

EXHIBIT A

PALM BEACH COUNTY LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

Minutes of June 24, 2009 Meeting

On Wednesday, June 24, 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

Vice Chair David Carpenter called the meeting to order at 2:05 p.m. Ann DeVeaux, Code Revision Site Planner I, called the roll.

Members Present:

David Carpenter, Vice Chair (District 2)
Raymond Puzitello (Gold Coast Build. Assoc.)
Joni Brinkman (League of Cities)
Ron Last (FL Eng. Society)
Jose Jaramillo (A.I.A.)
Rosa Durando (Environmental Org.)
Michael Cantwell (PBC Board of Realtors)
Maurice Jacobson (Condominium Assoc.)
Joanne Davis (District 1)
Barbara Katz (District 3)
Jim Knight (District 4)
Lori Vinikoor (District 5)
Mike Zimmerman (District 6)
Martin Klein (District 7)

Members Present – 14

Members Absent:

Wesley Blackman (PBC Planning Congress)
Larry Fish (FL Soc. of Pro. Land Surveyors)
Steven Dewhurst (Assoc. Gen. Cont. of Amer.)
Brian Waxman (Mem. At Large, Alternate)
Frank Palen (Mem. At Large, Alternate)

Members Absent – 3

County Staff Present:

Jon MacGillis, ASLA, 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
Allan Ennis, Assistant Director, Traffic Engineering
Ann DeVeaux, Site Planner I, Zoning

2) Additions, Substitutions, and Deletions

Staff presented an add/delete sheet with changes to Exhibit C, Article 3, Overlays & Zoning Districts; Exhibit D, Article 4, Use Regulations; and, Exhibit E, Supplementary Standards.

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, by Maury Jacobson, seconded by Martin Klein. The motion passed unanimously (14 - 0).

4) Adoption of May 27, 2009 Minutes (Exhibit A)

Motion to approve, 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 stated that the amendment adds a definition to clarify communication tower users list and adds DRO as the entity responsible for the list maintenance. It also contained various acronyms relating to types of plans.

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

2) Article 3 – Overlays & Zoning Districts (Exhibit C)

Barbara Pinkston-Nau stated that the amendment has to do with hours of operation which was amended last year, but more clarification was needed for commercial uses. An exemption was added for fire stations, police stations and similar uses that should not be subject to hours of operation.

Joni Brinkman questioned whether it was correct to incorporate all non-residential districts including industrial and agricultural wherein before it applied only to commercial districts. She questioned if at the time the applicant comes in for a DOA, if they would need to ask for relief from hours of operation as part of the DOA.

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Maryann Kwok related that it would be a Type II variance if asking for a deviation for hours of operation.

Jon MacGillis explained that if the use is existing and established at the time the Code allowed a commercial use closer than 250 feet from a residential use, then one is considered grandfathered. The provision "existing uses" is to recognize that there are uses that are not being modified and grandfather status would not be taken away with the provision. He also stated that the uses are defined in the Use Matrix by categories, such as civic, public, etc, and suggested that instead of using non-residential, the language could be changed to Commercial and Public and Civic Uses.

Raymond Puzzitiello asked if the 250 feet measurement was from structure to structure or property line to property line. Jon MacGillis stated it would be the building in question that will be subject to measurement to the property line.

David Carpenter questioned why the language located within 250 feet is being changed from abutting. Jon MacGillis explained that the language is arbitrary. When you have a large shopping center that abuts any part of the multi-plan development, another building would not be allowed even if it was located 1,000 feet from the property line. The intent of the provision is to protect residential from businesses that may cause a nuisance to a residence.

Joanne Davis stated that she does not support changing the language to a Type II variance because it is only breaking the Code, and more often than not, the applicant can not meet the requirements. David Carpenter asked what is being done with Class A Conditional use and continuing with the Type II variance as it is being done now. Mr. MacGillis indicated that lines 21-25 should be stricken, as the added language was not necessary due to existing provisions allowing for a variance approval by the Zoning Commission.

Barbara Pinkston-Nau clarified that Part 2 is parking requirements for PDDs and the applicant may elect to utilize Art. 3 or Art. 6, parking standards for more flexibility. The applicant will clearly indicate the chosen parking provision, which they will be required to comply with for the entire project. The applicant would not be able to pick and choose, but this option allows flexibility. She summarized Part 3, Signage for TDDs and the language is mostly for clarification and building mounted signs. The amendment also allows signs in Ag reserve signs in TMDs and allowing A-frame signs in walkways as long as it does not impede pedestrian pathway.

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

3) Article 4 – Use Regulations (Exhibit D)

Barbara Pinkston-Nau stated this amendment clarifies commercial tower users list and the add/delete sheet shows that DRO is responsible for the maintenance of the list.

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

4) Article 5 – Supplementary Standards (Exhibit E)

Barbara Pinkston-Nau explained this amendment clarifies where barbed wire can be permitted. The add/delete sheet specifies that the exception applies to jails, prisons and correctional facilities.

David Carpenter questioned whether there was anywhere in the Code that allows you to apply for barbed wire on industrial properties. Jon MacGillis stated that there are some supplementary notes that still allow it.

Joanne Davis questioned whether "concertina" barbed wire is allowed and if there are regulations on super razor wires. Barbara Pinkston-Nau stated the Code does address this under the Fences and Walls section and prohibits it.

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

5) Article 7– Landscaping (Exhibit F)

Maryann Kwok indicated that the amendments introduced a new landscape permitting process proposed by the Zoning Division to clarify the responsibilities of the owner, contractor, landscape architects and staff. Currently, permitting and inspections are done through the building permit division and a typical building permit is routed to the zoning division for review. At that time Landscape Section will determine if they need a landscape permit. The intent of the new language is to make the process clearer.

Jon MacGillis stated that a subcommittee that included landscape architects from industry met in one meeting and was in agreement with the language.

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Raymond Puzzitiello mentioned that there were some issues on quantity and sizes on Part 6. Maryann Kwok stated that Chuck Mucciolo of GL Homes had questions on the PUD planting. This was clarified on page 13 in the new table, Shrub Planting Requirements and the new methodology of calculating quantity would be based on linear feet of the buffer length rather than percentage.

Joni Brinkman questioned why the minimum height at maturity was changed to maximum and how the height of the shrubs would be monitored and if Code Enforcement is responsible for monitoring the height of at maturity. Maryann related that the hierarchy of height should be maintained because the small shrub should not grow higher than the medium shrub. This actually applies more to the R-O-W buffer. Jon MacGillis stated it would be monitored through the selection of plants.

Joanne Davis asked for an example of the small shrub and medium shrub at maturity. Jon MacGillis stated that there is a list of shrubs that can fall into the category.

Wendy Tuma of Urban Design Studios stated that the landscape architects who do the design and sign and seal the drawings can select plants that fit into the category however, it is ultimately the maintenance company that would be responsible for the maintenance of the shrub height and they would need to know what was considered the small, medium and large shrub. She suggested changing the word "Maturity" to "Maintained."

Martin Klein suggested changing the Table 7.F.7.F column heading to "Maximum Maintained Height" and delete words "At Maturity" and that should solve the problem of monitoring and will make it enforceable.

Maryann Kwok explained that the remaining landscape exhibits consisted of a revised diagram which clarifies the shrub planting desire and the shrub planting pattern reflects the new methodology for calculating the R-O-W buffer; and, clarification on incompatibility buffer which currently requires a six foot hedge, wall or fence depending of the type of incompatibility buffer. It also requires shrub and tree planting. A new column was added to clearly state the type of shrubs that are required in an incompatibility buffer.

Joni Brinkman questioned if the "in feet" measurement of walls in Table 7.F.9.A Incompatibility Buffer Standards was correct. Maryann Kwok stated that "in feet" is a glitch and should be stricken from the Walls Required column Part 8, line 44.

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

6) Article 8 – Signage (Exhibit G)

Barbara Pinkston-Nau explained that the requirements were clarified for the Master Sign Plan and different types of sign plans. The technical details for the sign plans will be listed in the Technical Requirements Manual. She also stated there is a new illustration of how to measure building frontage for large scale developments which was necessary due to the number of variances received. Wall Sign Standards are being amended to allow signage internal on frontage that is not adjacent to a street.

Martin Klein made the motion to approve Exhibit G, seconded by Joanne Davis. The motion passed (14 - 0).

7) Adult Entertainment (Exhibit H)

Lenny Berger stated Adult Entertainment is a first amendment protected activity and in order for the government to regulate it, it must be documented. Periodically, studies are commissioned to show the secondary effects of sexually oriented businesses. This amendment is being readopted and the recent findings of fact support this amendment.

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

8) Traffic Performance Standards (Exhibit I)

Allan Ennis explained that the purpose of the amendments is to clarify some points in the existing Code and in some cases to make the technical analysis more precise. The changes on how traffic standards are calculated were reviewed by a group of traffic consultants. Discussion ensued concerning Part 5, Enforcement. Allan Ennis requested that Part 5 be stricken from the exhibit.

Martin Klein made the motion to approve Exhibit I with the exception of Part 5, seconded by Ron Last. The motion passed unanimously (14 - 0).

C) Public Comments

N/A

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D) Staff Comments

Barbara Pinkston-Nau reminded the Board Members that the next meeting will start at 1:00 and the meeting will be lengthy and that the LDRAB will also convene as LDRC. Jon MacGillis gave an overview of the key topics to be presented.

E) Adjourn

The Land Development Regulation Advisory Board meeting adjourned at 4:05 p.m.

Recorded tapes 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 Secretary at (561) 233-5088.

Minutes prepared by: Ann Deveaux, Site Planner I


Name (signature)

7/8/09
Date