



CITY OF FORT LAUDERDALE

**MEETING MINUTES
CITY OF FORT LAUDERDALE
PLANNING AND ZONING BOARD
CITY HALL – CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, JANUARY 15, 2020 – 6:00 P.M.**

Cumulative

Board Members	Attendance	June 2019-May 2020	
		Present	Absent
Catherine Maus, Chair	P	7	1
Mary Fertig, Vice Chair	P	7	1
John Barranco	A	6	2
Brad Cohen (arr. 6:04)	P	7	1
Coleman Prewitt	P	8	0
Jacquelyn Scott	P	8	0
Jay Shechtman	P	8	0
Alan Tinter	P	8	0
Michael Weymouth	P	7	1

It was noted that a quorum was present at the meeting.

Staff

- Ella Parker, Urban Design and Planning Manager
- Shari Wallen, Assistant City Attorney
- D'Wayne Spence, Assistant City Attorney
- Christian Cervantes, Urban Planner I
- Karlanne Grant, Urban Planner III
- Jim Hetzel, Principal Planner
- Tom Lawrence, Project Manager II, Public Works
- Trisha Logan, Urban Planner III
- Mohammed Malik, Zoning Administrator
- Jamie Opperee, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Maus called the meeting to order at 6:01 p.m. and the Pledge of Allegiance was recited. The Chair introduced the Board members, and Urban Design and Planning Manager Ella Parker introduced the Staff members present.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

Mr. Tinter noted a correction to p.2 of the December 18, 2019 minutes: Agenda Item 3, R19069, was not listed, and the Item numbered 3 should be Item 4.

Motion made by Ms. Scott, seconded by Mr. Shechtman, to approve as corrected. In a voice vote, the **motion** passed unanimously.

III. PUBLIC SIGN-IN / SWEARING-IN

Members of the public wishing to speak on any Item on tonight's Agenda were sworn in at this time.

IV. AGENDA ITEMS

Index

<u>Case Number</u>	<u>Applicant</u>
1. R19044**	The Harbor Shops LLC
2. PLN-ULDR-19120001*	City of Fort Lauderdale

Special Notes:

Local Planning Agency (LPA) items (*) – In these cases, the Planning and Zoning Board will act as the Local Planning Agency (LPA). Recommendation of approval will include a finding of consistency with the City's Comprehensive Plan and the criteria for rezoning (in the case of rezoning requests).

Quasi-Judicial items ()** – Board members disclose any communication or site visit they have had pursuant to Section 47-1.13 of the ULDR. All persons speaking on quasi-judicial matters will be sworn in and will be subject to cross-examination.

1. CASE:	R19044
REQUEST: **	Site Plan Level III Review: Conditional Use for Medical Cannabis Dispensing Facility
PROPERTY OWNER/APPLICANT	The Harbor Shops LLC.
AGENT:	Stephanie J. Toothaker, Esq.
PROJECT NAME:	One Plant
GENERAL LOCATION:	1830 Cordova Road
ABBREVIATED LEGAL DESCRIPTION:	DOLPHIN PLAT 172-138 B PARCEL A
COMMISSION DISTRICT:	4 – Ben Sorenson
NEIGHBORHOOD ASSOCIATION	Harbordale Civic Association, Inc
ZONING DISTRICT:	Port Everglades Development District (PEDD)
LAND USE:	Transportation

CASE PLANNER: Karlanne Grant

Disclosures were made at this time.

Stephanie Toothaker, representing the Applicant, showed a PowerPoint presentation on the Application, which proposes a medical marijuana dispensary in the Harbor Shops development. This would be the second medical marijuana dispensing facility in Fort Lauderdale. They are permitted in the B-1, B-2, and B-3 zoning districts, as well as the Port Everglades Development District (PEDD), pursuant to approval by the Board of Adjustment.

The Ordinance regulating medical marijuana dispensaries provides for distance separation requirements of 5280 ft. (one mile) between facilities of this nature. Only four such dispensaries may be allowed within Fort Lauderdale, with one facility allowed per Commission district. All required separations are met by the Application. The proposed use replaces an Indian restaurant, which is being moved elsewhere on the Harbor Shops site.

The Applicant has performed a full parking analysis for the entire site as well as specifically for the subject location. The land use is Transportation and the zoning is PEDD. The Site Plan includes a formal distance survey showing that the Application meets all minimum separation requirements listed in the Unified Land Development Regulations (ULDR). Ms. Toothaker reviewed the floor plan for the site, noting that the facility will operate similarly to a retail use. Water and sewer capacity for the proposed use will be less than they were for the restaurant previously on the site.

The Applicant has met with the Harbordale neighborhood, which provided an email of support for the use. The Applicant also mailed meeting notice to all affected residents within 300 ft. of the proposed use, although no neighbors attended this meeting.

The Application is compliant with commercial retail uses as well as with Florida Statutes. A detailed security plan has been reviewed by Staff. The Applicant plans to have a guard on site during business hours as well as a live camera system. The proposed hours of operation are currently 7 a.m. to 9 p.m. Changes to these hours would require approval by the Harbor Shops. On-site consumption of the medical product is not permitted. Access by visitors to the site will be controlled.

The required parking for the dispensary is 17 spaces. Because the pad for the subject site is separate from the core of the Harbor Shops, a separate parking analysis was performed for the area, which determined there is a total of 42 available parking spaces for the full building.

Motion made by Vice Chair Fertig, seconded by Ms. Scott, to have the Staff Report made a part of the record. In a voice vote, the **motion** passed unanimously.

Mr. Shechtman estimated that it has been approximately one year or more since the Board approved the first medical marijuana dispensary in Fort Lauderdale, which has not yet opened. He commented that residents currently have to drive to other cities to access prescribed medication, and asked if the Applicant could indicate that the process of opening this facility would not be unnecessarily lengthy. Ms. Toothaker replied that the Applicant is anxious to open the facility and the Site Plan is complete. With the Board's support, they are prepared to request a building permit.

There being no further questions from the Board at this time, Chair Maus opened the public hearing. As there were no individuals wishing to speak on these Items, the Chair closed the public hearing and brought the discussion back to the Board.

Motion made by Vice Chair Fertig, seconded by Ms. Scott, to approve.

Assistant City Attorney Shari Wallen requested clarification that the **motion** included adoption of the findings of fact included in the Staff Report. Vice Chair Fertig stated that this was part of her **motion**.

In a roll call vote, the **motion** passed 8-0.

**2. CASE:
REQUEST: ***

PLN-ULDR-19120001

Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR):

Section 47-24.11., Historic Designation of Landmarks, Landmark Site or Buildings and Certificate of Appropriateness, to Add Section 47-24.11.F., Waivers for Historic Preservation, to Provide Setback and Distance Separation Waivers for Historic Resources; and

Section 47-24.11., Historic Designation of Landmarks, Landmark Site or Buildings and Certificate of Appropriateness, to Add Section 47-24.11.H., Exemption for Designated Local Historic Resources Used for Certain Commercial or Nonprofit Purposes to Provide an Ad Valorem Tax Exemption of Fifty Percent of the Assessed Value; and

Section 47-24.8., Certificate of Appropriateness and Economic Hardship Exception, to Include a Notice Requirement for a Waiver Application; and

Section 47-3.2., Non-conforming Structure, to
Provide a Reference to
Section 47-24.11.F. for Waivers for Historic
Preservation.

GENERAL LOCATION: City-Wide
CASE PLANNER: Trisha Logan

Trisha Logan, representing Urban Design and Planning, explained that this Item is a continuation of discussion of various text amendments related to a Historic Preservation update. An update of the primary Historic Preservation Code was passed in September 2019. The Item before the Board tonight considers two proposed incentives for historic resources.

The first incentive is a tax exemption, which was recommended for approval by the City's Historic Preservation Board (HPB) in December 2019. The comments from the HPB included a recommendation to include a restrictive covenant or other mechanism that would prevent an owner from demolishing the property after taking advantage of the tax exemption. The Broward County Tax Appraiser's Office has indicated that they would not require a restriction of this nature, as it is not required under the State Statute enabling this exemption.

The proposed tax exemption is a 50% reduction in taxes for commercial properties that are designated as historic landmarks or contributing properties within a historic district. At present, this would result in an annual tax reduction of approximately \$60,000 throughout the City. Broward County offers the same tax exemption at the County level.

The second proposed incentive is a historic preservation waiver, which would allow the HPB to grant a waiver to a property owner who has come before them to request a Certificate of Appropriateness. An applicant must demonstrate that they meet certain criteria in order to be granted the waiver.

Two additional amendments are proposed, each of which are necessary due to the proposed incentives. One would adjust noticing requirements, while the second provides a reference in the Nonconforming Structures section of the ULDR to historic preservation waivers.

There being no questions from the Board at this time, Chair Maus opened the public hearing. As there were no individuals wishing to speak on these Items, the Chair closed the public hearing and brought the discussion back to the Board.

Motion made by Vice Chair Fertig, seconded by Ms. Scott, to approve all four Ordinances.

In a roll call vote, the **motion** passed 8-0.

V. COMMUNICATION TO THE CITY COMMISSION

VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE

Mr. Tinter requested a Staff presentation regarding the condition of the City's water and sewer lines and how this might affect development. Assistant City Attorney D'Wayne Spence recalled that the Board recently sent a communication to the City Commission requesting a Staff presentation. The City Commission rejected this request, as they felt information of this nature, including questions regarding capacity, should be elicited during the quasi-judicial process as items come before the Board.

Mr. Tinter suggested that the Board could benefit from having this information provided before individual items are brought before them so questions of an applicant and Staff could be more properly formulated. Attorney Spence explained that each applicant must be provided the opportunity to challenge, query, or rebut the information on which the Board is basing its decisions. This is why disclosures are made at the beginning of each quasi-judicial case: if the Board has information to which an applicant is not privy, this may present an issue.

Chair Maus commented that the request for a presentation was not specific to any project, but would instead be a general update on the state of the City's infrastructure in light of recent breaks and repairs. She requested additional information regarding the basis for the City Commission's decision. Attorney Spence replied that the Planning and Zoning Board's authority as Local Planning Agency (LPA) includes review of Comprehensive Plan and ULDR Amendments, as well as recommendations to the City Commission. They are asked to examine quasi-judicial cases to determine whether or not an application meets ULDR requirements. External information should not be added to presentation of applications.

Attorney Spence continued that the Board should have knowledge of the information on which their decisions are based, as adequacy is one of the criteria that must be reviewed. The capacity letters provided by Staff are to be used in determining whether or not facilities are adequate. He proposed that during future hearings, the Board ask more questions regarding the capacity letters to determine if sufficient capacity truly exists for a given development. As capacity may differ for developments in different parts of the City, this testimony should be elicited at each hearing for each particular application.

Mr. Tinter noted that some of the infrastructure issues currently facing the City are related to maintenance rather than to capacity. He had met with Staff from the Department of Public Works to further discuss this issue so he would have a better understanding of the City's sewer and water systems, and felt a presentation of this nature would be helpful to the rest of the Board as well. He was not able to share this information with other Board members due to the restrictions of the Sunshine Law.

Vice Chair Fertig stated that she felt “blindsided” by the City Commission’s reaction to the Board’s request for a presentation. She expressed concern that it could be more harmful to ask questions regarding capacity during individual hearings than to hear a neutral presentation on these issues. She requested clarification of the authority on which the response to the Board’s request was based, and also requested a written summary of the legal explanation of why they should not see a separate presentation.

Vice Chair Fertig continued that the Ordinance creating the Planning and Zoning Board included language referring to the “study of any existing City plans.” She also recalled that at a previous meeting, she had requested changes to the wastewater capacity letters provided to the Board, at which time they were shown a presentation on this issue. She did not feel the requests for presentations on infrastructure, or on the Central City Community Redevelopment Agency (Central City CRA), were different from presentations the Board has seen on the Downtown Master Plan or other similar items.

Attorney Spence advised that the Downtown Master Plan came before the Board in a legislative capacity: the Board was asked to make a recommendation as LPA before the Plan went to the City Commission. Regarding the Central City CRA, he recalled that when a specific quasi-judicial item came before the Board, a member of the public mentioned that community outreach for rezoning by this CRA was underway, which led the Planning and Zoning Board to ask for more information on “what the City wants” for this area. The concern was that the Board would review the CRA’s plans before they come before the Board in its capacity as LPA, which could prejudice their review of the plans.

Mr. Tinter noted that the Public Works Department follows a specific process when they are asked to provide a capacity letter, and suggested that it could be helpful for the Board to see the document Staff uses in this process. Attorney Spence agreed with this.

Vice Chair Fertig noted that the City Commission has the information the Board has requested and uses it when making quasi-judicial decisions on many of the same projects as the Board. She asserted that if the information is relevant to the Commission, it should also be provided to the Board. She added that seeing a presentation separate from an individual project makes that information more neutral.

Attorney Spence observed that there are multiple issues at hand. With each capacity letter provided, Staff’s analysis is intended to inform the Board of whether or not there is adequate water and sewer service in a specific area for a specific project. If the Board is not clear on the intent of the capacity letter, they should question Staff at that time. He reiterated that the concern is that a separate presentation on infrastructure could have an unintended effect on the individual presentations of projects.

Attorney Spence requested clarification from the Board of what they are asking Staff to do regarding the requested presentation. Mr. Tinter explained that if the Board may not see a full presentation on infrastructure, he would at least like them to be able to see the document used by Staff to formulate capacity. It was clarified that this document is entitled

“Current Capacity Letter Procedure” and is used by the Engineering Division of the Public Works Department. Attorney Spence further clarified that it is not necessary for the Board to make a motion in order to receive this letter as part of their information packets.

Ms. Scott advised that as a member of the City’s Infrastructure Task Force, she has learned that the issue is not capacity: rather, it is the age of the infrastructure, particularly pipes. She suggested that for future applications, the Board might consider asking questions of an applicant and/or making recommendations regarding the state of these pipes. Attorney Spence confirmed that these questions would be useful in determining whether or not infrastructure is adequate. Mr. Tinter characterized this as a concern for adequacy rather than capacity, as adequacy takes age, maintenance, and other conditions of infrastructure into consideration.

None.

There being no further business to come before the Board at this time, the meeting was adjourned at 6:39 p.m.

~~Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.~~

Catherine A. Manz

Chair

Blair Chiappetta

Prototype

[Minutes prepared by K. McGuire, Prototype, Inc.]