

**INDIAN RIVER COUNTY, FLORIDA**

**M E M O R A N D U M**

---

**TO:** Jason E. Brown; County Administrator

**FROM:** Stan Boling, AICP; Community Development Director

**DATE:** June 11, 2019

**SUBJECT:** Consideration of Modifications to Regulations for Off-site Accessory Landscaping Services Uses in Agricultural Zoning Districts

---

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of June 18, 2019.

**BACKGROUND**

At its March 5, 2019 meeting, the Board of County Commissioners (BCC) heard a request to speak from Spencer Simmons and Tim Campbell who each live on 37<sup>th</sup> Street west of 66<sup>th</sup> Avenue in an agricultural zoning district (A-1, Agriculture 1; up to 1 unit per 5 acres). Mr. Simmons and Mr. Campbell spoke of their concerns regarding a landscaping services business (Caribbean Lawn and Landscaping owned by Brian and Kelly Stolze) that had been established on ± 9.9 acres at 7120 37<sup>th</sup> Street. Mr. Campbell and Mr. Simmons indicated that they were following an active code case against Caribbean Lawn and Landscaping for establishing an accessory landscaping services business ahead of establishing a wholesale nursery on the subject site. Both expressed concerns about traffic, effects on neighborhood character and property values, and the precedent for future similar situations on other agriculturally zoned properties.

During discussion with staff, Board members acknowledged Right to Farm Act protections and the code enforcement process but also expressed concern that under current procedures and code interpretation, a landscaping services business could “game the system” by minimally establishing a wholesale nursery in order to have an out-of-scale commercial business in an agricultural area. In the end, the Board acknowledged that the code enforcement case would proceed on its own track, and by consensus directed staff to research possible modifications to the land development regulations (LDRs) to balance the needs of agriculture and commercial business in agricultural areas with respect to landscaping services operations.

Since the March 5<sup>th</sup> meeting, staff has conducted research and drafted this report for the Board’s consideration. In addition, staff has drafted a proposed LDR amendment for the Board’s review and consideration as a “pending ordinance”.

## ANALYSIS

- **Land Use Conflicts in Agricultural Areas**

In 1990, Indian River County adopted its present comprehensive plan which, among other items, established the County's Urban Service Area and the associated Urban Service Area Boundary. As adopted, the Urban Service Area (USA) constitutes that area of the county where "urban" commercial, industrial, and residential uses are allowed and where urban services such as public water and sewer are provided to serve development. Conversely, the areas lying outside the USA (which are vast and cover roughly the western two-thirds of the county) are designated Conservation or Agricultural and are generally intended to be rural in nature with agricultural, conservation, and low density residential uses allowed. Agricultural areas are designated on the adopted future land use map as AG-1 (up to 1 unit/5 acres), AG-2 (up to 1 unit/10 acres), and AG-3 (up to 1 unit per 20 acres); those designations have corresponding zoning districts A-1, A-2, and A-3. Generally, AG-1/A-1 areas lie east of I-95 and within the Fellsmere Farms platted area that surrounds the original Town of Fellsmere, although a number of "remnant" A-1 properties still exist inside the Urban Service Area. AG-2/A-2 areas generally lie west of I-95 and east of the St. Johns marsh, while AG-3/A-3 areas generally lie west of the St. Johns marsh.

Although agriculturally designated areas are generally restricted to agricultural and associated accessory uses, and low density residential uses, the county's comprehensive plan and land development regulations (LDRs) allow certain types of commercial or industrial uses on agriculturally designated properties under certain conditions and criteria. Those uses are subject to special conditions and specific land use criteria and are reviewed and approved through the administrative permit or special exception processes.

Currently, the "conditional uses" allowed in agriculturally designated areas include churches, schools, fruit/vegetable packing houses, golf courses, commercial kennels, airstrips, solar farms, utility facilities, communications towers, recycling centers, and mining operations. Those uses are allowed in agricultural areas for various reasons. Some uses, such as packing houses, are related to agricultural production and warrant more rural locations near agricultural production. Other uses, such as golf courses, airstrips, and solar farms, require large site areas which are more available and easier to assemble in agricultural areas. Still other uses, such as recycling centers and commercial kennels can be appropriately located in certain areas outside the USA where residential density is very low and facilities can be separated from concentrations of residences by significant distances and can be more effectively buffered from adjacent properties. Finally, some uses, such as schools and churches, are institutional uses that are traditionally allowed in rural areas and are considered generally compatible with agricultural and very low density residential uses subject to conditions. Overall, many conditional uses located outside the USA serve residents and businesses located within the USA.

Over the past decades, the Planning & Zoning Commission and the Board of County Commissioners have periodically discussed and evaluated land use conflicts in agricultural areas and have generally acknowledged that some conflicts are inevitable because residential uses (even low density residential)

## (Staff Report for BCC 6/18/19 Meeting)

are allowed in agricultural areas along with agricultural uses of various intensities and scale and a number of conditional uses that are warranted in agricultural areas under certain conditions. Where warranted, LDRs have sometimes been changed to address such conflicts through specific criteria and/or limitations.

In the end, County LDRs accommodate the wide and eclectic range of large and small scale agricultural uses, conditional uses, and low density “residential estate” uses that have historically existed and currently exist in the agriculturally designated areas. Through large minimum parcel size requirements (5, 10, and 20 acre minimums), significant open space requirements (60% and 80% of the site), special criteria and limitations, the LDRs address but do not (and will not) completely resolve all conflicts between competing uses and expectations in the agricultural areas.

- **State Pre-emptions & Protections of Agricultural Uses**

Like other states, Florida has strong “right to farm” state statutes that pre-empt local government regulations of agricultural and associated uses. In recent years, the state of Florida has strengthened such pre-emptions. Current state law exempts from the Florida Building Code non-residential farm buildings, structures, and facilities located on farms. The term “farm” and “farm operations” are broadly defined (see Florida Statute references in attachment 2)

Under state law, commercial nurseries on agricultural property including wholesale plant nurseries are “protected” as a bona fide agricultural use that is pre-empted from local land use and building permit regulations. It is staff’s understanding that current state law does not pre-empt the County from enacting reasonable regulations for uses customarily associated with wholesale nurseries such as off-site landscaping services.

- **Current IRC Regulation of Landscaping Services**

The County’s current LDRs allow landscaping services as a principal “contractor’s trades” type of use in heavy commercial and industrial districts where storage of vehicles, equipment, and various supplies and materials are allowed on intensely developed sites with low open space requirements (10% - 15% of the site). Current agricultural district regulations (Section 911.06(4) use table) allow commercial nurseries in the A-1, A-2, and A-3 districts, and specifically permit the following components/uses as part of a commercial nursery in the A-1, A-2, and A-3 districts: “... cultivation, wholesaling, and off-site landscaping services allowed; no retail sales allowed on-site.” In its interpretation and application of this existing code provision, staff has had to make judgment calls as to what type use and facility constitutes an off-site landscape service operation that is allowable as a use associated with a wholesale nursery. In making these judgement calls, there have been cases that have “pushed the envelope” with respect to components of the operation, as well as the scale and layout of the landscaping services facility.

Because wholesale nurseries and associated off-site landscaping services are categorized as a permitted agricultural use, such uses are exempt from County site plan requirements (Section 914.04(1)(a)). In addition, since nurseries are a bona fide agricultural use, consistent with state statute and based on county practice, improvements and structures serving both nurseries and

## (Staff Report for BCC 6/18/19 Meeting)

permitted associated uses are exempt from building permit requirements but are not exempt from zoning setback and any applicable flood plain regulations. As a voluntary process to confirm compliance with the exemption, staff strongly encourages property owners who claim the exemption to file a Verification of Exemption for Non-residential Farm Building local form (see attachment 2). Persons submitting the form attach a site sketch showing the lay-out of uses and facilities; the sketch is not a formal site plan. Such a form was filed for the Caribbean Lawn and Landscaping business. Since the March 5<sup>th</sup> meeting, no acknowledgement form for any new nursery/landscaping service business has been filed. In practice, facilities serving agricultural operations may also serve associated permitted accessory uses. For example, a workshop/garage can serve wholesale nursery production, maintenance, delivery, and vehicles and equipment that serve off-site landscaping services operations. In staff's experience, it would be difficult to try to separate-out portions of a facility that serve a nursery use from what serves an accessory landscaping services use.

Staff's interpretation of the previously quoted 911.06(4) use table provisions is that an off-site landscaping service is allowed as an "accessory use" to a wholesale plant nursery. Under LDR Chapter 901, an "accessory use" is defined as:

*"Accessory use* a use which:

- (a) Is clearly incidental to, customarily found in association with, and serves a principal use;
- (b) Is subordinate in purpose, area, and extent to the principal use served; and
- (c) Is located on the same lot as the principal use, or on an adjoining lot in the same ownership as that of the principal use."

Staff's interpretation of "accessory use" as applied to off-site landscaping services associated with a wholesale nursery is that such use is limited to installation and maintenance mowing/trimming of landscaping material and must cover less site area than the nursery area. Under that interpretation, for example, the site area of the landscaping services operation (total parking, driveway, and building area) must be less than the nursery area (area under cultivation including green houses, grow houses, shade houses, and similar structures). Consequently, under the current interpretation, a landscaping services area to nursery area ratio of slightly less than 1:1 would comply. Based on discussion at the March 5<sup>th</sup> meeting, it is staff's understanding that Board members believe that a lower ratio of landscaping services area to nursery area would more appropriately reflect the "incidental to" and "customarily found in association with" characteristics of an accessory landscaping services use. Staff's research of existing landscaping services in the County, and the proposed draft ordinance, address site area ratio which is a valid tool for evaluating an appropriate scale for both uses.

Staff's current interpretation, supported by Code Enforcement Board action, is that the wholesale nursery use, as the principal agricultural use, is required to be established prior to or at the same time as the landscaping services use and that the landscaping services use cannot involve burying, mulching, or burning off-site debris on the premises. It is also staff's current interpretation that pest control services are not accessory to a wholesale nursery use and are not allowed. These aspects of staff's current interpretation are incorporated into the proposed draft ordinance to clarify and codify those interpretations.

- Small-scale home-occupation landscaping services

## (Staff Report for BCC 6/18/19 Meeting)

Under the County's home occupation regulations (section 912.05(6)), landscaping services in agricultural areas operated out of a "home office" and on-site accessory structures are permitted as a home occupation with limitations that restrict the operation to a small-scale "family business". Such specific limitations include a prohibition of non-resident employees on the premises and a prohibition on outdoor display of signs or display of equipment and materials. Consequently, a proposed regulation change could specifically reference the "carve-out" for home occupation landscaping services in agricultural areas to clearly preserve the status of such small-scale services operations.

- **Regulations of Other Counties**

Staff researched regulations of nearby counties for nursery and landscaping services in agricultural districts. Research results are summarized in a comparison chart for Brevard, Osceola, Palm Beach, St. Lucie, and Indian River counties (see attachment 3). In summary, compared to the other counties, IRC has more stringent requirements for retail nurseries and has similar allowances permitting wholesale nurseries and landscaping services in agricultural areas. All jurisdictions appear to allow lawn mowing as a component of landscaping services. Palm Beach County has specific criteria for landscaping services in agricultural districts including a 3 acre minimum site size, an accessory to a nursery criterion, and a prohibition on outdoor debris storage. For context, staff's research also indicates that IRC's minimum lot sizes in its agricultural districts are significantly larger than Brevard's and St. Lucie's and are the same as Martin County's (see attachment 4). Larger minimum parcel sizes tend to raise the minimum level of investment needed for a new property owner to start a business in an agricultural area.

- **Existing Landscaping Services in IRC Agricultural Areas**

Staff's research identified 17 existing landscaping/nursery/property management businesses in IRC's A-1 agricultural district (see attachment 5). Staff focused its research on the A-1 district since that district has the highest concentration of residential estate/"ranchette" properties and the highest incidence of land use conflicts. Research indicates that most existing nursery/landscaping services in the A-1 district have a landscaping services site area to nursery site area ratio of less than 1:2. In other words, 14 out of the 17 nursery/landscaping services businesses have a landscaping services site area that is less than 50% of the nursery site area. Research also indicates that 12 out of the 17 nursery/landscaping services businesses are located on sites having at least 400,000 sq. ft. (9.183 acres). For all 17 existing businesses, site sizes ranged from 4.8 acres to 270+ acres. The 400,000 sq. ft. threshold is a good quantitative standard for capturing original "10 acre" tracts and parcels that have been reduced in size by right-of-way dedications for canals and roads. For the A-1 nursery/landscaping services businesses identified, dirt roads provide access to 9 out of the 17 businesses with the remaining 8 other businesses accessed by paved roads.

Building setbacks vary greatly for the existing businesses although staff's observations and code enforcement experience suggest that sites with nursery plantings and/or visual buffering along road frontages with parking/building areas located "in back" generate few if any complaints. Currently, all these agricultural zoning districts have a 30' building setback and no specific setback for driveways or parking areas. Staff's experience is that larger setbacks (such as 50') between landscaping services

## (Staff Report for BCC 6/18/19 Meeting)

facilities and property lines can also mitigate potential adverse impacts by providing separation from neighbors and ample area for buffering.

- **Proposed Draft Ordinance**

For the Board's consideration, staff has drafted an ordinance that attempts to clarify and specify an interpretation of the code consistent with input from Board members at the March 5<sup>th</sup> meeting and based on staff's recent research. The approach of the draft ordinance is to simply clarify that in agricultural districts an "off-site landscaping services" use associated with a commercial nursery is accessory to the commercial nursery use, and to carefully define the term "off-site accessory landscaping services". By a careful and thorough definition, the proposed code change would qualify what constitutes an allowable landscaping services use. Through the proposed definition, an off-site accessory landscaping services use in compliance with the proposed code change would:

1. Include installation and mowing/trimming maintenance services involving a broad range of landscape material, including grass (lawns), consistent with the code's existing Chapter 901 definition of "landscaping".
2. Not include pest control services.
3. Not include (and consequently, would not further regulate) services authorized and conducted in compliance with a home occupation permit.
4. Be associated with a legally established nursery.
5. Be located on an agriculturally zoned site of at least 400,000 sq. ft. (9.183 acres).
6. Be set back (total parking/driveway/building area) at least 50 ft. from property lines.
7. Be limited (total parking/driveway/building area) to no more than 50% of the nursery area located on site (total area under cultivation including green houses, grow houses, shade houses, and similar structures).
8. Be visually screened (parking area) from adjacent properties and streets.
9. Not include or allow for burning, mulching, or dumping off-site debris on the nursery/landscaping services site.

In staff's opinion, the draft ordinance can be used by the Board as a "pending ordinance", applicable to any proposed or future landscaping services use in the A-1, A-2, and A-3 districts while proceeding with the formal LDR amendment process.

### **RECOMMENDATION**

## (Staff Report for BCC 6/18/19 Meeting)

Staff recommends that the Board of County Commissioners:

1. Consider the proposed draft ordinance, provide input to staff, and direct staff to initiate the formal land development regulation amendment process; and
2. Invoke the pending ordinance doctrine for the proposed draft ordinance during the formal adoption process.

### **ATTACHMENTS**

1. Minutes from March 5, 2019 BCC Meeting
2. Voluntary Agricultural Exemption Acknowledgement Form
3. Chart: Comparison of County Nursery/Landscaping Services in Ag
4. Chart: Agricultural Zoning Districts Comparison
5. Chart: Existing Landscape/Nursery Businesses in Ag
6. Proposed Draft Ordinance

# (Staff Report for BCC 6/18/19 Meeting)

## **10.B.1.** Request to Speak from Spencer Simmons and Tim Campbell regarding Zoning District Use Violation

Spencer Simmons, 118 43rd Avenue, and Tim Campbell, 7330 37th Street, appeared before the Board to protest a Code Enforcement ruling which allowed a commercial business to operate in their Agriculture-zoned neighborhood. Using a PowerPoint presentation, Mr. Simmons displayed images of the buildings, commercial vehicles, and traffic at the subject property. He went on to explain that the business, Caribbean Lawn and Landscaping, had been cited for violating County code by erecting a building without a permit and violating the zoning use of the property. The Code Enforcement Board ruling, however, allowed the business to continue operation contingent upon the completion of a planned commercial nursery.

Mr. Campbell spoke of his concern regarding the increased traffic, loss of property value, and the precedence this would set to allow for similar businesses to open in the area.

Chairman Solari requested clarification on the County code from Stan Boling, Director of Community Development. Director Boling explained that agricultural operations, such as commercial nurseries, receive protection under the Right-to-Farm Act; this includes a preemption from pulling a building permit, and the ability to run an accessory business on the land. A business could be ruled as accessory, or subordinate, based on the percentage of the lot it uses.

The Chairman expressed concern that this company was gaming the system by using the wholesale nursery business as a gateway for the landscaping operations. The other Commissioners expressed similar views, and cited examples of companies that were in keeping with the intention of the code.

Roland DuBlois, Chief of Code Enforcement, recounted the facts and analysis that led to the Code Enforcement Board's ruling.

The consensus of the Board was that while they could not interfere in this ongoing case, they would like to consider modifications to the code that would prevent misrepresentations or abuses of the zoning rules. The County Administrator and staff were instructed to research modifications to the code that would balance the needs of agriculture and commercial business.

**No Action Taken or Required**

## **C. PUBLIC NOTICE ITEMS**

## Verification of Exemption for Nonresidential Farm Building

**Generally**, nonresidential farm buildings are an allowed accessory use on an agricultural property when State of Florida Statutes and licensing requirements are met. Local and state requirements are listed below:

### **Indian River County Ordinance Section 401.14 Agricultural exemption**

Nothing contained in this article shall be construed to apply to or affect buildings, structures or appurtenances located outside the corporate limits of municipalities and used solely for housing or storing agricultural animals, supplies, equipment or products by person, firm, or corporations engaged in agriculture. The exemption shall be construed consistent with applicable state exemptions and the Florida Building Code. **Note: Structures complying with this section are exempt from Building Permit requirements; no Building Permit is required.**

### **Florida Statute 553.73(10)(c) and Florida Building Code 102.2 (c)**

(10) The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(c) Nonresidential farm buildings on farms.

### **Florida Statute 604.50 Nonresidential Farm Buildings**

- (1) Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign that is located on lands used for bona fide agricultural purposes is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. A farm sign located on a public road may not be erected, used, operated, or maintained in a manner that violates any standard provided in s. 479.11(4), (5)(a), and (6)-(8).
- (2) As used in this section, the term:
  - (a) **“Bona fide agricultural purposes”** has the same meaning as provided in s. 193.461(3)(b).
  - (b) **“Farm”** has the same meaning as provided in s. 823.14.
  - (c) **“Farm sign”** means a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the farm.
  - (d) **“Nonresidential farm buildings”** means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10) (c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

### **Florida Statute 823.14 (3) Definitions – As used in this section:**

- (a) **“Farm”** - means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.
- (b) **“Farm operation”** means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with production of farm, honeybee, or apiculture products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

### **Florida Statute 193.461(3)(b)**

(3)(b) Subject to the restrictions specified in this section, only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term “bona fide agricultural purposes” means good faith commercial use of the land.

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been used.
- b. Whether the use has been continuous.
- c. The purchase price paid.
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.

## (Staff Report for BCC 6/18/19 Meeting)

- f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- g. Such other factors as may become applicable.
2. Offering property for sale does not constitute a primary use of land and may not be the basis for denying an agricultural classification if the land continues to be used primarily for bona fide agricultural purposes while it is being offered for sale.

### **Application and Interpretation of the above regulations:**

**“Nonresidential farm buildings on farms”** – means any nonresidential structure constructed on a farm for the purpose of supporting the production of farm or aquaculture products. (i.e. farm maintenance shops, farm office buildings that do not include dwelling units or barracks, packing sheds, drying sheds, loading docks and ramps, hay barns, horse barns without dwelling units or barracks under the same roof, cow barns, chicken coops, poultry facilities, milking parlors, hog parlors, veterinarian facilities located on the farm for the care and maintenance of the farm owner’s animals, clam raceways, walk-in coolers and similar agriculture and aquaculture primary structures, support structures and support facilities). **These structures may be exempt from Building Permits.**

**“Residential farm buildings on farms”** – means any habitable or non-habitable residential structure or residential accessory structure; or any structure supporting residential uses, including primary or accessory uses. (i.e. dwellings, guest houses, horse barns with dwelling units or barracks under the same roof, carports, porches, hobby shops, workshops, free standing garages, pet shelters, storage buildings used for storing non-farm related vehicles or materials, docks used for recreational purposes, swimming pools, masonry fences or other structures used for landscaping or residential purposes or similar nonagricultural purposes). **These structures are not exempt from Building Permits.**

**Zoning Criteria: ADVISORY WARNING:** Although current Florida Statutes and a 2013 AGO Advisory Legal Opinion state that a non-residential farm building on a farm is exempt from zoning requirements and land development regulations, staff strongly recommends that the following requirements be satisfied:

1. Minimum setbacks. Within all agricultural zoning districts (A-1, A-2, and A-3), the minimum building setback from any property line is 30 feet.
2. No portion of the structure may encroach into an easement.

**Floodplain Requirements:** All structures which are partially or wholly within a Special Flood Hazard Area (“Flood Zone”) are subject to Type B or C Floodplain Development Permitting issued through the County Engineering Division, including structures exempt from the Florida Building Code (reference County Code section 930.08(2)).

**Obtaining an Exemption Determination:** To obtain an exemption determination from the Building Division, an application form (no fee) must be completed and submitted to the Building Division. Application information is as follows:

1.  **Proof of ownership** - This can be in the form of a recorded warranty deed, Property Appraiser, lease and owner’s consent, or other verifiable means of proving ownership.
2.  **Construction site plan** - A survey, sketch, or other legible drawing drawn to scale which shows: property boundaries and dimensions; any easements or rights-of way; any existing or proposed buildings with distances between buildings; setbacks from property lines for all existing or proposed buildings, including the proposed construction; any water bodies or jurisdictional wetlands on the property, right of way connection to public road and locations of flood zones.
3.  **Floor Plan** – A floor plan of each structure proposed for construction, depicting the agricultural use of all areas of each structure and the overall dimensions of the structure.
4.  **Proof of Farm** - Agricultural Classification from Property Appraiser (info from website is acceptable).
5.  **Exemption Affidavit** - A fully completed, signed and notarized Verification of Exemption Affidavit (form attached).

**For further information contact Building Division at (772) 226-1260.**

**\*\*\* THIS LIST IS INTENDED ONLY AS A GUIDE FOR APPLICATION SUBMITTAL  
AND MAY OR MAY NOT BE ALL INCLUSIVE\*\*\***

## Verification of Exemption Affidavit for Nonresidential Farm Building

*Note: This exemption is applicable only for property with Agricultural Classifications determined or as applied by the Indian River County Property Appraiser.*

This is to certify that I, \_\_\_\_\_ am exempt from the requirements for a Building Permit under Florida Statutes 553.73(10) (c), Florida Building Code 101.2, Indian River County Ordinance 401.14. The proposed construction, as depicted on the attached site plan is to be a nonresidential farm building on a farm.

Property Owners Name: \_\_\_\_\_

Address of Property: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Parcel #: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_

Specific Directions to Job Site: \_\_\_\_\_

\*Contractor: DBA: \_\_\_\_\_ Name: \_\_\_\_\_

License Number: \_\_\_\_\_ Comp Card Number: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell: \_\_\_\_\_

Type of Structure: \_\_\_\_\_

Use of Structure: \_\_\_\_\_

Use of Site: \_\_\_\_\_

Zoning District: \_\_\_\_\_ Future Land Use: \_\_\_\_\_ Flood Zone: \_\_\_\_\_ Map #: \_\_\_\_\_

Setbacks: North Side Proposed: \_\_\_\_\_ South Side Proposed: \_\_\_\_\_

East Side Proposed: \_\_\_\_\_ West Side Proposed: \_\_\_\_\_

**Additional permits may be required from other governmental entities.**

### Sub- Contractor Information:

#### Electrical Contractor:

DBA: \_\_\_\_\_ License Holders Name: \_\_\_\_\_

State License Number: \_\_\_\_\_ Comp Card Number: \_\_\_\_\_

#### Plumbing Contractor:

DBA: \_\_\_\_\_ License Holders Name: \_\_\_\_\_

State License Number: \_\_\_\_\_ Comp Card Number: \_\_\_\_\_

#### Mechanical Contractor:

DBA: \_\_\_\_\_ License Holders Name: \_\_\_\_\_

State License Number: \_\_\_\_\_ Comp Card Number: \_\_\_\_\_

(Staff Report for BCC 6/18/19 Meeting)

**Roofing Contractor:**

DBA: \_\_\_\_\_ License Holders Name: \_\_\_\_\_  
State License Number: \_\_\_\_\_ Comp Card Number: \_\_\_\_\_

**Gas Contractor:**

DBA: \_\_\_\_\_ License Holders Name: \_\_\_\_\_  
State License Number: \_\_\_\_\_ Comp Card Number: \_\_\_\_\_

*I certify that all the foregoing information is accurate and that all work will be conducted and completed in compliance with all applicable laws regulating construction and zoning. This structure will not be utilized for habitation or as a dwelling.*

\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(Printed Name)

State of \_\_\_\_\_

County of \_\_\_\_\_

Sworn to and Subscribed before me, the \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_ by  
\_\_\_\_\_ who is personally known to me or has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
(Type of Identification)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Print, Type or Stamp of Notary

**Notes:**

1. \*To qualify as an owner/builder, the owner of the property must personally appear at the Building Division and sign this application. (FS §489.103.7)
  2. Change of Use or Occupancy may require after the fact building permits with demonstrated code compliance including, but not limited to, destructive testing and inspections.
  3. If requested by the applicant, plan review and inspections will be completed upon approval of a permit application and payment of required fees creating a permanent record of the construction completed for future use.
  4. Construction Industry Licensing Laws, Mechanic's Lien Law, and Insurance Requirements
- There are no exemptions from state and county construction industry licensing law, mechanic's lien law, insurance requirements and worker's compensation law.

**Planning Division**

Approved:

Disapproved:

Reason: \_\_\_\_\_  
\_\_\_\_\_

Reviewed By: \_\_\_\_\_

Date: \_\_\_\_\_

**Building Division**

Approved:

Disapproved:

Reason: \_\_\_\_\_  
\_\_\_\_\_

Reviewed By: \_\_\_\_\_

Date: \_\_\_\_\_



(Staff Report for BCC 6/18/19 Meeting)

COMPARISON BY COUNTY: Nurseries & Landscape Services in Agricultural Districts

County	Retail Nursery	Wholesale Nursery	Landscape Services
Brevard	P	P	P*
Martin	P	P	P
Osceola	P	P	P
Palm Beach	P/C	P/C	C*
St. Lucie	P	P	P
Indian River	S	P	P**

P = Permitted

C = Conditional

S = Special Exception (special criteria apply)

\*Allowed in Brevard's 5 acre minimum agricultural district

\*\*Allowed as component (accessory) to wholesale nursery

Palm Beach County landscape criteria:

1. Accessory to a retail or wholesale nursery
2. Minimum site size of 3 acres
3. Landscape buffer may be required depending upon adjacent use (usually required)
4. Outdoor storage of debris prohibited
5. Outdoor storage of yard waste limited to 30' x 40' area walled on 3 sides (12' wall ht. max.) setback 50' from all property lines and 100' from property with residential use or designation

(Staff Report for BCC 6/18/19 Meeting)

AGRICULTURAL ZONING DISTRICTS COMPARISON

INDIAN RIVER, BREVARD, ST LUCIE, MARTIN COUNTIES

COUNTY	ZONING DISTRICT	MIN LOT AREA	MIN LOT WIDTH	MAX RES DENSITY	OPEN SPACE
INDIAN RIVER	A-1	200,000	150'	0.2	60%
	A-2	430,000	150'	0.1	80%
	A-3	870,000	150'	0.1	80%
BREVARD	PA	217,800	300'	0.2	
	AGR	217,800	200'	0.2	
	AU	108,900	150'	0.4	
	AU(L)	108,900	150'	0.4	
	ARR	43,560	125'	1.0	
ST. LUCIE	AG-1	43,560	150'	1.0	90%
	AG-2.5	108,900	150'	0.4	85%
	AG-5	217,800	150	0.2	90%
MARTIN	AR-5A	217,800	300'	0.2	50%
	AR-10A	435,600	300'	0.1	50%
	AG-20A	871,200	300	0.05	50%

(Staff Report for BCC 6/18/19 Meeting)  
Landscape/Nursery/Property Management Businesses in Ag. (A-1)

Ref #	Business Name	Address	Parcel ID	Acreage	Access	Building Area/Type	Enclosed Building Area in SF	Building Parking Driveway Area Excluding Pole Barns in SF	Cultivation Area in SF	Enclosed Building/Cultivated Area = %	Building Parking Driveway Area/Cultivated Area = %	Setbacks	Zoning District	IRCPA Permitted Improvements
1	CW WILLIS FAMILY FARMS	1405 58TH Ave	33390800001001000001.0	18.31	Paved	1140 sf/open sheds	0.0	56,628	344,124	0.0	0.16	1,200' F 500' S	A-1	None
2	PETERSON'S GROVE & NURSERY	3375 66TH AVE	32393100001008000002.0	13.7	Paved	2,400 sf residence 12,786 sf maintenance 572 sf barn 2,000 sf pole barn (store)	15,758	128,680	466,092	0.034	0.28	150' F 100' R	A-1	None
3	OSLO OAKS LANDSCAPE, INC	4325 17TH ST SW	33393300002001000001.1	8.8	Dirt	6,250 sf metal storage bldg 5,000 sf open shed	6,250	53,808	212,137.20	0.03	0.25	120' F	A-1	None
4	ANCO LAND LLC	6050 8TH ST	33390800001015000003.0	9.5	Paved	1,688 sf metal storage bldg 800 sf metal storage bldg	2,488	52,716	205,378	0.01	0.26	425' F	A-1	None
5	TROPICAL PROPERTY MGT	6300 1ST ST SW	33391700001014000002.0	19.4	Paved	2,400 sf open metal barn 4,000 sf garage bldg 1,500 sf modular bld	5,500	113,174	206,043.00	0.03	0.55	700' F 50' S	A-1	None
6	JORDON SPRINKLER SYSTEMS	6350 9TH ST SW	33392000001014000001.0	9.7	Paved	12,868 sf metal blds	12,868	75,358.80	0.0	0.0	0.0	177' F 70' S	A-1	Office/warehouse
7	TREASURE COAST TURF/TREES	6420 37THS ST	32392900002020000001.1	6.9	Paved	5,684 sf (3 pole barns)	0	50,944	108,900	0.0	0.47	560' F 30' S	A-1	RES/SP
8	PREMIER LANDSCAPE SOLUTIONS	6574 33RD ST	32393200001005000001.1	6.4	Paved	2,080 sf Quonset hut 2,900 sf pole barn 2,600 sf metal bldg	4,680	55,906	82,764	0.06	0.68	900' F 30' R	A-1	None
9	J&D PROP. MGT & LANDSCAPING	6800 17TH ST SW	33393000001015000002.0	16.3	Dirt	1,500 sf pole barn 400 sf mobile home	400	42,060	383,328	0.001	0.11	230' F 30' S	A-1	None
10	CHESTNUT ORNAMENTAL NURSERY	6900 65TH ST	32390700001007000002.0	10	Dirt	2,877 sf CB storage bldg	2,877	33,976.80	252,648	0.011	0.13	550' F 35' S	A-1	None
11	CREATIVE LANDSCAPING & LAWN	7020 57TH ST	32391800001006000003.0	15	Dirt	3,885 sf pole barn 1,950 sf metal bldg 2,000 sf quonset hut	3,950	110,677.80	236,095.20	0.02	0.47	700' F 65' S	A-1	None
12	CARIBBEAN LAWN & LANDSCAPE	7120 37TH ST	32393000001014000002.1	9.9	Dirt	7,647 sf 2-story metal bldg 950 sf pole barn	7,647	56,549.20	92,680.20	0.08	0.61	191' F 85' S	A-1	None (Proposed cultivated area)
13	WW SOD & EQUIPMENT	7398 61ST ST	32390700001013000002.0	12.3	Dirt	27,651 sf metal bldgs (5) 1,200 sf pole barn	27,651	58,806	365,904	0.08	0.16	40' F 10' S	A-1	1,200 sf (barn)
14	HARDWOOD TREE FARM LLC	10475 138TH AVE	31370000001113100001.0	4.8	Dirt	2,400 sf metal bldg	2,400	48,425	101,005	0.02	0.48	550' F	A-1	None
15	RITENOUR NURSERIES	7250 49TH ST	32391900001005000001.0	4.9	Dirt	1 residence 2,465 sf metal bldg	2,465	26,136	74,052	0.03	0.35	375' F 30' S	A-1	RES
16	INDIAN RIVER LANDSCAPES, LLC	5900 12TH ST	33390800001008000001.1	9.3	Paved	640 sf metal bldg	640	20,037.60	226,512	0.003	0.09	250' F 40' S	A-1	None
17	SEBASTIAN RIVER FARMS	5915 82ND AVE	32381400000100000002.0 (9 Parcels)	270+	Dirt	7,700 sf metal bldg 5,270 sf metal bldg 3,230 sf pole barn 1,300 sf residence	14,270	127,450	10,890,000	0.001	0.01	13' F	A-1	RES

(Staff Report for BCC 6/18/19 Meeting)

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AN AMENDMENT TO ITS LAND DEVELOPMENT REGULATIONS (LDRS); PROVIDING FOR AN AMENDMENT TO CHAPTER 901, DEFINITIONS; BY AMENDING SECTION 901.03, ESTABLISHING A DEFINITION FOR OFF-SITE ACCESSORY LANDSCAPING SERVICES; BY AMENDMENT TO CHAPTER 911, ZONING; BY AMENDING SECTION 911.06(4), AGRICULTURAL AND RURAL DISTRICTS USES; AND BY PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT THE INDIAN RIVER COUNTY LAND DEVELOPMENT REGULATIONS (LDRS) CHAPTER 901, DEFINITIONS, AND CHAPTER 911, ZONING BE AMENDED AS FOLLOWS:

**SECTION #1:**

Amend LDR Section 901.03 by establishing a definition for “Off-site accessory landscaping services” to read as follows:

**Off-site accessory landscaping services installation and mowing/trimming maintenance services (not including pest control services) involving landscaping material such as grass, ground covers, shrubs, vines, hedges, trees, and palms accessory to a legally established wholesale nursery on agriculturally zoned property at least 400,000 square feet in size, where the total parking/driveway/building area associated with the landscaping service use is set back at least fifty (50) feet from property lines and is limited to no more than fifty (50) percent of the nursery site area under cultivation and where outdoor parking area associated with the landscaping services use is visually screened from adjacent properties and streets. For purposes of this definition, area under cultivation includes green houses, grow houses, shade houses, and similar structures. This definition does not include services authorized and conducted in compliance with a valid home occupation permit issued by the County, and does not include or allow for the burning, mulching, or dumping of off-site debris on the wholesale nursery/landscaping services site.**

**SECTION #2:**

Amend the “Agricultural Uses” portion of the use table from LDR Section 911.06(4), to read as follows:

Uses	District				
	A-1	A-2	A-3	RFD	RS-1
<i>Agricultural</i>					
General farming	P	P	P	-	-
Dairy farming	A	A	A	-	-
Livestock and poultry raising	P	P	P	-	-
Stables (noncommercial)	P	P	P	A	A
Stable (commercial)	P	P	P	-	-

(Staff Report for BCC 6/18/19 Meeting)

Sludge spreading	A	A	A	-	-
Tree farms	P	P	P	-	-
<i>Kennel and animal boarding places</i>					
Commercial	A	A	A	-	-
Noncommercial	P	P	P	P	A
Fruit and vegetable juice extractions and packing houses	A	A	A	-	-
Small animal specialty farms	A	A	A	-	-
Tenant dwelling	S	S	S	-	-
Residential migrant housing facility	S	S	S		
<i>Nursery and greenhouses</i>					
Noncommercial	P	P	P	A	A
Commercial (cultivation, wholesaling, and off-site <b>accessory landscaping services*</b> allowed; no retail sales allowed on-site)	P	P	P	-	-
Agricultural businesses, excluding wholesaling and processing	S	S	S	-	-
Agricultural industries	S	S	S	-	-
Fish farms and water dependent plant and/or animal production	A	A	A	-	-
Agricultural research facilities	A	A	A	-	-
Aquaculture	A	A	A	A	A
Fruit spreading (subject to subsection 917.06(15))	P	P	P	-	-

**\*See definition of “off-site accessory landscaping services” in Chapter 901**

Editor’s note: all other portions of the LDR Section 911.06(4) use table to remain as is, unamended.

**SECTION #3: SEVERABILITY**

If any clause, section or provision of this Ordinance shall be declared by a court of competent jurisdiction to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Ordinance and the remaining portion of this Ordinance shall be in full force and effect and be as valid as if such invalid portion thereof had not been incorporated therein.

**SECTION #4: REPEAL OF CONFLICTING ORDINANCES**

The provisions of any other Indian River County ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

**SECTION #5: INCLUSION IN THE CODE OF LAWS AND ORDINANCES**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Indian River County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

(Staff Report for BCC 6/18/19 Meeting)

**SECTION #6: EFFECTIVE DATE**

This Ordinance shall take effect upon filing with the Department of State.

This ordinance was advertised in the Press-Journal on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, for a public hearing to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at which time it was moved for adoption by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and adopted by the following vote:

Chairman Bob Solari \_\_\_\_\_

Vice Chairman Susan Adams \_\_\_\_\_

Commissioner Joseph E. Flescher \_\_\_\_\_

Commissioner Tim Zorc \_\_\_\_\_

Commissioner Peter D. O'Bryan \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
OF INDIAN RIVER COUNTY

The Chairman there upon declared the ordinance duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

BY: \_\_\_\_\_  
Bob Solari, Chairman

ATTEST: Jeffrey R. Smith, Clerk of Court and Comptroller

BY: \_\_\_\_\_  
Deputy Clerk

This ordinance was filed with the Department of State on the following date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

\_\_\_\_\_  
Dylan Reingold, County Attorney

APPROVED AS TO PLANNING MATTERS

\_\_\_\_\_  
Stan Boling, AICP; Community Development Director