Cross added that Zoning is working on a PPM with several departments and the County Attorney to get feedback and address issues such as setbacks, other standards and the affidavit process. He also said that staff is addressing bona-fide agriculture among the many agricultural uses being reviewed in the Use Regulations project. The Comprehensive Plan will also be reviewed similarly.

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Ms. Vinikoor requested a copy of the affidavit and Mr. Cross said he would send it by e-mail to all members. (Editor's note: The affidavit was forwarded via e-mail).

The Chair noted that a member of the public wished to speak on this item.

Caroline Villanueva said she represents Florida Crystals Corporation and its affiliates, which owns much of the land in the Agriculture Production area and will be affected by the amendments. The Corporation is now subject to the affidavit although every effort has been made to be in compliance. She was of the view that there is insufficient information in the Exhibit at this point to make decisions and requested the opportunity to coordinate and work with staff as an affected landowner. Ms. Villanueva also referred to page 25, lines 26-27, stating that the sentence is troubling. It does not identify the definition of bona fide agriculture and there is already a State statute that defines that.

Mr. Berger agreed with the Chair that this is an evolving matter and this amendment is a small step. Bona-fide is used frequently in the Code and changing the term entirely could be confusing. Mr. Berger also clarified that Zoning cannot regulate where there is State law but there are areas where Zoning can regulate basic agriculture and that is what the PPM is about. He also clarified that there are other standards that have been left out of the Exhibit and they will be renumbered in the Code.

Motion by Ms. Vinikoor, seconded by Mr. Bailey. Motion passes (13-0).

**C. CONVENE AS LDRC**

**1. Proof of Publication**

Motion to approve by Ms. Vinikoor, seconded by Ms. Katz. Motion passes (13 - 0).

**2. Consistency Determination**

Mr. Blackman requested that Exhibits B.1 through B.5 be looked at for consistency. Mr. Bryan Davis, Principal Planner, Planning Division, stated that the proposed amendments were consistent with the Comprehensive Plan.

Motion to approve consistency determination by Mr. Knight, seconded by Ms. Vinikoor. The motion passes (13 - 0).

**D. ADJOURN AS LDRC**

Adjourned as LDRC at 3.45 p.m..

**E. RECONVENE AS LDRAB**

Reconvene at 3:45 p.m

**F. PUBLIC COMMENTS**

There were no public comments.

**G. LDRAB SUBCOMMITTEE UPDATES**

**1. Use Regulations Project**

Ms. Cantor gave the following update:

- At the subcommittee meeting on May 14, the Industrial Uses were presented and several questions were raised especially in cases where the uses were changed from less to more restrictive.
- It was made clear that the object is to simplify the approval process where possible and determine how to handle non-conforming uses.
- The new Consolidated Use Matrix was also presented and explained to attendees.
- The next meeting is tentatively scheduled for the second week of June.

Ms. Cantor thanked LDRAB members who are participating in the Use Regulations subcommittee meetings and invited other members to participate. She also reminded existing Landscape Subcommittee members to attend meetings and invited other members to participate. Mr. Tedtmann accepted the invitation.

Formal motion to have Mr. Edward Tedtmann join the Landscape Subcommittee by Mr. Zimmerman, seconded by Mr. Baumohl. Motion passes (13 - 0).

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Mr. Knight apologized on behalf of the Use Regulations Subcommittee for badgering of Zoning staff by some members of the public at the meeting on May 14. He hopes to exercise more control over the meeting to prevent this behavior from being repeated at future meetings.

**H. STAFF COMMENTS**

Mr. Cross advised the Board as follows:

- A special LDRAB/LDRC meeting has been scheduled for June 19, 2013, to discuss the illegal dumping of manure in Unincorporated Palm Beach County and Zoning was directed by the County Administrator to amend the ULDC to address this. The amendments will closely follow the new Wellington Ordinance.
- The Electrified Fence Ordinance would be presented to the BCC the following day for Request for Permission to Advertise and he confirmed to Mr. Bailey that the changes to the amendments proposed at the April 24 meeting were agreed to by the applicants.
- A privately initiated application to amend Communication Tower, Commercial to allow cell towers in a Recreation PUD will be presented in Round 2013-02 or Round 2014-01.

Ms. Vinikoor said the proposal to have cell towers in a PUD will be of interest to Alliance of Delray and COWBRA as it could have an impact on Unincorporated Palm Beach County.

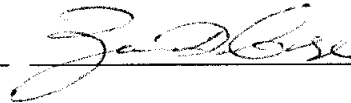
**I. ADJOURN**

The Land Development Regulation Advisory Board meeting adjourned at 4:00 p.m.

Recordings 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.

Minutes drafted by:

Zona Case



6/19/13