



CITY OF FORT LAUDERDALE

**MEETING MINUTES  
PLANNING AND ZONING BOARD  
CITY HALL COMMISSION CHAMBERS  
100 N. ANDREWS AVE., FORT LAUDERDALE, FLORIDA 33301  
WEDNESDAY, NOVEMBER 18, 2020 – 6:00 P.M.**

<b>Board Members</b>	<b>Attendance</b>	<b>Present</b>	<b>Absent</b>
Catherine Maus, Chair	P	5	0
Mary Fertig, Vice Chair	P	5	0
John Barranco	P	5	0
Brad Cohen	P	5	0
Coleman Prewitt	P	5	0
William Rotella	P	5	0
Jacquelyn Scott	P	5	0
Jay Shechtman	P	5	0
Michael Weymouth	P	4	1

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
- Shari Wallen, Assistant City Attorney
- Jim Hetzel, Principal Urban Planner
- Trisha Logan, Historic Preservation Planner
- Yvonne Redding, Urban Design and Planning
- Adam Schnell, Urban Design and Planning
- Raj Verma, Director of Public Works
- Tom Lawrence, Public Works
- Igor Vassiliev, Public Works
- Benjamin Restrepo, Transportation and Mobility
- Brigitte Chiappetta, Recording Secretary, ProtoType, Inc.

**Communications to City Commission**

None.

**I. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

Chair Maus called the meeting to order at 6:00 p.m. Roll was called 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. Prewitt asked if the encroachment agreement would remain in place if the Board does not recommend in favor of the vacation. Attorney Wallen confirmed this. She added that should the Board not approve the request, there must be a basis within Code for its denial and it should be stated as part of the record. It was clarified that there was no Resolution attached to this Item.~~

~~Vice Chair Fertig stated that she felt there would be potential safety issues at the subject location if it were reopened. Chair Maus advised that she would vote in opposition of the vacation based on Section 47-24.6.A.4, as she was not certain the property is no longer needed for public purpose.~~

~~Vice Chair Fertig asked if the Board could recommend denial of the vacation request but approval of retaining the current encroachment agreement. Attorney Wallen advised that the Board may vote solely on the vacation; the encroachment lies outside their purview with respect to advising the City Commission.~~

~~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.~~

~~Ms. Gray addressed issues raised during public comment, pointing out that Staff had originally opposed the Application until they had suggested the dedication of an easement to the City, which would provide for pedestrian use, utilities, and emergency vehicles. Although subject property is currently serving no public purpose, its formal vacation and dedication of an easement would serve the community.~~

~~With regard to the property's impact on the alleyway, Ms. Gray noted that there will be no changes to traffic patterns, as the area has been closed off for over 30 years. In terms of a Site Plan, she reiterated that there was previously a Site Plan on which the Applicant was working at the same time; however, no Site Plan is currently available for presentation. She confirmed that the Applicant is committed to providing the easement to the City.~~

~~**Motion** made by Vice Chair Fertig, seconded by Mr. Shechtman, to approve with Staff conditions. In a roll call vote, the **motion** failed 3-6 (Chair Maus, Mr. Barranco, Mr. Cohen, Mr. Prewitt, Ms. Scott, and Mr. Weymouth dissenting).~~

**5. CASE:**

**PLN-ULDR-20010001**

**REQUEST: \***

**Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) By Creating Article XII., Section 47-36; Establishing a Transfer of Development Rights Program**

**PROPERTY**

**OWNER/APPLICANT:**

**City of Fort Lauderdale**

**GENERAL LOCATION:**

**City-Wide**

**CASE PLANNER:**

**Trisha Logan**

Historic Preservation Planner Trisha Logan recalled that this Item was deferred from the October 21, 2020 meeting so Staff could address a number of points the Board had raised at that time:

- Provide education about available incentives
- Consider adjusting the Ordinance to allow for historic designation to be revocable if transfer of development rights (TDR) is not approved
- Reach out to other cities for feedback on what does or does not work for them regarding TDR

Ms. Logan showed a PowerPoint presentation on the process by which the proposed Ordinance was developed. Beginning in 2018, Staff submitted an inquiry for resources on best practices for TDR programs. These resources were reviewed in preparation of the Ordinance's development, along with the Broward County Land Use Plan, which served as a guiding document. They also reached out to other South Florida municipalities to gather more information. Cities contacted included Sunny Isles, Miami Beach, and West Palm Beach, all of which have successful TDR programs.

The City's Historic Preservation Board (HPB) reviewed the proposed Ordinance in August 2020 and voted unanimously in support of it, although they had questions on how the process would work and how prospective buyers could identify historic resources. Ms. Logan noted that these details are not included in the proposed policy. Staff also reached out to the Council of Fort Lauderdale Civic Associations as well as the Sailboat Bend Civic Association with an offer of a presentation, but the offers were declined.

Other historic preservation incentives aside from the proposed TDR program include:

- Property tax exemptions for commercial properties and for historic properties that are making improvements
- Other exemptions for parking, flood elevation requirements, and Florida Building Code requirements for which historic properties could qualify

Information on these incentives is disseminated in various ways. Sometimes Staff is contacted directly by an interested party; there is also a video discussing the available incentives on the Fort Lauderdale Historical Society's YouTube page, and information is available on the City's website.

Ms. Logan reviewed the proposed TDR process, which would have two steps. The first step is a Certificate of Eligibility, which is applied for by the sending site. The second step is a Certificate of Transfer, which is a real estate transaction between the sending and receiving sites. The latter certificate transfers any unused floor area or density from a historic resource to new development.

The Certificate of Eligibility is a calculation provided by an applicant, verified by Staff, and issued by the Historic Preservation Planner. It expires 18 months after issuance.

Individuals have the right to appeal the determination by Staff. Ms. Logan showed a map of all historic landmarks and districts within Fort Lauderdale.

Staff proposed an update to the Ordinance to address the comment concerning the ability to revoke historic designation if a TDR does not go through. This proposed update would allow properties qualified for historic designation to apply for a Certificate of Eligibility. Properties must be identified as eligible historic resources before applying for a Certificate of Transfer.

The Certificate of Transfer is a real estate transaction between both the sending and receiving sites which involves an application requiring verification of eligibility and confirming that all criteria have been met. This application goes through the DRC process. Any rights transferred to the receiving site are transferred in perpetuity.

Criteria within the proposed Ordinance for receiving areas include:

- Land in the receiving area must comply with applicable zoning district requirements
- Receiving area cannot be located on a barrier island or within an adopted adaptation action area
- All receiving areas must comply with Federal Aviation Administration (FAA) regulations

Receiving areas for density include the properties within the City's unified flex zone and within certain zoning districts in the Uptown Urban Village. The Uptown Urban Village may also receive a transfer of floor area.

Criteria for receiving sites include:

- Must be located within a receiving area
- Must meet storm evacuation standards
- Must be compatible with adjacent and planned land uses
- No outstanding liens or violations on the property
- May not negatively affect historic resources or environmental concerns
- Must have adequate public facilities

These criteria would be reviewed when a project applies for a Certificate of Transfer.

Ms. Logan reviewed the heights and densities permitted by right in the respective receiving areas, as well as the additional heights and densities that could be allowed through TDR and the maximum heights allowable under the conditional use process. The maximum density throughout most receiving areas is 50 units per acre; the TDR would allow developers to add another 10 units per acre.

Ms. Logan noted that the minimum size of units that are incorporated into a new development using TDRs is 400 sq. ft.

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

Mr. Shechtman noted that properties zoned within the Uptown Urban Village (UUV) may already build up to 150 ft. of height through conditional use; the maximum height allowed through TDR would be 45 ft. on top of the 75 ft. by right. He asked why a property would secure TDR for this addition when greater height is available through conditional use. Ms. Logan explained that conditional use presents an additional process, while TDR acts as a real estate transaction. Mr. Shechtman commented that the example of conditional use rather than TDR applies in most TDR-eligible districts.

Mr. Shechtman asked if allowing properties to seek Certificates of Eligibility prior to their designation as historical resources is a recommendation or a change to the Ordinance. Ms. Logan replied that this is an option for the Board to consider. Mr. Shechtman stated that while this is a novel idea, there are still issues with the TDR proposal, including the 18-month time limit in which TDR must occur after a property has been designated historic. He felt this discouraged property owners from designating their properties as historic until they have identified a receiving property.

Attorney Wallen clarified that it is the Certificate of Eligibility, not the transfer itself, which expires in 18 months. This Certificate is a calculation of the development rights that a property may have. Once rights have been transferred, they continue into perpetuity. If the Certificate expires, the owner may apply for another. Certificates of Eligibility may not be issued in perpetuity, as there is the possibility that Code may change.

Mr. Shechtman continued that another issue is that once a receiving property is granted TDRs, they may no longer be sent to another property in the future. He felt this would create trepidation among the development community that they may have purchased rights that cannot be transferred elsewhere if they can no longer be used for a specific development. He concluded that the two issues he had raised should be addressed before the Board makes a recommendation to the City Commission.

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

Robert Lochrie, private citizen, stated that he did not see a downside to approving the proposed Ordinance. He added that Staff has put a great deal of work into creating the Ordinance at the direction of the Mayor and City Commission and balancing the legal rights of residents, developers, and property owners involved in TDR. He suggested that allowing property owners to secure a Certificate of Eligibility stating their property's worth prior to its historic designation would be helpful. He also recommended that owners be able to use the certificate again in the future if it expires, as long as there has been no designation of property.

Mr. Lochrie continued that another concern is the process by which a TDR is granted, including neighborhood compatibility, in order to use the rights. If a developer's project is turned down and they cannot use the rights, they should be able to sell the rights to another party or move them to another location. He concluded that he would like more information on how floor area ratio (FAR) rates convert to stories.

Courtney Crush, private citizen, also addressed the 18-month period for which a Certificate of Eligibility is issued, pointing out that the owner of the certificate may not be able to find a developer or buyer willing to accept TDR until they are approved. For this reason, she felt this proposed time frame may be a problem, and asked if there is a way it may be extended if a contract, Site Plan, or other application is pending. She added that the Ordinance should more clearly quantify the development envelope, including the factoring in of yard modifications in some zoning districts.

Ms. Crush continued that the City may wish to consider increased incentives for single-family homes, pointing out that the characters of some residential neighborhoods could be enhanced by TDR. She also noted that while adding density to the barrier island/beach area is not a land use goal for the City, allowing transfers within the barrier island might help to preserve architecturally interesting buildings in that area. She concluded that she felt the proposed Ordinance is a step in the right direction.

Ms. Scott stated that while she was in favor of the Ordinance, she felt it could be improved through better incentives for historic preservation. She suggested that a single-family home on a lot with higher density, for example, should be able to transfer its difference in density without eliminating the total density available. She felt this would have greater value for both the development community and historic preservation within the City.

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.

Vice Chair Fertig observed that Staff has responded to all the concerns the Board had raised the previous month. She suggested that the Board provide additional suggestions for Staff to review before the Ordinance is sent to the City Commission. Chair Maus stated that the Board has thoroughly reviewed the proposed Ordinance, and she felt the only action remaining to be taken would be to pass it on to the City Commission, where it would have another two public hearings.

Mr. Shechtman noted that the Board has raised a number of issues, but has not addressed others, such as the issue of project approval raised by Mr. Lochrie. He and Ms. Scott felt this should be incorporated into an actual Resolution that the Board can pass on to the City Commission.

**Motion** made by Ms. Scott, seconded by Mr. Weymouth, to defer until next month and let Staff look at these recommendations.

Vice Chair Fertig asked if 30 days' deferral would provide sufficient time for Staff to review the recommendations made at tonight's meeting. Ms. Logan replied that most of the points raised during discussion are inconsistent with what is permitted by the Broward County Land Use Plan.

Attorney Wallen advised that Staff can review the Board's recommendations as included in their motion before the Ordinance is presented to the City Commission, but cautioned that she could not promise the Ordinance would undergo any changes based on the recommendations before the December 2020 meeting.

In a roll call vote, the **motion** passed 5-4 (Chair Maus, Mr. Barranco, Mr. Prewitt, and Mr. Shechtman dissenting).

Ms. Logan requested clarification of the specific direction provided by the Board, including the ideas they would like Staff to research further before the next meeting. It was clarified that these included Ms. Scott's recommendation that historic properties may count existing structures in density and FAR calculations when transferring development rights. Attorney Wallen advised that this is not an option under the Broward County Land Use Plan, and the Ordinance would not be changed accordingly.

Ms. Scott concluded that Staff should review the meeting minutes and inform the Board in December of what changes they may or may not make.

Mr. Shechtman advised that the Ordinance include language allowing properties currently on the state's historic registry to seek Certificates of Eligibility prior to their designation as historic. He added that the Ordinance should also consider allowing receiving sites to transfer their TDRs to another site in the future.

#### **~~V. COMMUNICATION TO THE CITY COMMISSION~~**

None.

#### **~~VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE~~**

##### **~~City's Infrastructure Capacity Analysis Process and Waterway Quality – Public Works Department~~**

~~Ms. Parker introduced Director of Public Works Raj Verma and project managers Tom Lawrence and Igor Vassiliev. Mr. Verma advised that tonight's PowerPoint presentation addresses both the City's wastewater capacity and collection system as well as the water distribution system.~~

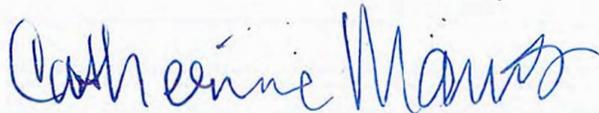
~~Mr. Verma stated that the City's wastewater system is a three-part system consisting of collection, transmission, and treatment networks. The collection network moves wastewater from development sewer laterals to gravity mains, which then moves~~

~~Ms. Parker confirmed that the dates before the Board have been updated to avoid any conflict with Yom Kippur.~~

~~In a voice vote, the motion passed unanimously.~~

There being no further business to come before the Board at this time, the meeting was adjourned at 8:45 p.m.

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



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Chair



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Prototype

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