

**BREVARD COUNTY LANDSCAPING, LAND CLEARING
AND TREE PROTECTION TASK FORCE**

December 14, 2005 Meeting Minutes

Task Force Members Present

Kathleen Burson-Alternate Representative, Florida Native Plant Society
Roger Daniels-Substitute Representative, International Society of Arborists
Robert Day-Primary Representative, Brevard Nature Alliance
Lynn Girling-Primary Representative, International Society of Arborists
Vaughn Holeman-Primary Representative, District 4
Billy Kempfer-Alternate Representative, Florida Forestry Association
Rochelle Lawandales-Primary Representative, Commission District 2
Robert Lee-Primary Representative, American Society of Civil Engineers
James Payne-Primary Representative, Cattleman's Association
Maureen Rupe-Primary Representative, Commission District 5
Thomas Schuller-Primary Representative, Florida Farm Bureau
Brad Smith-Primary Representative, American Society of Landscape Architects
Lisa Smith-Primary Representative, Florida Native Plant Society
Jim Spratt-Primary Representative, Florida Nurserymen and Growers Association
Earl Underhill-Primary Representative, Florida Forestry Association
Dan Zrallack-Alternate Representative, American Society of Civil Engineers
Facilitator-Marilyn Crotty, Director, Florida Institute of Government

Task Force Members Absent

Bo Barnavon-Primary Representative, Homebuilders and Contractors Association
Steve Brown-Alternate Representative, Florida Nurserymen and Growers Association
Bud Crisafulli-Alternate Representative, Florida Farm Bureau
Jackie Gregory-Primary Representative, Commission District 1
Susan Hall-Alternate Representative, American Society of Landscape Architects
Don Hawthorne-Primary Representative, Garden Club
Anthony Koromilas-Alternative Representative, District 1
Charlie Moehle-Alternate Representative, Commission District 2
Dick Thompson-Primary Representative, Commission District 3

County Staff Present

Ernie Brown-Director, NRMO
Amanda Elmore-Supervisor, NRMO
Sherry Williams-Special Projects Coordinator, NRMO
Liz McDuffee-Secretary I, NRMO

Signed-in Citizens

None

Call to Order

Marilyn Crotty called the meeting to order at 1:12 pm after a quorum was present. From 1:12 pm – 1:35 pm, there were 10 voting representatives present. From 1:35 pm – 5:00 pm, there were 12 voting representatives present. From 5:00 pm – 8 pm, there were 10 voting representatives present.

After a short period of discussion, the 12/07/05 minutes were approved with the following corrections:

- Change “site plan” to “project” in the third bullet under the Draft Approvals/Changes section on page 2 of 4.
- Add “Waivers and” before “Alternative Landscape Enhancement Plans” in the title of Section 62-3643.
- Change reference from “site plan” to “alternative landscape enhancement plan” in item a) under Section 62-3643 (on page 3 of 4).
- Add “Waivers” to item b) under Section 62-3643 (on page 3 of 4).
- Change “landscape architect registered in the State of Florida” to “a registered landscape architect licensed in the State of Florida pursuant to Chapter 481, Part II.”
- Where appropriate in the ordinance, add references to the current version of “Florida Grades and Standards for Nursery Plants” from the Florida Department of Agriculture and Consumer Services Division of Plant Industry.

New Article Draft Approvals/Changes

1. The task force requested that defined words be identified throughout the Article (e.g., with bold type, italics, quotes, etc.). Staff explained that a change of this nature would depend on codification requirements. Task force members also asked staff to create hyperlinks for defined words when the LLTP Article is published on the Internet.
2. Section 62-3631, Purpose and Intent, page 1: approved as written
3. Section 62-3631, Definitions: No changes to the following terms: Active Development Order, After-the-fact Permit, Alternate Landscape Enhancement Plan, Canopy, Canopy Coverage, Clear Trunk, Dripline, Diameter at Breast Height, Florida Friendly Landscaping, Greatest Extent Feasible, Heat Island Effect, Heritage Tree, Hydrozone, Improper Tree Pruning, Landscape Earth Berm, Landscape Plan, Landscaping, Mangrove, Mature, Native Species, NRMO, Non-native Noxious Invasive Plant, Pervious Area, Recognized Knowledgeable Person, Re-growth Control, Soil Amendment, Specimen Tree, Spread, Tree, Tree Removal, Understory, Undesirable Species, Vegetative Buffer Area, Vegetative Communities, Vehicular Use Area, Viable and Xeriscaping or Water-wise Landscaping.

4. Section 62-3632, Definitions, page 1: Revise the definition of Adverse Site Conditions as follows:
 - a) “Adverse Site Conditions” mean existing site conditions that adversely affect the implementation of the provisions of this Article and which hinder plant viability and growth.
 - b) Number the seven examples listed in the definition.
 - c) Delete “;(1)” after “include” in the last sentence of the Adverse Site Conditions definition on page 2.

5. Section 62-3632, Definitions, page 2 – Agricultural Purpose definition: End the definition after “pursuant to F.S. ch. 193” and delete the remaining verbiage. *Note: Refer to page 5 of these minutes, item 12, for more changes related to Agricultural Purposes.*

5. Section 62-3632, Definitions, page 2 – Buildable Area definition: The task force asked staff to simplify this definition.
 - a) Add setback area examples such as “shoreline protection and coastal and building setbacks.”
 - b) Investigate adding a drawing to help clarify the meaning of “Buildable Area.”

6. Section 62-3632, Definitions, page 4, Land Clearing: Change “improper pruning” to “improper tree pruning.”

7. Section 62-3632, Definitions, page 5, Protected Tree: At a previous meeting the task force had a 60/40 split in favor of removing palms from the definition of “Protected Tree.” During today’s meeting, the task force achieved consensus (10 members supported and 2 members did not support) for excluding palms from the definition of Protected Tree (i.e., keeping the current draft verbiage). Task force representatives felt that preserving palm trees should be the first priority, but if preservation is not possible, the next best solution is to relocate the palm tree on site. Staff noted that if palms are relocated, they are not considered “preserved”; however, they could be counted towards canopy requirements. The task force agreed to insert language covering the destruction of groups of palms by requiring compensation for destruction of palm hammocks.

8. Section 62-3632, Definitions, page 6, Root Protection Zone: A consensus (i.e., ten out of twelve voting representatives) supported leaving the definition as it is written (i.e., “a radius equal to five times the projected mature trunk’s dbh.” Brad Smith clarified with the task force that a waiver could be issued for those situations with “adverse site conditions.” Staff will include a table of mature tree trunk sizes in the Article.

9. Section 62-3632, Definitions, page 7, Species Classification: Remove the reference to “Species” here and elsewhere in the document wherever this term

appears. (This term refers to vegetation classification-not species classification.)
Move this classification information to the definition of vegetation.

10. Section 62-3633, Applicability, page 8: Approved as written.

11. Section 62-3634, Exemptions, page 8, item (1):

- a) End the sentence after “s. 193.461, F.S.” (This is regarding bona fide agriculture uses.)
- b) Add verbiage exempting other agricultural purposes as defined in this Article (in a new Agricultural section). Note: “all other agriculture activity” refers to what has been previously referred to as “domestic agriculture uses.”
- c) Add an Agricultural section (3634.5) to this document. Move item *i*, Proposed Use of Property, and its sub-bullets from page 10 to the new Agricultural section. Ernie Brown has an action item to discuss with Dave Millard (U.S. Department of Agriculture) the necessity of requiring two copies of a completed and signed Conservation Plan from USDA. (Based on Dave’s feedback, this requirement may be removed.)
- d) Add information stating that if land is zoned agricultural and then cleared, no application for zoning modification or construction shall be submitted for a 3-year period unless presented to the Board of Commission for approval because of hardship. (This requirement was previously approved by the task force, but dropped from the Article draft when agricultural questions were forward to the County Attorney.) James Payne will develop “hardship” language and forward it to staff. Staff will develop the rollback language for both bona fide agriculture and “all other agriculture activity” (i.e., domestic agriculture use). “All other agriculture activity” might necessitate a longer rollback period. It was also noted that “all other agriculture activity” might require neighbor notifications.
- e) Add that waivers for “all other agriculture activity” may be issued on a case-by-case basis based on specific criteria. (This would not be a blanket exemption like the bona fide agriculture waiver.) Staff will research whether this requirement should be included in the Performance Standards or the Exemptions section. The task force noted that a waiver would also need to be approved to clear trees for pasture if the property is greater than 2.5 acres.
- f) The task force discussed situations in which wetlands are impacted on land that is zoned agricultural. Dave Millard from the USDA participated in the task force meeting while this topic was discussed. Dave stated that in some cases, root raking is the best method to use to remove Brazilian pepper and because of the hydrology, the wetlands will revegetate.

12. Section 62-3634, Exemptions, page 8, item (2):
 - a) At a previous meeting the task force had a 55% (against)/45% split to reduce the single-family exemption from 2.5 acres to 1 acre. After additional discussion at today's meeting, the task force reached consensus (9 to 3) to keep the single-family exemption at 2.5 acres or less.
 - a) Change "less than 2.5 acres" to "2.5 acres or less" to be consistent with the language used in the Comp. Plan.
 - b) Remove reference to "single-family home."
 - c) The task force discussed ending the sentence after "occupancy" (deleting "and the minimum landscaping and tree preservation as may be required by this Article is maintained.") Consensus for this change was not reached (only 3 representatives supported this change); therefore, this deletion was not made.
13. Section 62-3634, Exemptions, page 8, item (3), last sentence: Add that other methods will be considered on a case-by-case basis "subject to the waiver section."
14. Section 62-3634, Exemptions, page 9, item (4): The task force discussed the fact that this item does not address utility easements. Staff will check with the County Attorney to see if a reference to utility easements can be included.
15. Section 62-3634, Exemptions, page 9, items (5), (6), (7), and (8): Approved as written.
16. Section 62-3635, Violations, page 9: This section states that "At the request of the Special Magistrate, fine recommendations may be made using the calculations outlined in Section 62-3643 (3)." James Payne questioned whether the fine amounts could be considered "cruel and unusual punishment" and possible "taking of property." Staff will ask the County Attorney to review the language. The task force also supported adding the option of paying an administrative fine (based on the compensation formula in Section 62-3635) plus restoration instead of appearing before the Special Magistrate. The task force asked staff to check with the County Attorney to see if criminal charges could result from going before the Special Magistrate.
17. Section 62-3636, Permit Application Requirements and Review Process, page 10: The task force discussed that a waiver is not a permit application. A requestor could get a waiver instead of applying for a permit.
 - a) Delete references to "building permit" in the opening paragraph.
 - b) Change "...shall be approved in writing by a professional engineer or landscape architect, registered in the State of Florida" to "...shall be approved in writing by a professional civil engineer, landscape architect or professional architect registered in the State of Florida and proficient in site design." Staff

will check to see if this language is consistent with the language used by Land Development.

- c) Items (1)a, (1)b, (1)c, (1)d, (1)e, (1)f, (1)g, (1)h, (1)j, (1)k and (1)l: Approved as written. Move item (1)i. to the new (to be developed) Agricultural Section (3634.5).
 - d) Items (2)a and (2)b: Approved as written.
18. Lisa Smith suggested that a separate section be added to the Article covering single-family homeowners so they don't have to read through the complete Article to find relevant information.
19. Section 62-3637, Land Clearing Performance Standards, pages 11, 12 and 13
- a) Items (1), (2)a, (2)b, (2)c and (2)e: Approved as written.
 - b) Item (2)d, page 12: Revise this item to state that vegetative buffers or other ground covers that retard erosion must be consistent with NPDES and SWPPP rules.
 - c) Items (3), (4) and (5): Approved as written.
20. Section 62-3638, Canopy and Tree Preservation Performance Standards, page 13
- a) Delete "on two and a half (2.5) acres or larger" from the first sentence.
 - b) Items (1)a, (1)b, (1)c, (1)d, (1)f, (1)g and (1)h: Approved as written.
 - c) Item (1)e:
 - Put prescribed fire information in a separate sentence. (Prescribed fires will burn within the root protection zone-the rest of the sentence concerns activities/items not allowed in the root protection zone.)
 - Change "Boardwalks and trails may not exceed five feet in width" to "Boardwalks and trails may not exceed six feet in width" (to accommodate two wheelchairs passing).
 - Change "Common use decks may not exceed 100 square feet." To "Decks may not exceed 25% of the root protection zone."
 - d) Item (2): Approved as written.
 - e) Item (3), Removal Criteria: Move this section to Section 62-3642, Incentives for Increased Canopy and Tree Preservation and Increased Landscaping. (This section is applicable only to protected trees.)
 - f) Brad Smith asked that a chart be included in this section that defines how large trees will get. (Brad earlier distributed to staff the start of a chart

addressing mature tree canopy sizes; however it has not been reviewed by staff yet.)

- g) The task force voted on reopening the discussion on the Canopy and Tree Preservation Performance Standards Table. Only two out of ten representatives supported reopening the discussion so it was not pursued.

21. Section 62-3639, Landscaping Performance Standards, pages 15, 16, 17 and 18

- a) Items (1) and (2), page 15: Approved as written.
- b) Item (3), page 15:
 - Change “All development, except for individual single-family homes platted as part of a previously approved subdivision, shall meet the following standards” to “All development shall meet the following standards through preservation, plantings or a combination thereof.”
 - Move references to Florida No.1 Grade Division of Plant Industry, Florida Dept. of Agriculture and Consumer Services out of the chart and place it into the opening sentence in item (3). Add that the Florida No 1 Grade is according to the current edition of the Florida Grades and Standards.
 - Add to the section of the chart referring to the minimum number of shrubs that preservation of existing understory can be substituted. Also add that the existing understory equivalent to a three-gallon fully rooted 15-18 inches tall shrub is 6250 sq. feet/acre (i.e., one three-gallon shrub = 25 square feet).
- c) Item (4), page 15: Add that 50% of the requirements for shrubs or groundcover must be met with native or water-wise plants as listed in Appendix C. Fifty percent of the trees must be native, as written.
- d) Page 16, Preservation of Vegetation of Special Concern: Staff will restore the section covering incentives for preserving unique vegetation and specimen/heritage trees (using the old point system to establish weighted equivalencies). (When the point system was deleted, these incentives were also deleted.) Add that trees/vegetation must be healthy.
- e) Item (4)a, page 17, Type B, roadway buffer: Change “right-of-way” to “rights-of-way.”
- f) Item (4)b, page 17: Approved as written.
- g) Item (4), page 18.: Add that all projects must include a minimum of 50% large trees.
- h) Item (4)c(ii), page 18: Specify a 2-inch dbh for medium trees and make this change consistent throughout.

Parking Lot Items

Scenic vistas and roadways (This was deleted when the points system was eliminated.)

Citizen's Comments

There were no citizen's comments.

Next meeting

At our next meeting, we will resume reviewing the draft on page 18. The task force discussed scheduling its next meeting on January 18th. (Our next meeting is now scheduled for January 27th.)The task force also agreed that the next meeting would be conducted from 1pm to 5pm. Ernie Brown will meet with the Board of Commissioners on January 10, 2006 and request an additional extension for the task force.

Please let staff know if you will be unable to attend any scheduled task force meeting. If a quorum of eight members is not present for the meeting, then no official business can be conducted. Staff will continue to make reminder calls to task force members the day before meetings.

The meeting was adjourned at 8:01 PM.