

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, MAY 15, 2013 – 6:30 P.M.**

Cumulative

Board Members	Attendance	June 2012-May 2013	
		Present	Absent
Patrick McTigue, Chair	P	11	1
Leo Hansen, Vice Chair	A	10	2
Brad Cohen	P	9	0
Stephanie Desir-Jean	P	10	2
Michael Ferber	P	10	2
James McCulla	P	11	1
Michelle Tuggle	P	12	0
Tom Welch	P	10	2
Peter Witschen	P	10	2

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

Staff

Ella Parker, Urban Design and Planning Manager
D'Wayne Spence, Assistant City Attorney
Eric Engmann, Urban Design and Development
Anthony Fajardo, Urban Design and Development
Linda Mia Franco, Urban Design and Development
Yvonne Redding, Urban Design and Development
Al Battle, Northwest CRA Director
Tom White, City Landscape Architect
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

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	<u>Case Number</u>	<u>Applicant</u>
1.	6T13*	City of Fort Lauderdale
2.	3Z13*	City of Fort Lauderdale
3.	43R13* **	City of Fort Lauderdale / Coral Ridge Park
4.	5P13**	Retail Plaza Properties LLC / Karam Plat
5.	10R13A	CTA Properties, Ltd. / Broward Financial Center
6.	6P13**	BAC Home Loans

7. ~~27R13**~~ ~~Esposito Enterprises Inc. / Sunrise Spa~~
8. ~~47R13**~~ ~~Galleria Landings~~
9. ~~Communication to the City Commission~~
10. ~~For the Good of the City~~

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.

~~Chair McTigue called the meeting to order at 6:32 p.m. and all stood for the Pledge of Allegiance. The Chair introduced the Board members, and Urban Design and Planning Manager Ella Parker introduced the Staff members present. Attorney Spence explained the quasi-judicial process used by the Board.~~

~~**Motion** made by Ms. Tuggle, seconded by Mr. Welch, to approve the minutes of the April 17, 2013 meeting. In a voice vote, the **motion** passed unanimously.~~

~~Chair McTigue noted that the Applicant of Item 8 had requested deferral of this Item until the June 19 Board meeting.~~

~~**Motion** made by Mr. McCulla, seconded by Mr. Welch, to defer to June 19th. In a voice vote, the **motion** passed unanimously.~~

~~Chair McTigue advised that Item 2 was withdrawn from tonight's Agenda.~~

1. City of Fort Lauderdale

Linda Mia Franco

6T13

Request: * **Amendment to City's Unified Development Regulations; Revision to Section 47-6, Business Zoning Districts, eliminating convenience stores and liquor stores from the Business Zoning Districts (CB, B-1, B-2, B-3) when located within the Northwest Regional Activity Center Land Use.**

Project Description As a first phase of the Implementation of the 2006 Sistrunk Boulevard Urban Design Improvement Plan & 2008 NPF CRA Implementation Plan (NWRAC-MU: Illustrations of Design Standards) staff recommends the elimination of convenience stores (as defined in Section 47-35, *Definitions*) and liquor store uses as indicated in the City of Fort Lauderdale Unified Land Development Regulations (ULDR) from the Community Business (CB), Boulevard Business (B-1), General Business (B-2) and Heavy Commercial/Light Industrial Business (B-3) zoning districts when located within the boundaries Northwest Regional Activity Center (NWRAC) future land use designation as indicated on the City of Fort Lauderdale Future Land Use Map.

General Location: The area generally lying west of Flagler Avenue to the City limits, north of Broward Boulevard and south of Sunrise Boulevard.

District: 3

Al Battle, Northwest Community Redevelopment Agency (CRA) Director, explained that at the April 17 meeting, Staff had recommended amendments to the City's ULDR, which would address liquor and convenience store uses within the Northwest Regional Activity Center (RAC) land use area. The amendments included a recommendation to prohibit new permit applications for liquor and convenience stores, and an amortization period designed to eliminate these existing uses over a specific period of time.

Mr. Battle recalled that the Board had expressed concern with the amortization period, and had voted to defer the Item to tonight's meeting in order to address their concerns and questions. Staff has not had sufficient time, however, to analyze the amortization schedule at greater length, and has instead recommended a modified request. This modified ULDR amendment would prohibit new liquor and convenience store uses within the Northwest RAC land use area only.

He continued that Staff feels further research is necessary with respect to any proposed amortization period, due to the variety of ownership structures, leases, and other activities within the district. Staff does, however, plan to return to the Board with additional recommendations to address existing uses and potential zoning changes within the area. They also recommend that the proposed zoning amendment address the pending expiration of the liquor and convenience store moratorium passed more than one year ago, as concerns remain regarding crime, lack of access to healthy food sources, and other issues be applied in the Board's recommendation at tonight's meeting.

Mr. Battle concluded that the proposed amendment will help facilitate positive redevelopment activities within the Northwest RAC and the entire CRA district. Statistical and other information provided in the members' backup materials is included to back up this recommendation.

Mr. Cohen requested clarification that Staff would return at a later date to address any remaining concerns expressed at the April Board meeting. Mr. Battle replied that at present, Staff only wished to address the use; the amortization issue will likely be brought forward in addition to other zoning changes that are still being discussed with the community. He estimated that this would be in August or September 2013, prior to the new fiscal year.

Mr. Cohen asked how many liquor and convenience stores had requested permits within the past 30 days. Anthony Fajardo of Urban Design and Development pointed out that the existing moratorium precluded any formal applications from these uses, although he estimated that there have been at least five such requests during a four- to five-month period. He added that some applicants are existing businesses that would like to add the ability to sell beer and wine.

Mr. McCulla asked if the proposed amendment would apply to businesses such as gas stations that include or are combined with traditional convenience stores. Mr. Fajardo said these businesses would be precluded if they met the definition of convenience store listed in existing Code.

Mr. Cohen said he felt this could limit legitimate businesses that may have the potential to create jobs. Mr. Battle advised that some such businesses have made the decision to locate stores on other roadways, such as parts of Broward Boulevard or Sunrise Boulevard. The RAC is seeking to make the subject area into a "main street" type of neighborhood location, and not all uses would be acceptable or desired within this neighborhood.

Mr. Witschen observed that the businesses in question have been problematic within the community for some time. He characterized the subject businesses as "predatory," and as contributors to a systemic issue within the Northwest RAC.

Ms. Tuggle asked how many liquor and convenience stores currently existed within the subject corridor. Mr. Battle said there are 26 such businesses. Ms. Tuggle noted that since the previous month's meeting, she had learned that approximately half of these businesses were owner-operated. She commented that the businesses' liquor licenses are not tied to their use: for example, a hardware store opened by the same owner could retain its liquor license and continue to sell alcohol on the property.

Mr. Fajardo pointed out that some uses are tied to the license to sell alcohol, which meant a business that wished to sell liquor, such as a bar or restaurant, did not have to meet the definition of a convenience store. The proposed amendment is strictly tied to these uses; a business meeting a different definition may still proceed with an application.

Ms. Tuggle asked if the amendment would take away an owner's liquor license. Mr. Fajardo said this was not the case under tonight's recommendation, as any existing businesses would be grandfathered. If an amortization period is approved at a later date, however, this would affect existing businesses.

Attorney Spence clarified that the Board would not have the right to take away an owner's liquor license: the City would prohibit the subject uses only, within the defined zoning district. Ms. Tuggle asked if an expanded amendment at a later date might close down existing businesses. Mr. Fajardo confirmed that this recommendation could be presented as a new item at a later date.

Ms. Desir-Jean asserted that she was disappointed in both the discussion thus far and the Application, as she had believed Staff might introduce a representative of the Police Department to back up the information included in their report. She declared that she was prepared to vote in favor of the proposed amendment, and hoped to see a proposed amortization period included in any later requests.

Ms. Desir-Jean asked Mr. Battle and Mr. Fajardo what other efforts have been made to address some of the same issues implicated in tonight's proposed amendment. She explained that all Board members may not be aware of how these ongoing issues have been addressed in the past.

Mr. Battle replied that among other activities, a community redevelopment agency (CRA) strives to make recommendations that will make it easier for businesses to operate within their boundaries. Some of the most noticeable difficulties in recruiting businesses to the area include crime and a lack of investment in the area. What the City has learned through discussions with these businesses is that these concerns stem from both the perception and the reality of the subject area. The CRA program was instituted in order to bring the Northwest area into "the mainstream" of Fort Lauderdale by making it a more competitive environment in which businesses can thrive.

He continued that other steps taken within the CRA include providing direct financial incentives for businesses to redevelop properties within the subject area. These incentives are available to every property owner, provided that they institute a use and development project that is consistent with the CRA Plan. Mr. Battle observed that the Plan refers to an overabundance of liquor and convenience stores, among other uses.

He added that other improvements in which the CRA has invested include infrastructure, such as the Sistrunk Project, which covers the entire east-west span of the CRA. Thus far, more than \$20 million has been spent to bring new businesses, housing, infrastructure improvements, and smaller initiatives to the area; however, it remains difficult to create an environment in which businesses want to invest due to existing conditions, including crime. The CRA has continued to look for ways to deal with this issue, such as working with the Police Department and proposing zoning changes.

Chair McTigue asked how many of the 26 liquor or convenience stores are considered to be problematic. Mr. Battle said over half of these stores were problematic due to direct crime, outward appearance, and opportunity for crime, among other considerations. He emphasized that these stores contributed to the appearance of a community that does not seem to care about how businesses operate in the area.

Ms. Tuggle asked if there was any correlation between problematic stores and their owners. Mr. Battle replied that he did not feel this was an issue: what does contribute to the problem, however, is the connectivity between these businesses' leaseholders, even though they may not be owned by the same individual.

Chair McTigue asked if assistance was available to any subject businesses that wished to "retool themselves." Mr. Battle reiterated that incentive programs are available to many businesses within the CRA, although he clarified that this assistance would not be provided to businesses with Code or other liens on their properties. Any outstanding issues between a business and the City would need to be resolved before the business could apply for redevelopment incentives.

Mr. Ferber recalled that at the April Board meeting, he had understood the amendment to apply to businesses on the Sistrunk Boulevard corridor; however, the boundaries presented for tonight's Application appeared to be different. Mr. Battle clarified that the proposed zoning change would only affect the Northwest RAC, including the sections of the Sunrise and Broward Boulevard corridors that serve as the RAC's boundaries.

Mr. Ferber continued that he shared the concerns raised by Mr. Cohen and Mr. McCulla; however, he agreed that there is a long-standing nuisance within the CRA, which contributes to the difficulty of attracting new businesses. He noted that the heart of the nuisance seems to be "ill-conceived" State and federal laws.

There being no further questions from the Board at this time, Chair McTigue opened the public hearing.

Sheryl Dickey, private citizen, stated that she has owned a business on Sistrunk Boulevard since 1998. She advised that the surrounding community has verbally reported illegal activities operated by these stores, such as running tabs or selling single cigarettes or bottles of beer. She pointed out that the community has made a major investment in the area, which is close to Downtown Fort Lauderdale, and would like the same protection and assistance that is given to other parts of the City that wish to redevelop in an appropriate way. Ms. Dickey concluded that she encouraged the Board to support the proposed amendment.

Ms. Desir-Jean asked if Ms. Dickey felt the owners of convenience and liquor stores on Sistrunk Boulevard were partners in the community. Ms. Dickey said at least two of these owners had been asked, at community meetings, to close at 10:00 or 11:00 p.m., as later hours contribute to problems; however, the owners responded that these were their most lucrative hours, and did not wish to work with the community. She concluded that they were not good neighbors in her opinion.

Ms. Tuggle asked if the temporary liquor licenses granted to special events, such as festivals, would be affected by the proposed amendment. Mr. Fajardo said this would not be affected.

Mr. Cohen offered the example of a large convenience store that might be a better business than the existing stores. He asked if the amendment would limit this type of business, such as a 7-11, from coming to the area. Mr. Fajardo reiterated that this would depend upon whether or not the business is defined as a convenience store. He advised that stores functioning outside this definition, such as stores selling fresh produce in addition to other items, would not be precluded, as they would be outside the definition of a convenience store.

Mr. Cohen stated that this would mean the individuals who have expressed interest in opening convenience or liquor stores could do so if they added, for example, fresh fruit. Mr. Fajardo pointed out that this was not a reasonable assessment. Mr. Cohen said he wished to know why "legitimate businesses" would be prohibited from opening. He suggested that Staff put together a comprehensive package of ways to address the existing problems, such as limiting the subject businesses' hours of operation.

Mr. Fajardo replied that data on this topic required additional analysis, and it was not yet determined if it would be part of the final recommendation coming before the Board at a later date. He explained that arbitrarily limiting hours of operation would require analysis of the potential impact of this regulation and how it would mitigate the adverse effects of the use.

Ms. Desir-Jean asked what the next step would be if the Board recommended approval of the amendment to the City Commission. Mr. Fajardo replied that the

existing moratorium will expire on June 2, 2013; at the most recent City Commission meeting, Staff had held a first reading to extend the moratorium for another six months. The Commission had unanimously approved continuation of the moratorium with no conditions attached.

Gino Shahan Jamison, private citizen, requested that the Board support the proposed amendment. He pointed out that while many individuals might travel through the Sistrunk Corridor, they do not live in the subject area. He asserted that Sistrunk Boulevard was "the last piece of the puzzle" that could help Fort Lauderdale become a model city; however, he felt the area has been forgotten and overlooked in the past.

Mr. Jamison stated that the stores in question constitute a nuisance to the community. He advised that members of the community have reached out for many years to the owners and operators of convenience and liquor stores to discuss the nuisance they create, but have been unable to bring these individuals into the discussion. He concluded that support of the amendment would help make the Sistrunk area a better place for residents who care about their community.

Chair McTigue asked how Mr. Jamison felt about the stores that did not constitute a problem. Mr. Jamison replied that the previously proposed amortization period would allow stores that are not problematic to transition to more positive uses. He declared that drastic measures are necessary to address the problem, which has existed for many years. Chair McTigue explained that one difficulty facing the Board was the possibility that businesses which were not part of the problem would be punished as well as the problematic stores; in addition, better stores might be prohibited from coming into the community.

Sonya Burrows, private citizen, stated that she is a longtime business owner on the Sistrunk Corridor as well as a resident of the area. She asserted that if there had been greater historic concern for the community, it would be unlikely that 26 liquor and/or convenience stores would have been allowed to locate in such a small area. She did not feel there was a similar concentration of these businesses elsewhere in the City, and advised that residents of the community are now suffering because the City has allowed concentration of these uses to occur.

She added that the only proposal before the Board tonight was the amendment to prevent additional liquor and convenience stores. While she agreed that there are some such stores that are not problematic, even legitimate businesses deter economic redevelopment, as businesses will not relocate to the area due to crime and safety concerns. She urged the Board to support the proposed amendment.

Ms. Jean briefly left the meeting at 7:30 p.m.

Charles King, private citizen, said the CRA was operated “like a little Soviet Union,” which attempted to determine what businesses could exist within the area. He added that he felt Staff would not be able to show statistics of crime in the area, as this assertion was “all conjecture.” He concluded that there is a lack of investment in the CRA because it is treated as a separate part of the City.

As there were no members of the public wishing to speak on this Item, Chair McTigue closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Welch, seconded by Mr. Witschen, to approve.

Ms. Desir-Jean returned to the meeting at 7:34 p.m.

Mr. Ferber observed that the issue before the Board appeared to be one of home rule, as the stakeholders in the subject area are in favor of the proposed amendment. He said he was willing to move the process along to the City Commission, although he felt future decisions might prove to be more difficult.

Mr. McCulla agreed that the neighborhood had the right to determine whether they wanted more liquor or convenience stores, although he noted that he would feel differently with regard to the possibility of closing businesses.

Mr. Cohen stated that he was concerned that “legitimate businesses,” which might improve the neighborhood and provide employment, would be harmed by the amendment.

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

Mr. Cohen requested that when graphics and maps were brought before the Board by Staff at a later time, they should provide greater detail regarding where crimes occurred.

3. City of Fort Lauderdale / Coral Ridge Park Eric Engmann -43R13

~~Request: * ** Public Purpose Request; Shade Structure over playground equipment at Coral Ridge Park~~

~~Legal-Description: -CORAL RIDGE GALT ADD 27 46B LOT 10 BLK 14~~

~~General Location: -2401 NE 27 Terrace~~

~~District: -4~~