

# EXHIBIT A

## PALM BEACH COUNTY

### LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

#### Minutes of May 27, 2009 Meeting

On Wednesday, May 27, 2009 at 2:00 p.m. the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the First Floor Conference 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. Ann DeVeaux, Code Revision Site Planner I, called the roll.

##### Members Present -14

Wesley Blackman (PBC Planning Congress)  
David Carpenter (District 2)  
Barbara Katz (District 3)  
Jim Knight (District 4)  
Lori Vinikoor (District 5)  
Mike Zimmerman (District 6)  
Martin Klein (District 7)  
Joni Brinkman (League of Cities)  
Steven Dewhurst (Assoc. Gen. Cont. of Amer.)  
Maurice Jacobson (Condominium Assoc.)  
Raymond Puzitiello (Gold Coast Build. Assoc.)  
Rosa Durando (Environmental Org.)  
Jose Jaramillo (A.I.A.)  
Michael Cantwell (PBC Board of Realtors)

##### Members Absent - 5

Joanne Davis (District 1)  
Ron Last (FL Eng. Society)  
Larry Fish (FL Soc. of Pro. Land Surveyors)  
Brian Waxman (Alternate)  
Frank Palen (Alternate)

##### County Staff Present:

Jon MacGillis, ALSA, Director, Zoning  
Maryann Kwok, Chief Planner, Zoning  
Barbara Pinkston-Nau, Principal Site Planner, Zoning  
William Cross, Senior Site Planner, Zoning  
Lenny Berger, Asst. County Attorney  
John Rupertus, Senior Planner, Planning  
Erin Fitzhugh, Senior Planner, Planning  
Robert Kraus, Senior Site Planner, ERM  
Ann DeVeaux, Site Planner I, Zoning  
Eileen Platts, Secretary, Zoning

##### 2) Additions, Substitutions, and Deletions

Staff presented an add/delete sheet with changes to Exhibit B, Article 1, General Provisions and Exhibit C, Article 2, Development Review Process .

Motion to approve, as amended, by Maury Jacobson, seconded by Martin Klein. The motion passed unanimously (14 – 0).

##### 3) Motion to Adopt Agenda

Motion to approve as amended, by Maury Jacobson, seconded by Martin Klein. The motion passed unanimously (14 - 0).

##### 4) Adoption of March 25, 2009 Minutes (Exhibit A)

Motion to approve, as amended, by Maury Jacobson, seconded by Martin Klein. The motion passed unanimously (14 – 0).

#### B) ULDC Amendments

##### 1) Article 1 – General Provisions Summary of Amendments (Exhibit B)

Barbara Pinkston-Nau explained that this amendment deals with changes/additions to the definitions and acronyms for clarification purposes. She also went over the items on the add/delete sheet.

Ray Puzitiello asked if staff produces the Technical Manual and if there was anyone else besides staff that approves/reviews any changes. John MacGillis explained that the DRO Oversight Committee (DROOC) oversees the Technical Manual which is generally updated once a year, and that any changes to documents typically go to the DROOC first. Jon MacGillis advised the Board Members that the Technical Manual is also published on the Zoning Web Page.

Joni Brinkman questioned line 22-pg. 3 states “and any associated conditions as part of the plan”, now that we don’t submit the conditions as part of regular plans, is it for mixed use developments? Maryann Kwok related that the language is existing language and the condition would be stricken since we are no longer requiring mylars and the Master Plan or Site Plan will be the controlling document for mixed use. Staff will delete the phrase “and any associated conditions” from that sentence, it will now read:

## EXHIBIT A

The Master or Site Plan dictates access, mitigation strategies, the build-out timeframe and shall be the controlling document for a mixed-use development.

Martin Klein made the motion to approve Exhibit B as amended including the changes to the amendment, seconded by Maury Jacobson. The motion passed unanimously (14 - 0).

### 2) Article 2 – Development Review Process (Exhibit C)

#### a. Part 1 - ULDC, Art. 2.A.1.G, Applications Requirements

Maryann Kwok explained the reason for the proposed amendments was to clarify application plan requirements, and the associated plan needed for each process. This is in response to a policy memo established by the Zoning Director about a year ago involving plan terminology and labeling of plans.

Wes Blackman stated he thinks it would be better to go back to a matrix. Maryann Kwok explained that the matrix will be referenced in the Technical Manual. Wes Blackman asked if there were any new requirements added in Exhibit C or is it all the same language. Jon MacGillis stated that it is all the same language staff just simplified and defined items more thoroughly.

Rosa Durando questioned the definition of a minor subdivision. David Carpenter explained that it has to be a maximum of three lots to be a minor subdivision.

Joni Brinkman questioned #2 on the add/delete sheet and wanted to know if straight rezoning without proposed development was exempt to that still. Maryann Kwok stated that the straight rezonings are subject to the COZ.

David Carpenter asked if it changes the requirements for landscape plans. Jon MacGillis stated no.

Martin Klein made the motion to approve Exhibit C Part 1 with items 2-9 on the add/delete sheet, seconded by David Carpenter. The motion passed unanimously (14 - 0).

#### b. Part 2 - ULDC, Art. 2.A.1.H.1, Small Scale, TMD and MLU Amendments (page 9 of 53), is hereby amended as follows:

Barbara Pinston-Nau explained that Part 2 was submitted by the Planning Division and Erin Fitzhugh will answer questions.

Erin Fitzhugh explained the difficulty implementing TMDs and MLUs as concurrent rezonings on mixed use type developments. She stated that when the applicant comes in for a land use amendment, they are just starting to work with Staff on their preliminary site plan. It becomes difficult for the applicant to come in within 45 days of the intake of their plan amendment with the full rezoning package. Planning is proposing to treat TMDs and MLUs like regular large scale amendments and the applicant can come in for rezoning after the BCC transmits them.

Martin Klein made the motion to approve Exhibit C Part 2, seconded by David Carpenter. The motion passed unanimously (14 - 0).

#### c. Part 3 - ULDC, Art. 2.A.1.Q.3.b, Legislative Abandonment (page 14 of 53), is hereby amended as follows:

Barbara Pinkston-Nau explained that Part 3 deals with Development Order Abandonment and clarifies the process that one would go through to apply for a DOA. Wes Blackman stated that the word issued should be stricken from line 7-page 8, because it is redundant. Maryann Kwok agreed and said it will be stricken.

Martin Klein made the motion to approve Exhibit C, Part 3 with the change striking out the word issued, seconded by David Carpenter. The motion passed unanimously (14 - 0).

#### d. Part 4 - ULDC, Art. 2.A.1.T, Outstanding Liens or Fines (page 15 of 53), is hereby amended as follows:

Barbara Pinkston-Nau explained that Part 4 deals with the payment of outstanding liens or fines prior to the Board completing final action. She pointed out that the words voluntary commitment were stricken out of line 26-page 50.

Maryann Kwok explained that it was stricken because the payment of the liens or fines is not voluntary, they have to be paid.

Joni Brinkman sought clarification that the applicant does not have to pay liens or fines prior to certification to move forward to public hearings, they can pay them after they get their public hearing approval. Maryann Kwok stated that the payment of the liens or fines can be put on the conditions of approval with a certain date to pay. Jon MacGillis stated that the applicant can get through the public hearing process without paying the liens or fines.

Martin Klein made the motion to approve Exhibit C, Part 4, seconded by David Carpenter. The motion passed unanimously (14 - 0).

#### e. Part 5 - ULDC, Art. 2.B.1.B.9, Mobile Home Parks (page 16 of 56), is hereby amended as follows:

## EXHIBIT A

Barbara Pinkston-Nau explained that Public Hearing Procedures was changed to Legislative Process and that Mobile Home Parks was stricken and relocated to Article 3.E.6 under MHPD.

Martin Klein made the motion to approve Exhibit C, Part 5, seconded by Raymond Puzziello. The motion passed unanimously (14 - 0).

**f. Part 6 - ULDC, Art. 2.B.1.D, Development Order Amendment to a PDD, TDD or COZ (page 16 of 53), is hereby amended as follows:**

Barbara Pinkston-Nau explained that Public Hearing Procedures was changed to Legislative Process which has to do with rezoning and added language to clarify that a COZ can be placed on a rezoning.

Martin Klein made the motion to approve Exhibit C, Part 6, seconded by David Carpenter. The motion passed unanimously (14 - 0).

**g. Part 7 - ULDC, Art. 2.C.1, General [Related to FLU Plan Amendments] (page 20 of 53), is hereby amended as follows:**

Erin Fitzhugh explained that this is just a clean up to remove or update references and procedures that are unnecessary or outdated in the code. Also they are updating the language in the code to reflect the Future Land Use Atlas amendment processes that were adopted during the last two years.

Rosa Durando requested an explanation of what a small scale amendment was. Erin Fitzhugh stated that a small scale amendment is changes to the Comprehensive Plan for a parcel up to ten acres. Planning accepts small scale amendment applications quarterly. Small scale amendments are only for changes to the Future Land Use Atlas (map not text) for sites less than 10 acres.

Wes Blackman asked if the word "immediately" was necessary on line 5, page. 10. Erin Fitzhugh stated that the Planning Director wanted it to be clear that the application for a small scale amendment would be administratively withdrawn if a complete zoning application is not submitted within ninety days.

Martin Klein made the motion to approve Exhibit C Part 7, seconded by David Carpenter. The motion passed unanimously (14 - 0).

**h. Part 8 - ULDC, Art. 2.D.1. Development Review Officer, (page 25 of 53), is hereby amended as follows:**

Barbara Pinkston-Nau explained that Part 8 has to do with some adjustments and clarifications on the changes made to the authority of DRO. She stated that there were adjustments made to thresholds on line 25, page 15. Thresholds were increased to five thousand square feet. On the add/delete sheet #11, item H. line 40 has been changed.

Rosa Durando was concerned with going into AGR (lines 1 & 2, page 15). Barbara Pinkston-Nau explained that there is nothing new to the text the language has just been reworded to clean it up so it would not be redundant and would make more sense.

Joni Brinkman made the motion to approve Exhibit C, Part 8, seconded by Maury Jacobson. The motion passed unanimously (14 - 0).

**i. Part 9 - ULDC, Art. 2.D.2.C, Procedure (page 30 of 53), is hereby amended as follows:**

Barbara Pinkston-Nau explained that Part 9 deals with Administrative processes, special permits. Staff has taken out redundancies to streamline these items.

Martin Klein made the motion to approve Exhibit C Part 9, seconded by Maury Jacobson. The motion passed unanimously (14 - 0).

**j. Part 10 - ULDC, Table. 2.E.3.B, Time Limitation of Development Order for Each Phase (page 42 of 53), is hereby amended as follows:**

Jon MacGillis explained to the Board that this amendment only applies to the AGR TMDs and that Staff will relay input received today on this amendment to the Board of County Commissioners tomorrow regarding the Delray Marketplace TMD.

Joni Brinkman and Jim Knight recused themselves from Part 10 due to possible conflict of interest.

Wendy Tuma representative for the applicant (Delray Marketplace) spoke on behalf of her client. She asked that Part 10 be taken out of the amendments due to the required time limit placed on the build out of phase two which is two years from the first C/O on phase one. Jon MacGillis explained to the Board that this project was approved as "beauty contest" and he is concerned that if this time limit isn't applied, the applicant could drag out the building of the phases and the property will become an eyesore. Ken Tuma also spoke for the developer and explained that the main reason they want to change the time restriction is financing. Their client cannot get financed for Phase 1 (Commercial) when Phase 2 (Residential) is linked with its construction especially with that short of time frame. The applicant does not want to take the residential completely off but rather delay it until the market is better. Discussion ensued amongst the Members and Staff about how to solve this situation to assist the applicant and still have guidelines.

## EXHIBIT A

Ray Puzzitiello questioned whether or not the proposed language would actually address the concerns of the applicant. Jon MacGillis responded the proposed change would help the applicant since current code requirements everything to be constructed in one phase, within three years, instead of two.

Jon MacGillis advised that the project is designed to function as one with a residential and commercial component. He suggested that if the residential portion is not developed pursuant to current ULDC requirements that the applicant should provide some sort of treatment, such as trellises, fountains, etc, on the undeveloped portion of the project.

Ray Puzzitiello suggested that a total of five years be permitted to allow build-out for the entire development.

Wes Blackman suggested leaving the language as is and review it again at the next LDRC meeting in July.

Martin Klein stated that he agreed with the Staff recommendation and suggested that Jon MacGillis relate to the Board that they are sympathetic to industry in this rough time.

Mr. MacGillis explained that a BCC Administrative Inquiry (AI) was scheduled for May 28, 2009 to get direction on this matter and staff would relay the LDRAB recommendation to the BCC.

Martin Klein made the motion to approve Exhibit C, Part 10 with the change that the Project be split into two phases, Phase 2 being the residential, with an ultimate build out date of five years from commencement/issuance of Building Permit, seconded by Maury Jacobson. The motion passed unanimously (12 – 0, 2-recused).

### 3) Article 3 – Overlays & Zoning Districts (Exhibit D)

Wes Blackman questioned if Exhibit D was going to be split up or done all together.

William Cross stated that this one can be done all under the same motion. He stated that Parts 1-3 which entails Building frontage; chain link fences; and sheds were for the WCRAO and that Thuy Shutt is available for any questions.

Thuy Shutt asked William Cross if the maximum height of the fence in front of residential would still be four feet. William Cross answered yes.

William Cross then explained that Part 4 was correcting language, clarifying applicability to previous approvals that are now subject to PDD standards; and that applicants who submit for any DOA that are not zoned PDD, but are subject to its standards, the applicant shall be required to rezone to PDD at that time. Part 8 has been worked on by both Planning and Zoning and is a request from Land Design South who have had Developers that want to have the ability to request permission to have a Type I Restaurant in the CL FLU designation for a MUPD. William Cross stated that the rest of the parts in this Exhibit were just cleaning, deleting, rewording and clarifying language.

Wes Blackman asked if there is a motion to approve Exhibit D.

Martin Klein made the motion to approve Exhibit D in its entirety as amended, seconded by Steven Dewhurst. The motion passed unanimously (14 - 0).

### 4) Article 4 – Use Regulations (Exhibit E)

Barbara Pinkston-Nau explained that there are changes in the code to accommodate Type 1 CLFs regarding lot size in this Exhibit. Also, the Traffic Division did some clarifications. The Home Occupation definition has changed pursuant to state statutes. There is new language that addresses the smaller type of vehicle rental in neighborhoods.

David Carpenter made the motion to approve Exhibit E, seconded by Martin Klein. The motion passed unanimously (14 - 0).

### 5) Article 5 – Supplementary Standards (Exhibit F)

Barbara Pinkston-Nau explained that Exhibit F Nuisances and lighting had glitches that have been corrected. Under Legal Documents and Easements, amendment would fix the code to give the drainage easement authority back to Land Development. Minor clarifications to the TDR process including a revision handed out at the hearing regarding TDRs by Lenny Berger and Bill Cross addressed old Mecca Farm language that needed to be deleted.

Martin Klein made the motion to approve Exhibit F, seconded by Steven Dewhurst. The motion passed unanimously (14 - 0).

### 6) Article 13 – Impact Fees (Exhibit G)

Barbara Pinkston-Nau stated to the Board that this item was pulled and will go to the Impact Fee Review Committee first and will be reviewed at LDRC. Lenny Berger explained that the item is still being reviewed by the Impact Fee Review Board, and that the LDRC will see their recommendation at the July 2009 meeting.

