

EXHIBIT A

AGRICULTURE MARKETPLACE SUBCOMMITTEE (FKA: PRODUCE STAND AND RELATED USES SUBCOMMITTEE) A SUBCOMMITTEE OF THE LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

MINUTES OF THE APRIL 2, 2012 MEETING

Prepared by Zona Case

On Monday, April 2, 2012, the Produce Stand and Related Uses Subcommittee met at the Vista Center, Room VC-1W-47, at 2300 North Jog Road, West Palm Beach, Florida.

A. CALL TO ORDER

1. Roll Call

Ms. Lori Vinikoor, Chair, called the meeting to order at 2:00 p.m.

2. Introductions

Those in attendance* were asked to introduce themselves.

Subcommittee Members: Lori Vinikoor, Jim Knight, Terrence Bailey, Barbara Katz.

Interested Parties: Steve Bedner, Jeff Brophy, Mark Perry, Ken Lassiter, Richard Machek, Gerry Morrison, Robert Pawa, Mitchell Marden, Rick Roth, Harvey Berger, and Lyn Cacella.

County Staff: Barbara Alterman, Audrey Norman, Arthur Kirstein, Danna Ackerman-White, Monica Cantor, William Cross, Bryan Davis, Kurt Eisman, Cynthia McDougal and Zona Case.

3. Additions, Substitutions and Deletions to Agenda

There were no additions, substitutions or deletions to the agenda. Mr. Knight apologized for his absence from the meeting on 3/12/12. He asked to place on record that this was because he did not receive the invitation due to an error in his changed e-mail address.

Motion to adopt Agenda

Motion to adopt by Terrence Bailey seconded by Jim Knight. Motion passed (4-0).

4. Adoption of March 12, 2012 Minutes (Exhibit A)

Motion to Adopt by Terrence Bailey, seconded by Barbara Katz. Motion passed (4-0).

B. TENTATIVE SCHEDULING FOR SUBCOMMITTEE AND AMENDMENTS

Ms. Vinikoor provided a handout listing the dates of the four 2011 meetings, the 2012 dates scheduled specifically for the AGR Tier, and requested that such be "...indicated in the minutes of the April 2, 2012 meeting..." Staff noted the request.

Mr. Cross noted that the seventh and last meeting is tentatively set for Monday, April 16, with presentation to the LDRAB on May 23, 2012. BCC dates were also included in the handout.

Mr. Knight expressed disappointment that he was not invited to participate in the BCC tour of the AGR despite the fact that at the LDRAB Meeting he had indicated an interest in doing so. He asked to be apprised of future events. Mr. Cross indicated that as Zoning staff did not coordinate the tour and due to limited Zoning staff it is difficult to keep abreast and inform LDRAB members of upcoming events. When possible, it will be done.

* Bryan Davis, Audrey Norman, Kurt Eisman, Sandy McDougal, Rick Roth arrives at 2:10.

C. BRIEF OVERVIEW OF MARCH 21, 2012 AGRICULTURE ENHANCEMENT COUNCIL MEETING

At the request of Ms. Vinikoor, Mr. Cross provided a brief perspective of the Agricultural Enhancement Council (AEC) Meeting held on March 21, 2012. Mr. Roth noted this had been his first AEC meeting and he highlighted a few points he took away from the meeting.

D. CONTINUATION OF DRAFT AMENDMENT DISCUSSION

Ms. Katz commented that at the last meeting Mr. Bedner was asked to state what he wants, and that approaching it in this way will produce good results.

1. Definitions

In response to Ms. Vinikoor's question, Mr. Cross clarified that the correct definition is Agriculture Marketplace but that the term Agricultural Marketplace had also been mistakenly used at the AEC meeting.

* Mr. Cross noted that Barbara Alterman joined the meeting (time 2:20 p.m.).

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Mr. Cross opened the discussion with a summary of the staff recommendation to allow for five percent or 1,000 square feet, whichever was less, to be allowed for the sale or groceries. He noted that while there were suggested terms that may need to be defined, staff had a preference to move forward with a discussion on the other critical elements of the proposed amendments, and that if necessary – definitions could be completed to reflect the final product.

At this time, an extensive discussion ensued regarding the definitions and what types of products might be permitted to be sold. Mr. Cross clarified that the definition for groceries in Websters was *“the sale of foodstuff and household supplies”* and that foodstuff was *“a substance that could be used or prepared for use as food.”* He stressed the need to tie the proposed use to agriculture while also keeping things as simple as possible, as the County does not want a complex definition that would be excessively difficult for Code Enforcement or others to follow.

Significant discussion ensued. The following highlights the key points of discussion:

- Ms. Katz' inquired as to whether industry was consulted, to which Mr. Cross said that there are differing opinions from industry but staff is of the opinion that there is a significant difference between agricultural products and groceries. He further noted the definition of Agriculture Products under F.S. 604.315.
- Mr. Perry commented that on recommendations to broaden the use "agricultural products" and restricting if it becomes necessary, citing the definition under the Right to Farm act. Staff requested that said definition be submitted for further discussion.
- Ms. Alterman said Zoning has to ensure that the use does not become commercial which would trigger a Comprehensive Plan text amendment. The Board has not authorized that direction and staff is trying to balance commercial versus enhancing and helping agriculture.
- Mr. Perry responded that the sale of grocery items makes the use commercial and he agreed there might have to be a Comprehensive Plan amendment but suggested the process be continued to see whether it can have an end result without that restriction.
- Mr. Knight's view was they should have permission to sell anything that is edible. The only way to help is to keep the farmers there and if a text amendment is necessary then, do it.
- Mr. Bailey questioned where the line is that separates agriculture from commercial. Ms. Cantor replied that the constraints are a consequence of the Comprehensive Plan and Planning may be asked to explain the difference. Ms. Alterman further elaborated that new commercial uses in the AGR Tier were permitted to two locations, the intersections of Boynton Beach and Atlantic Boulevard at Lyons Road, with development required in the form of Traditional Marketplace Developments.
- Ms. Norman expressed the view is that food, fiber, forestry and animal products are all agricultural products which raises questions of whether bees wax, beeswax candle, firewood, and furniture are also agricultural products.
- Mr. Maycheck commented that limiting farmers to the sale of agriculture products only was prohibitive, and that the County's decision to allocate only two locations for commercial in the AGR is very restrictive.
- Mr. Cross reiterated that at each of the six prior meetings he had requested that industry and interested persons provide examples of other jurisdictions that allowed for additional retail sales on agricultural properties. Mr. Maycheck gave examples of jurisdictions in Florida where farm stores are allowed to sell products from all over the world, as one-stop shops. He confirmed that the examples cited were commercial properties.
- Mr. Bailey read the definition of commercial use in the Comprehensive Plan: "activities within land areas which are predominantly connected with the sale, retail and distribution of products or performance of services" and questioned whether the criteria of five percent or 1,000 sq. ft. would be commercial. Ms. Alterman explained that generally the Code and the Comprehensive Plan allow a small percentage for accessory uses and other things can be done as accessory to a farm. Determining what is accessory and what is primary is a delicate balance.

Mr. Roth recommended that from all that was said, someone should move a motion, have it seconded and if not passed, then another motion be moved.

Mr. Pawa acknowledged the lack of existing models to follow but that it was time to lead - not follow, citing the uniqueness of the AGR. He gave examples of various states where a wide variety of business activities are carried out in similar areas. The Bedner's

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experience is unique and the public would strongly support a one stop shop, making it both economically and ecologically beneficial. He summarized three tiers of food: raw, processed and prepared, citing as an example that wheat is raw, milled flour or spaghetti is processed, and that a pasta dish would be prepared. Mr. Cross noted that a review of many of the agritourism ordinances from the areas cited expressly prohibited the types of retail sales being proposed. He cited Napa Valley as an example, where the local code allows for a fee to be charged to cover the consumption of food customarily associated with wine tasting activities, but that retail sale was expressly limited to the wine produced on site.

Mr. Bailey said that farming 70% of the land leaves 30% for consideration. He noted that the maximum FAR (editors note: floor area ratio) is 0.15 and that there is no need for further definition or restriction on what is put there. Because of the other elements being put in place, everything under a roof will be considered ancillary in the bigger picture. He recommended that the definition for "foodstuff" be stricken while keeping the "grocery or grocery sales" definition.

Motion by Ms. Vinikoor to vote on Mr. Bailey's recommendation, seconded by Mr. Knight. Motion passed 4 - 0. Mr. Cross noted that staff would take the recommendation into consideration.

2. Maximum Overall Square Footage

Mr. Cross reiterated the need to clarify what types of uses were being considered or proposed so as to help frame the discussion on potential square footage. He noted that staff had identified potential collocated uses, and that a museum had been briefly mentioned in another meeting, to include antique tractors, farming exhibits and other similar educational elements. There is room for discussion on square footage, keeping in mind that uses would need to be related to agricultural operations.

Mr. Brophy noted that the Bedner approval was in excess of 12,000 sq. ft. and that with an FAR of 0.15 that approximately 91,000 sq. ft. would be permitted. He stated that Bedner's has been consistently saying what they would like to do there in terms of other collocated uses, such as the agri-tourism, and these are going to take up more than the actual marketplace. The restrictions are already contained in the 30 percent, 0.15 FAR, that the market is going to dictate the size of the building, and that it will not be a 65,000 sq. ft. stand. With all these factors there is no need for the added restriction. In addition this will be a Class A Conditional Use which will have to go to the BCC for approval.

Mr. Cross noted that typically accessory uses are not just straight percentage of an area (acreage, square footage, etc.) but that other guidelines are sometimes required to ensure that the use is truly accessory, or in this case incidental and subordinate to the farming operations. In response to Ms. Vinikoor's question as to why square footage was suggested, it was noted that staff were seeking to establish a balance between farming operations and more intense ancillary uses that might be adverse to those farming activities.

Mr. Lassiter said that while a 90,000 sq. ft. stand is not likely, a farmer could decide to have a packing or a processing plant particularly if they are not only selling at their location but are packing and shipping all over. Mr. Kirsten noted that many local farmers have been wholesalers for years and that some farmers cannot compete on a wholesale basis so we have to provide flexibility to help small farmers like Bedner's to continue farming.

Mr. Bailey said good governance demands that we restrict by square footage or a 90,000 sq ft. building becomes a possibility. He recommended leaving it to staff to set up a definition grouping with allowable square footages as follows: 20,000 sq. ft. publix-style building, 30,000 to 40,000 open air market, and the balance of the 0.15 FAR would be for collocated museum. Or split it in thirds and those would be the maximum.

Mr. Cross said this was fine and staff would come back with a decision on April 16, and we will discuss and see what we have to present to the LDRAB and on to the BCC.

Mr. Bailey's recommendation was seconded by Mr. Knight. Motion passed 4 – 0.

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3. Maximum Square Footage Permitted for Grocery Sales

Mr. Cross noted change to 5 percent or 1,000 sq. ft. He asked for suggestions for staff to consider for discussion at the April 16 meeting.

Mr. Kirsten opined that agriculture is not just the product and has nothing to do with the product but with growing the product.

Mr. Perry expressed the view that the first motion made was approving grocery sales for the entire building site and it seemed to him that the restrictions are being discussed after grocery sales for the entire site was approved. He wished to have this clarified.

A discussion ensued in which the following points were clarified:

- Staff's position is that agricultural products, fruits, vegetables, hay, etc. can be sold, pending new information that may say otherwise. It is the processed and prepared food (e.g. pasta), fiber, that would be in that 5 percent or 1,000 sq.ft.
- Mr. Roth expressed the desire to see the written record as to what was recommended and passed. Mr. Cross noted that historically staff has tended to agree with LDRAB subcommittee 99 percent of the time but in situations such as these where there are constraints with the Plan or other factors that may preclude certain recommendations.
- Mr. Bailey clarified: - the original recommendation is that they have to farm 70 percent. They have the entire square footage of the 0.15 FAR which he considered to be ancillary and non-commercial, and therefore do not need the restriction on the groceries. Anything in the building can be grocery stuff. This can be taken up again if there is a more appropriate restriction.

4. Collocated Uses

Mr. Cross summarized the permanent greenmarket amendments, noting the scope of products permitted to be sold and noted that there were no significant issues with this use.

It was noted that there were other discussions underway related to recycling bins and that the Bedners had indicated that this could be removed at this time. Mr. Cross noted there would be additional options for reconsideration of this use during any related amendments or during the forthcoming Use Regulations Project.

In reference to Page 10, Line 3, Ms. Katz expressed concern about restaurant or food sales in the AGR as a collocated use and said there is no way to get a restaurant into any place other than the two commercial spots on Lyons Road and Atlantic/Boynton Beach. The Ag Reserve cannot be violated unless the Plan is changed.

Mr. Cross said that staff is looking for input with regard to both items 3 and 4 on page 10 as to what kind of food sales are going to be out there for people who are going to be visiting for u-pick activities and become hungry or thirsty. Staff does not have a position on this yet as they are not comfortable with it. Ms. Katz opined that if it is temporary when there is a fair or at a special event.

Mr. Perry expressed the desire to have weekend events like barbeque cook off, corn eating contest or other activities in the tiki hut. Barbeques can be done all week if there is a demand for it and you are making money. That is farming based and can be considered agriculture. Mr. Perry noted that there is a 20 ft. trailer there all the time and there were suggestions from members to have certain time limits like closing when stores close.

Mr. Bailey would like to hear from staff which type they would prefer, those left on site and closed down, or those that come in and out daily. Staff noted objections to fixed restaurants and that the conflict with the bbq trailer, which while mobile, was not being removed on a daily basis. It was noted that the accessory grocery sales could include food and beverages.

In response to Mr. Harvey Berger's question on a permit for mobile sales, Mr. Cross clarified that there are two different types of mobile permits one regulated by County Engineering that park within a right of way, and others permitted by Zoning that require consent from a property owner, and limitations to ensure that require blocking, access ways and other similar elements are not blocked. He noted that those that typically

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service constructions sites might be classified otherwise, and that other entities such as the Health Department regulated food safety.

5. Special Events

Mr. Cross noted that special events were not currently permitted in the AGR district. Rather than simply permit this as a collocated use under current standards of a maximum of three per year up to 14 days each, staff had researched other ordinances and suggested that that when collocated with an agriculture marketplace, 12 events be permitted, with a duration of weekends or County recognized holidays, with some connection to agriculture related tourism, education or other similar. It might also be possible to consider developing guidelines to allow for a one time DRO approval rather than the current requirement to obtain a special permit for each event. Additional input and discussion would be required to ascertain the feasibility – with an emphasis on ensuring that appropriate parking, crowd control and restroom facilities are adequately addressed. This would clearly be simpler for the applicant, as well as PZ&B staffing, including Code Enforcement.

At this time, staff referred to the List of Uses submitted by Mr. Perry - pgs 13 - 14 and questioned how the uses tie to agriculture. Discussion ensued on the types of events proposed and how to separate "events" from "activities?" Mr. Cross noted that additional information from industry would be needed to fill in the table so there is no misinterpretation and a column has been added to differentiate event from activity.

Ms. Cantor expressed that the site has too many activities that trigger parking demands and consideration should be given to the type of activities to be allowed in this development. Regulations have to be put in place to avoid any current parking issues and to ensure the issues do not trigger parking on SR-7.

Mr. Cross repeated his request for anyone who can to provide a code - a plan or set of regulations from anywhere in nationally nation that allows agricultural property to have restaurants and unlimited product sales. He has looked very hard but has not found one.

Staff thanked everyone for their participation and input.

E. NEXT MEETING AGENDA

F. ADJOURN

Mr. Knight motioned for adjournment and Mr. Bailey seconded the motion. The meeting adjourned at 4:10 p.m.