



**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)  
PRODUCE STAND AND RELATED USES SUB-COMMITTEE**

**2<sup>ND</sup> MEETING**

**TUESDAY, AUGUST 30, 2011 AGENDA**

**2300 NORTH JOG ROAD**

**CONFERENCE ROOM VC-1E-58 – 1ST FLOOR 2:00 P.M. – 4:00 P.M.**

**A. CALL TO ORDER**

1. Introductions
2. Additions, Substitutions and Deletions to Agenda
3. Motion to Adopt Agenda
4. Adoption of August 8, 2011 Minutes (**Exhibit A**)

**B. GOALS AND TIMELINE**

**C. GROUP ACTIVITY AND DISCUSSION**

1. Use Definitions/Classifications
2. ULDC Supplementary Use Standards
3. FLU Designation and Zoning Districts
4. Approval Processes
5. Additional Considerations
6. Other

**D. RECOMMENDATIONS**

**E. TOPICS FOR NEXT MEETING**

**F. ADJOURN**

## EXHIBIT A

### PRODUCE STAND SUBCOMMITTEE A SUBCOMMITTEE OF THE LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

#### MINUTES OF THE AUGUST 8, 2011 SUBCOMMITTEE MEETING

Prepared by Zona Case, Zoning Technician

On Monday August 8, 2011, the Produce Stand Subcommittee met at the Vista Center, Room VC-1E-58, at 2300 North Jog Road, West Palm Beach, Florida.

First meeting of the Produce Stand and Related Uses Subcommittee for Amendment Round 2011-02.

#### A. CALL TO ORDER

Ms. Monica Cantor called the meeting to order at 2:10 p.m.

##### 1. Introductions

Introductions were done later in the meeting under Section D, Discussion, where participants were asked to state their interests.

**Subcommittee Members:** Lori Vinikoor and Jim Knight.

**Interested Parties:** Steve Bedner, Joni Brinkman, Robert Brockway, Jeff Brophy, David Grix, Mike Jones, Michelle Parenti-Lewis, Mark Perry, Shawn Rowan, Sharon Sheppard, Thuy Shutt, and David Sui.

**County Staff:** Danna Ackerman-White, Monica Cantor, Zona Case, William Cross, Bryan Davis, Kurt Eismann, Arthur Kirstein, Amy Petrick, Timothy Sanford, and Alan Seaman.

##### 2. Select Chair and Vice Chair

Lori Vinikoor volunteered to Chair and Jim Knight volunteered to be Vice Chair.

##### 3. Additions, Substitutions and Deletions to Agenda

There were no additions, substitutions and deletions to the agenda.

##### 4. Motion to Adopt the Agenda

The Chair and Vice Chair approved the agenda.

#### B. PURPOSE AND INTENT

Ms. Cantor welcomed and thanked attendees for giving their time to the kick off discussion on Produce Stands and Related Uses. She said that the subcommittee is made up of Land Development Regulation Advisory Board (LDRAB) members, two of which were present, and others attending the meetings are interested parties.

##### 1. Goal of Subcommittee

Ms. Cantor explained that at the March 15, 2011 BCC Hearing, the Commissioners directed Zoning Division staff to solicit input from industry and property owners to address concerns with the viability and operation of Produce Stands. Recently, several produce stands have been cited by Code Enforcement for illegal signage, and expansion of uses such as General Retail Sales, Entertainment or other commercial activities that are not permitted within the applicable Zoning district (e.g., Agricultural Residential or Agricultural Reserve) or are inconsistent with the original intent of the use definition in the Code. Zoning staff was also asked by the BCC to explore possibilities to improve and promote Produce Stands in the Urban/Suburban Tier. This task will also include a review of the standards, requirements and approval processes for Produce Stand and other Related Uses, including: Green Markets, Farmers Markets and Community Vegetable Gardens, and arrive at appropriate conclusions.

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### 2. Timeframe/Schedule

Ms. Cantor went on to say two other Subcommittee meetings are scheduled for August 30 and September 19, 2011, and presented the timeframe/schedule for drafting any potential amendments, presenting to the LDRAB/LDRC, and BCC Public Hearings to conclude with adoption on January 26, 2012.

### C. PRESENTATION: Overview of Produce Stands, Green Markets, Farmers Markets and Community Vegetable Gardens

Ms. Cantor gave a Power Point Presentation to provide attendees a better understanding of the issues, which included:

- A video-clip of a Produce Stand in Bangkok was shown to illustrate how other countries address the location of Produce Stands.
- Reviewed ULDC definitions for Produce Stand (Temporary and Permanent), Green Market, Farmers Market, and Community Vegetable Garden. This included a brief history of how the Produce Stand use in the ULDC evolved over the years:
  - In 1992 the ULDC was reorganized and the use “Stand for the Sale of Agricultural Products” was classified as an agricultural use for the *“retail sale of fruits, vegetables, flowers, and house plants, not necessarily grown on site.”* The use permitted mobile roadside stands, with a maximum of 300 sq. ft. of gross floor area, hours of operation limited to 6 a.m. to 11 p.m., and one stand per site. Included in the 1992 reorganization was the use “Fruit and Vegetable Market”, considered a Commercial Use, intended for retail sales of fruits, vegetables and other agricultural food products.
  - In 1995 the use was renamed “Produce Stand” defined as *“a temporary stand less than 150 sq. ft., for the retail sale of agricultural products not necessarily grown on site, such as fresh unprocessed fruit, vegetables, flowers and containerized house plants.”*
  - In 2003 the use, “Produce Stand” use combined the two requirements and created “Produce Stand, Temporary and Permanent”, which correspond in general to the definition: *“An establishment engaged in the retail sale of fruits, vegetables, flowers, containerized house plants and other agricultural food products.”*
- General overview of State and County regulations with emphasis on the Comprehensive Plan and the Management Growth Tier System.
- Main issues identified for Produce Stand relate to possible conflict between agricultural and commercial use classification, traffic, parking, hours of operation, nuisances, outdoor storage, and demand of fresh food alternatives.
- Retail, Outdoor Entertainment and Restaurant uses were identified as the most common activities associated with illegal operation of some Produce Stands.

### D. DISCUSSION

- Ms. Cantor invited all attendees to begin discussion and requested that they state their interest in participating.
- Ms. Lori Vinikoor asked that the group be advised of the regulations and the goal to be achieved and Mr. Jeff Brophy requested a synopsis of the Commissioners’ directive.
- Ms. Cantor responded by stating that the goal is to analyze, get input and review current status of Produce Stand uses and determine if there is a need for code amendments. Commissioners want staff to review the uses for a possible category in between rural markets and grocery stores in the Urban/Suburban areas. Additional concerns relate to illegal uses within Produce Stands that have been subject of Code Enforcement action. She further clarified that Zoning staff requested LDRAB to create a subcommittee for the

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Produce Stand and Related Uses to review the use regulations in order to address BCC direction.

- Mr. David Grix, Sanitation Inspector for the Florida Department of Agriculture (DOA), Division of Consumer Services, clarified that selling of whole produce does not present a problem for that agency; however cut fruit has to be wrapped to ensure safety and wholesomeness and prevent food-borne illnesses. This needs regulation from the FL DOA. He distributed a handout outlining Florida HB 7209 that allows Cottage Food products from unlicensed home kitchen.
- Mr. Robert Brockway, Florida Department of Agriculture, confirmed to Ms. Vinikoor that Green Market and Farmers Market are morphing, although green markets are designed more for consumable products.
- Mr. Mark Perry, representing farmers in the Agricultural Reserve stated that Produce Stands are highly restrictive and he would like them relaxed to allow sales of fruit plates, fish, meat, prepared food in general. Land Use regulations prevent them from doing this.
- Mr. Steve Bedner, owner of Bedner Farm Inc., described his business as a legitimate farmers market. He grows and sells and is looking at different ways to expand.
- Ms. Michelle Lewis, who served as chair for the Urban Agriculture committee for West Palm Beach code, questioned whether the products are obtained locally. Mark Perry was of the opinion that an all year market requires importation of products from other areas or overseas. Robert Brockway advised that importation of agricultural products requires USDA involvement.
- Mr. Jeff Brophy, representing Land Design South, sees many inequities in the application and approval process and is interested in making the process more predictable.
- Mr. Jim Knight, LDRAB member recommended that trips/traffic be looked at carefully.
- Ms. Joni Brinkman, from Urban Design Kilday Studios, suggested that when looking at amendments, give thought to the fact that there are other areas to be considered besides the urban/suburban tier.
- Mr. David Sui, University of Florida, Institute of Food and Agricultural Sciences, said that his mission is to assist and promote agriculture in the County. He expressed concern about Florida Cottage Law that permits residents to mix food products and sell them. He raised the question of those engaged in buying and selling that are not paying license fees while bonafide growers have to compete with those buying and selling. He mentioned the need to ensure local growers are protected. He is concerned about how to regulate food safety and at the same time create opportunities to retain the agriculture revenue for the County.
- Mr. Arthur Kirsten, Palm Beach County Cooperative extension worked with agricultural issues for a number of years. He stated that it is impossible for farmer markets to compete with large grocery stores. They have to meet the same standards as the supermarkets but the regulations do not allow selling of the same products, they are being punished because of zoning regulations. These businesses are limited and have to import from other states or other countries.
- Ms. Lori Vinikoor, LDRAB member and member of the Palm Beach Chapter of Rare Food Council: the Agricultural Reserve is very different from other zones and her interest is in ensuring that the definitions work.
- Ms. Michelle Lewis, who is a Registered Dietician, is interested in facilitating access to fresh fruits and vegetables to people by encouraging community gardening.
- Mr. William Cross, Zoning Principal Planner, explained that if the ULDC needs changes this is the opportunity to address the issues comprehensively.

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- Mr. Bryan Davis, Planning Principal Planner will try to address Comprehensive Plan issues as they arise. The tier system controls, protects and promotes agricultural uses. There are a lot of balancing issues to be considered, he said.
- Ms. Thuy Shutt of the Westgate/Belvedere Homes Community Redevelopment Agency (WCRA), suggested to that the Subcommittee examine the Agricultural Reserve areas carefully to identify potential problems at the boundary lines to see if there are more uses for what we want to promote on a year-round business.
- Ms. Danna Ackerman-White, Aide to County Commissioner Vanna, stated that the Commissioners have received many angry phone calls and they feel compelled to look at these uses.
- Mr. Kurt Eismann of the Code Enforcement Division indicated that Produce Stands are morphing into uses for which they are not intended.
- Mr. Mike Jones from the Economic. Council of PBC clarified this is more than a County issue. If Palm Beach County is an agricultural County, thought should be given to ways to leverage our agricultural products. Rethink our approach and see it as opportunities for growth in the County. He opined that the number one priority is creating jobs so the mindset should be to de-regulate, make decisions with a view to growing our economy.
- Ms. Amy Petrick from the Litigation Division of the County Attorney's Office, stated that care should be taken to figure out the true nature of a business. Calling a business a Produce Stand if it is a supermarket can have serious implications. There are also many legal connotations to changing the definition.
- Mr. Alan Seaman from the Zoning Division indicated his Section issues Special Permits for Produce Stands and the definitions have always been a difficult issue for the department.

In summarizing, Ms. Cantor identified the issues as growing/selling versus buying/selling; standards applicable to Agricultural Reserve; commercial uses versus agricultural uses; development of strategies to support local farming as opposed to imported products; review use limitations and approval processes that involve many agencies with different requirements.

### **E. TOPIC FOR NEXT MEETING**

Mr. Perry will develop his own definitions and bring them to the next meeting for which Ms. Cantor suggested that all participants do the same to include a comparison of the characteristics for each use. This task will be included in the next meeting to find common elements and eventually determine if Code amendments are needed or not. She also said she would send information from the code to assist.

### **F. PUBLIC COMMENT**

There was no public comment.

### **G. ADJOURN**

The meeting adjourned at 3:55 motioned by Ms. Lori Vinikoor.