



CITY OF FORT LAUDERDALE

**PLANNING AND ZONING BOARD MEETING MINUTES
DEVELOPMENT SERVICES DEPARTMENT
700 NW 19 AVENUE, FORT LAUDERDALE, FL 33311
WEDNESDAY, JUNE 19, 2024 – 6:00 P.M.**

Board Members	Attendance	Present	Absent
Michael Weymouth, Chair	P	1	0
Brad Cohen, Vice Chair	P	1	0
John Barranco	P	1	0
Brian Donaldson	P	1	0
Steve Ganon	P	1	0
Marilyn Mammano	P	1	0
Shari McCartney	P	1	0
Patrick McTigue	P	1	0
Jay Shechtman	P	1	0

Staff

Ella Parker, Urban Design and Planning Manager
Chris Cooper, Director of Development Services
Shari Wallen, Assistant City Attorney
Jim Hetzel, Principal Urban Planner
Karlanne Devonish, Principal Urban Planner
Laura Tooley, Urban Forester
Mark Koenig, Urban Landscape Designer
J. Opperlee, Recording Clerk, Prototype, Inc.

Communication to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Weymouth called the meeting to order at 6:00 p.m. and the Pledge of Allegiance was recited. The Chair introduced the Board and Staff members present, including new Board member Brian Donaldson.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

(Revised Minutes for April 17, 2024, PZB Meeting “attendance correction,” and Draft Minutes for May 15, 2024, PZB Meeting)

Motion made by Ms. Mammano, seconded by Vice Chair Cohen, to approve the April minutes. In a voice vote, the **motion** passed unanimously.

~~Mr. Barranco stated his intent to abstain from voting on approval of the May 15, 2024 meeting minutes, as he had not been present at that meeting. Assistant City Attorney~~

~~Motion made by Ms. Mammano, seconded by Mr. Donaldson, to recommend approval of Case Number T23007, and the Board hereby finds that the text amendments to the ULDR are consistent with the Comprehensive Plan. In a roll call vote, the motion passed unanimously (9-0).~~

6. CASE: UDP-T24007

REQUEST: * Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) Section 47-21, Landscape and Tree Preservation Requirements

APPLICANT: City of Fort Lauderdale

GENERAL LOCATION: City-Wide

COMMISSION DISTRICT: I, II, III, IV

CASE PLANNER: Karlanne Devonish

Ms. Devonish explained that this Item is a ULDR amendment to Section 47-21, which addresses landscaping and tree preservation requirements, particularly focusing on tree preservation. This has been an ongoing effort in the City since 2018. In November 2019, this Item was brought before the City Commission in a workshop format, and the Commission directed Staff to move forward with amendments to the City's tree preservation and installation requirements.

The first attempt at processing the amendments came before the Planning and Zoning Board in March 2021, at which time the Item was deferred to allow time to seek additional feedback and bring a landscape architect on board to assist with the amendments. Staff brought the Item back in November 2021, and the Item was again deferred so the Board members would have additional time to review the proposed Ordinance, which was lengthy.

When the Item came back in December 2021, it was approved by a 4-2 vote, with the recommendation to require an Urban Forestry Master Plan that would include incentives to maintain old growth forests. The Item went to the City Commission in February 2022, at which time there was discussion of a workshop between City Commissioners and other stakeholders in order to hear more input. The workshop was held and the Item went before the Commission once again in June 2022; however, a motion to pass the Ordinance failed at that time.

Staff addressed the comments received from the June 2022 City Commission on the Item and a presentation was made to the Planning and Zoning Board in December 2022 in order to keep moving the Item forward. They were advised to hear additional input from stakeholders. . Since that time, Staff has bifurcated the Ordinance to focus primarily on tree preservation.

Some of the proposed changes include terms and definitions such as critical root zones, desirable trees, desirable palms, and protection barricades. Another proposed change was to the protection needed for trees and palms: for example, the critical root zones of

existing trees must now be provided within permitting plans. There must be limited impacts to tree protection zones during construction, and activities allowed and prohibited within that area are listed. Informational signage will also be required to show what is prohibited within the tree protection zone.

Prohibited activities include:

- No equipment, debris, or building materials may be placed within the areas surrounded by protective barriers
- No disposal of any waste material, such as paint or solvents
- No vehicles or equipment is allowed within protective barriers

The following would be allowed within the tree and palm protection zone:

- Hand-digging and grading activities
- Areas must be graded to a point that meets the outside of the tree protection zone
- Underground lines
- Infrastructure such as plumbing, electrical, irrigation, and telecommunication lines

Another change within the current proposal is an incentive known as a tree credit. Staff proposes that desirable or specimen trees that are retained would be based on the inches of diameter at breast height (DBH). One existing tree preserved at between 12 in. and 24 in. DBH would be counted toward two required on-site trees. If a preserved existing tree has more than 24 in. DBH, it would count toward three on-site required trees.

The proposed amendments would also lower condition rating thresholds. Existing Code has a condition rating of 70%, which would be reduced to 60%. This would allow inclusion of trees with slower growth rates and smaller size at maturity. Trees that meet size requirements with a condition rating of over 60% would now be considered specimen trees. Staff has also included large, medium, and small categories. Palms will be categorized as large or small and considered desirable.

Another proposed change would include enforcement and civil remedies, which do not currently exist within Code. If a violation is committed within a 12-month period, there will be a \$1000 fine per tree, plus a monetary payment into the Tree Canopy Trust Fund for the equivalent value of the tree or palm. If the offense is repeated within the same 12-month period, the fine would increase to \$2000 per tree, with another payment into the Tree Canopy Trust Fund at twice the equivalent value of the tree or palm.

Funding for the Tree Canopy Trust Fund goes toward the planting of trees on public land and rights-of-way, distributing trees to the public, and replacing hazardous trees on City properties or rights-of-way. The proposed amendments would provide a framework for market-based replacement value of trees permitted for removal. The formula for the existing equivalent value would be updated based upon today's market.

Within the time that the amendments were in process, Staff awarded a contract for an Urban Forestry Master Plan, which will define the status of the City's urban forest. Staff

also hopes to be able to establish clear priorities and objectives and guide appropriate tree planting, enhancement, maintenance, management, and regulation of trees throughout the City. They also hope the Urban Forestry Master Plan will recommend incentives for the preservation of existing trees. These incentives would most likely be brought back as amendments to Code at a later date.

Vice Chair Cohen asked if the amount of the fine for unpermitted tree removal should be related to the size of the tree, as the \$1000 fine may not be sufficient to deter a builder from removing it. Ms. Devonish noted that in addition to the fine per tree, there is also a monetary payment for the equivalent value of the tree which would be paid into the Tree Canopy Trust Fund. The equivalent value is determined using a new formula proposed within the amendments.

Mr. Donaldson asked if the fine per offense within a 12-month period is calculated per property or per developer. He pointed out that some developers may calculate the cost of unpermitted tree removal within their business model. Ms. Devonish replied that fines would be tied to the individual parcel. Chris Cooper, Director of Development Services, further clarified that the reason the fine is calculated per parcel rather than per developer is because the Code Enforcement process is also applied per parcel.

Mr. Donaldson also noted that the values of the City's urban forest have not been updated in roughly 20 years, and asked if Staff is comfortable that the proposed figures are tied to realistic values. Ms. Devonish explained that the formula would be based upon current market value, which means it would continue to work a number of years into the future.

Ms. Mammano requested additional information on new proposed regulations for tree abuse. Laura Tooley, Urban Forester, advised that tree abuse has been illegal in Fort Lauderdale for several years; the new regulations expand the definition of tree abuse to include issues such as changes in grade. This section of the proposed amendments was re-numbered and moved.

Ms. Mammano noted a regulation regarding intentional neglect of tree nutrition, asking if this would include failure to feed palms. Ms. Tooley explained that while proving intent would likely be difficult, actions can be taken which could inhibit a tree's ability to absorb nutrients from soil, resulting in nutritional deficiencies. This would be different from actions which attempt to kill a tree.

Ms. Mammano stated that part of her concern with the section was the difficulty of proving intent, as well as what party would investigate this issue. Mr. Donaldson observed that enforcement of this regulation would be done by Staff, and pointed out that if the regulations are not sufficiently stringent, the City could not enforce cases in which individuals have taken action that could harm or kill old-growth trees.

Ms. Mammano also noted a reference to City Commission-protected trees, requesting clarification of how many of these trees remain in the City. It was clarified that there are 11 of these trees.

Ms. Mammano asked if there are any natural forest areas, as designated by Broward County, in Fort Lauderdale. Ms. Devonish replied that there are none in Fort Lauderdale, but Staff wished to include this category in case these areas are designated in the future.

Mr. Barranco requested identification of the section of Code where equivalent values were discussed. Ms. Tooley advised that Exhibit 6 refers to two ways to calculate equivalent replacement value which apply to specimen and non-specimen trees respectively. She reviewed the formulae for this calculation, noting that specimen tree values are substantially higher.

Mr. Barranco commented that the proposed amendments include a great deal of information which the Board members may not have had sufficient time to review. He recalled that in the past, when significant Code changes have been proposed, the Board has met in workshop format to discuss the changes in depth with Staff. He concluded that the members will either need more time to review the proposal, or Staff will need to undertake more comprehensive education of the Board members so they clearly understand what is being brought forward.

At this time Chair Weymouth opened the public hearing.

Brucie Cummings, private citizen, expressed concern with the price calculation for trees, pointing out that it can be easy for a property owner to remove a tree without the City having any knowledge of its circumference. She felt \$1000 per tree for a first offense was insufficient to deter development. She concluded that there should be more time to review the proposed amendments.

Ted Inserra, president of the River Oaks Civic Association, stated that when the proposed amendments were discussed by the City Commission, there were repeated remarks about the difficulties within the Ordinance, including burdens of proof as well as the varying effects of large and small trees on the environment. He also agreed that \$1000 was an insufficient fine, and recommended that the permitting process for tree removal be revisited.

Chair Weymouth noted that the Board members had received a letter from the next speaker, which was sent to them by the City.

Doug Coolman, representative of an advisory group, stated that the Item should be deferred, as the group believes additions are necessary to the current draft. These would include current arboriculture and landscaping industry standards, as well as increased measures for old growth tree protections, which were previously requested by both the Board members and community stakeholders.

Mr. Coolman continued that there has been little consideration of the inclusion of incentives for the further protection of the City's tree canopy. He expressed concern that the completion of an Urban Forestry Master Plan, which could help identify these incentives, may be years away, and urged the City to take action now. He expressed concern with specific technical items addressed in the proposals which he felt should be addressed before the Item is sent to the City Commission.

Mr. Coolman concluded that the advisory group was not allowed sufficient time for internal review of the document or to meet with Staff and/or members of the Planning and Zoning Board in advance of tonight's presentation. He asked that the Item be deferred and that the Board request further Staff consideration of the advisory group's comments and recommendations.

Natalia Barranco, private citizen, stated that she is also a member of the advisory group to which Mr. Coolman had referred. She suggested that input from landscape architects, civil engineers, land use attorneys, and other professionals would be necessary to address this issue. She concluded that trees can only be protected by assigning value that would keep them in place.

Ms. Mammano requested additional information on how the value of a tree could be determined. Ms. Barranco explained that current Code only allows the mitigation of a specimen tree by dollar value, as that tree cannot be adequately replaced by smaller trees.

Mark Koenig, Urban Landscape Designer with the Development Services Department, confirmed that the only mitigation option for removal of a specimen tree under the City's current tree preservation Ordinance is a monetary donation. The proposed new Ordinance includes other options, such as mitigation through on-site planting in lieu of payment. This allows for the planting of a much smaller tree rather than requiring replacement of one specimen tree with another.

Ms. Barranco asserted that a tree to be removed should be given its rightful value by Ordinance. Ms. Mammano pointed out that property owners must also be given a way to use their property within their own property rights, which is the difficulty presented by Ordinances of this nature.

Mr. Cooper explained that when the proposed Ordinance was not passed by the Commission in 2022, Staff chose to bifurcate the Ordinance, separating tree preservation from tree installation. He pointed out that issues such as incentivization are more properly tree installation issues rather than preservation. Incentives such as allowing a setback reduction or extra height to encourage a property owner to retain a tree will be addressed in a separate phase of the process. An Urban Forestry Master Plan will also provide better information about what should be incentivized for preservation of the City's tree canopy.

Mr. Cooper concluded that any issues not addressed in the proposed Ordinance before the Board at tonight's meeting may be part of the next phase.

Ms. Barranco stated that there are still items within the proposed Ordinance which need more work, and suggested that if it goes forward, only the expanded definition of specimen trees and the monetary value should be approved.

Ms. Mammano recalled that Mr. Coolman had suggested the advisory group could prepare a checklist of its comments and suggestions for the proposed Ordinance within a two-week time frame. Mr. Coolman replied that the group could provide the Board with an overview of their recommended changes within two weeks, and cited examples of areas in which he believed the Ordinance could be further improved with respect to tree preservation.

Mr. Donaldson expressed concern that work has been done toward a new Ordinance for several years, but as there has been no resulting Ordinance thus far, trees continue to be cut down. He cautioned that further delay would not be the right action, and suggested that the Item be deferred to a specific date so the Board and others have sufficient time to review it. He also recommended to Staff that the process may need an additional phase.

Mr. Coolman asserted that the advisory group could work with Staff to address many of the issues he had raised. He also recommended a workshop between the advisory group and the Planning and Zoning Board. Mr. Donaldson emphasized that the Ordinance should go before the City Commission when they return from their August recess and should not be too complicated to pass at that time.

Mr. Barranco stated that the Board needs to have a clear understanding of the issues on which they are asked to vote. Chair Weymouth advised that after hearing a significant amount of public comment, the Board should close this public hearing and make a decision on how they wish to proceed.

Barbie Pearson, private citizen, recommended that the Board receive a list of bullet points and/or an intensive workshop with Staff to help them understand the document before them.

As there were no other individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

Motion made by Vice Chair Cohen, seconded by Ms. Mammano, to defer for 60 days until the August meeting, and I would ask that the packet for this specifically be given to us at least two weeks before that August meeting.

Ms. Mammano suggested that the Item be deferred for 30 days rather than 60. Vice Chair Cohen stated that he wanted two weeks to read the Item's documentation before it comes before the Board once again.

Mr. Cooper asked if the Board would like a more thorough presentation of the Item at their July meeting. Vice Chair Cohen advised that while he would still like the Item to be deferred until August, he would be in favor of hearing a status update on it in July.

Vice Chair Cohen requested that the Board members be provided with the Ordinance's information packet by August 1 so they would have time to review it.

Chair Weymouth also requested that the Board be informed, at the July meeting, of the specific areas on which the City and the advisory group have worked.

Attorney Wallen explained that Staff is required to give the Board the entire Ordinance when it is presented for a vote. Mr. Donaldson suggested that there be a presentation at the July meeting to review the items on which Staff and the advisory group have come to some agreement. It was also noted that the Ordinance must be reviewed by the City's Legal Department before it can be brought before the Board.

In a roll call vote, the **motion** passed unanimously (9-0).

~~VI. COMMUNICATION TO THE CITY COMMISSION~~

None.

~~VII. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE~~

~~Vice Chair Cohen proposed that there be further discussion of allowing offsite parking to be counted toward a site's parking requirement if it is located within a certain distance of that site. This may include parking that is privately owned or operated.~~

~~Ms. Parker clarified that in the case of a formal parking reduction, offsite parking can be included in the applicant's analysis; however, it cannot be considered as part of Code, as this would require formal agreements.~~

~~There being no further business to come before the Board at this time, the meeting was adjourned at 8:08 p.m.~~

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

Mike Seymour
Chair

Leslie Henn, Jr.
Prototype

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