
REQUEST: Amendment to the City's Unified Land Development Regulations ("ULDR");
Proposed revision to Section 47-24.4, Rezoning

Case Number	T15003
Applicant	City of Fort Lauderdale
ULDR Sections	47-24.4. Rezoning (City Commission)
Notification Requirements	10-day legal ad
Action Required	Recommend approval or denial to City Commission
Authored By	Anthony Gregory Fajardo, Zoning Administrator

BACKGROUND/DESCRIPTION:

At the January 20, 2015 Planning and Zoning Board (PZB) hearing, the PZB communicated to the City Commission a desire to amend the City's Unified Land Development Regulations (ULDR) relative to rezoning application criteria. The PZB clarified the request at the March 18, 2015 PZB hearing recommending that "criterion 2" be made either optional or removed from the list of code criteria. Please see Exhibit 1 for the communications to the City Commission.

The City's ULDR currently includes the following three criteria that must be considered when reviewing rezoning applications:

- 1) The zoning district proposed is consistent with the City's Comprehensive Plan;
- 2) Substantial changes in the character of development in or near the area under consideration support the proposed rezoning;
- 3) The character of the area proposed is suitable for the uses permitted in the zoning district and is compatible with surrounding districts and uses.

The Board discussed the second criterion, which references a need to define how substantial changes in a subject neighborhood or area where the rezoning is proposed support rezoning the parcel. The Board discussed that any changes required under the second criterion could be met by fulfilling either the first or third criterion. It was the opinion of the Board that the second criterion is difficult to address as a separate requirement. Therefore, the Board concluded that the second criterion should either be removed or the ULDR language modified to require that two of the three criteria be met.

As a result of the PZB communication, on April 7, 2015 the City Commission directed staff to evaluate the criteria and how the language could be improved.

The criteria for a rezoning request are intended to acknowledge the character of an area and protect it from the impacts of more intensive zoning districts that are inconsistent with the surrounding uses. Most of the specific impacts associated with a proposed use are typically addressed through site layout and design, and measures put in place to address any specific issues. In addition, most zoning districts, which fall within the same general category, only differ in the types of uses and not in the dimensional requirements for setbacks and height.

Accordingly, staff has drafted an amendment to Section 47-24.4., Rezoning to address the request. The following is a summary of the proposed draft amendment language:

- D. Criteria. An application for a rezoning, defined as a proposed amendment to the Unified Land Development Regulations, shall be consistent with the City's Comprehensive Plan. An application for rezoning that proposes changes to the zoning designation of land on the Official Zoning Map of the City of Fort Lauderdale shall also demonstrate the rezoning is in furtherance of public health, safety and welfare by demonstrating ~~be reviewed for~~ compliance with Section 47-25, Development Review Criteria. ~~In addition, an application for a rezoning shall be reviewed in accordance and on conjunction with one of the~~ following criteria:

~~1. The zoning district proposed is consistent with the city's comprehensive plan.~~

21. Substantial changes in the character of development in or near the area under consideration supports the proposed rezoning.

32. The character of the area proposed is suitable for the uses permitted in the proposed zoning district and is compatible with surrounding districts and uses

To review the proposed amendments please see the draft amendment attached as Exhibit 2.

This ULDR amendment is part of the *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included in the *Neighborhood Enhancement* Cylinder of Excellence, specifically advancing:

- Goal 6: Be an inclusive community made up of distinct, complementary, and diverse neighborhoods.
- Objective 1: Evolve and update the land development code to balance neighborhood quality, character, and livability through sustainable development
- Initiative 1: Examine land-use patterns and neighborhood development trends to recommend changes to the Unified Land Development Regulations (ULDR) for optimal neighborhood growth, including parking, landscaping, setbacks, change of use and reuse, etc.

PLANNING & ZONING BOARD REVIEW OPTIONS:

The Planning and Zoning Board, in its capacity as the Local Planning Agency, shall determine whether the proposed change is consistent with the City of Fort Lauderdale's Comprehensive Plan and whether the Planning and Zoning Board recommends approval of the proposed amendments to the City Commission.

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
TUESDAY, JANUARY 20, 2015 – 5:30 P.M.**

Cumulative

Board Members	Attendance	June 2014-May 2015	
		Present	Absent
Patrick McTigue, Chair	P	8	0
Leo Hansen, Vice Chair	P	8	0
Brad Cohen	P	7	1
Stephanie Desir-Jean (dep. 8:10)	P	6	2
Michael Ferber	P	8	0
Richard Heidelberg	P	1	0
James McCulla	P	8	0
Peter Witschen	P	7	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
Eric Engmann, Urban Design and Planning
Tom Lodge, Urban Design and Planning
Yvonne Redding, Urban Design and Planning
Lorraine Tappen, Urban Design and Planning
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Mr. McCulla, seconded by Mr. Cohen, that his suggestion that the City review, improve, or eliminate Condition #2 for rezoning be sent forth to the City Commission for consideration. In a voice vote, the **motion** passed unanimously.

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

~~Chair McTigue called the meeting to order at 6:32 p.m. and all stood for the Pledge of Allegiance. He extended a welcome to new Board member Richard Heidelberg. The Chair introduced the Board members, and Urban Design and Planning Manager Ella Parker introduced the Staff members present. Assistant City Attorney D'Wayne Spence explained the quasi-judicial process used by the Board.~~

~~Mr. McCulla requested clarification of the uses allowed on the site. Mr. Lodge replied that the site will be leased for a sports training facility to be operated by Nova Southeastern University.~~

~~There being no further questions from the Board at this time, Chair McTigue opened the public hearing. As there were no members of the public wishing to speak on this item, the Chair closed the public hearing and brought the discussion back to the Board.~~

~~Motion made by Mr. McCulla, seconded by Vice Chair Hansen, to approve. In a roll call vote, the motion passed 7-0.~~

IV. COMMUNICATION TO THE CITY COMMISSION

Mr. McCulla observed that there are three specific criteria that must be met by rezoning requests, including the requirement for a substantial change in the character of an area. He pointed out that this condition is not typically imposed by Staff or the Board, and recommended that it be revised or eliminated.

Motion made by Mr. McCulla, seconded by Mr. Cohen, that his suggestion that the City review, improve, or eliminate Condition #2 for rezoning be sent forth to the City Commission for consideration. In a voice vote, the motion passed unanimously.

Vice Chair Hansen returned to the issue of the vacant lot discussed in Item 1, expressing concern that the lot might remain vacant over the long term.

~~Motion made by Vice Chair Hansen to recommend to the Commission to negotiate with the County to make landscaping improvements on that lot. The motion died for lack of second.~~

V. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE

~~There being no further business to come before the Board at this time, the meeting was adjourned at 9:38 p.m.~~

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


Chair


Prototype

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

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, MARCH 18, 2015 – 5:30 P.M.**

Cumulative

Board Members	Attendance	June 2014-May 2015	
		Present	Absent
Patrick McTigue, Chair	P	9	1
Leo Hansen, Vice Chair	P	10	0
Brad Cohen	P	9	1
Stephanie Desir-Jean (arr. 6:37)	P	8	2
Michael Ferber	P	10	0
Richard Heidelberg	P	3	0
James McCulla	P	10	0
Peter Witschen (arr. 6:40)	P	9	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
Thomas Lodge, Urban Design and Planning
Yvonne Redding, Urban Design and Planning
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to the City Commission

Motion made by Mr. McCulla, seconded by Vice Chair Hansen, that the Ordinance regarding rezoning be reworded to require that the applicant meet two of the following three criteria, not all of them:

1. The zoning district proposed is consistent with the City's Comprehensive Plan;
2. Substantial changes in the character of development in or near the area under consideration support the proposed rezoning;
3. The character of the area proposed is suitable for the uses permitted in the zoning district and is compatible with surrounding districts and uses.

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

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

IV. COMMUNICATION TO THE CITY COMMISSION

Ms. Parker advised that the City Clerk's Office had requested clarification of a communication to the City Commission submitted in January 2015, including the wording of the motion as well as confirmation of how many Board members voted in favor of it. The motion suggested that Staff review, improve, or eliminate Condition 2 for rezoning. She requested that the motion and communication be restated with greater clarity.

Motion made by Mr. McCulla to communicate to the City Commission that they consider removing Criterion 2 from the list of code criteria for rezoning a parcel in the City.

Mr. McCulla explained that this criterion states substantial changes must have occurred the subject neighborhood or area to warrant rezoning of a parcel. He pointed out that the Board has often approved or recommended the requested zoning changes even when substantial change is not demonstrated by applicants. Code states that the following three criteria for rezoning must be met:

1. The zoning district proposed is consistent with the City's Comprehensive Plan;
2. Substantial changes in the character of development in or near the area under consideration support the proposed rezoning;
3. The character of the area proposed is suitable for the uses permitted in the zoning district and is compatible with surrounding districts and uses.

He pointed out that any changes required under Condition 2 would also be met by either Condition 1 or 3, and concluded that Condition 2 could be removed from the three required criteria or the Ordinance could be modified to require that two of the three criteria must be met.

Mr. McCulla restated his **motion** as follows: **motion** that the Ordinance regarding rezoning be reworded to require that the applicant meet two of the three presently stated criteria, not all of them.

Vice Chair Hansen **seconded** the **motion**. In a roll call vote, the **motion** passed 8-0.

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

~~There being no further business to come before the Board at this time, the meeting was adjourned at 7:49 p.m.~~

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

Sec. 47-24.4. - Rezoning (city commission).

- A. *Applicant.* The owner of the property sought to be rezoned or the city.
- B. *Application.* An application for a rezoning shall be made to the department. The application shall include the information provided in Sec. 47-24.1.F.
- C. *Review process.*
 - 1. An application for rezoning shall be submitted to the department for review to consider if the application meets the rezoning criteria.
 - 2. The department shall forward its recommendations to the planning and zoning board for consideration.
 - 3. The planning and zoning board shall hold a public hearing to consider the application and the record and recommendations forwarded by the department and shall hear public comment on the application.
 - 4. If the planning and zoning board determines that the application meets the criteria as provided in this section, the planning and zoning board shall recommend that the rezoning be approved or recommend a rezoning to a more restrictive zoning district than that requested in the application if necessary to ensure compliance with the criteria for the rezoning and if consented to by the applicant.
 - 5. If the planning and zoning board determines that the application does not meet the criteria provided for rezoning or if the applicant does not consent to a more restrictive zoning district, the planning and zoning board shall deny the application and an appeal to the city commission may be filed by the applicant in accordance with Section 47-26B, Appeals.
 - 6. If the rezoning application is recommended for approval or if an appeal of a denial of an application has been filed by the applicant in accordance with this section, the planning and zoning board shall forward its record and recommendations to the city commission for consideration.
 - 7. The city commission shall hold a public hearing to consider the application and the record and recommendations forwarded by the department and the planning and zoning board and shall hear public comment on the application.
 - 8. If the city commission determines that the rezoning meets the criteria for rezoning the city commission shall approve the change in zoning as requested in the application or approve a change to a more restrictive zoning district than that requested in the application if necessary to meet the criteria provided for rezoning and if consented to by the applicant. If the city commission determines that the proposed rezoning does not meet the criteria in, or if the applicant does not consent to a more restrictive zoning district, the city commission shall deny the application.

9. Approval of a rezoning shall be by ordinance adopted by the city commission.
10. If an application is for rezoning of more than ten (10) contiguous acres, the application shall be considered in accordance with Sec. 47-27.5.B, Notice Procedures for Public Hearings.
- D. *Criteria.* An application for a rezoning, defined as a proposed amendment to the Unified Land Development Regulations, shall be consistent with the City's Comprehensive Plan. An application for rezoning that proposes changes to the zoning designation of land on the Official Zoning Map of the City of Fort Lauderdale shall also demonstrate the rezoning is in furtherance of public health, safety and welfare by demonstrating ~~be reviewed for~~ compliance with Section 47-25, Development Review Criteria. ~~In addition, an application for a rezoning shall be reviewed in accordance~~ and in conjunction with one of the following criteria:
- ~~1. The zoning district proposed is consistent with the city's comprehensive plan.~~
 - ~~1.2.~~ Substantial changes in the character of development in or near the area under consideration supports the proposed rezoning- , or
 - ~~2.3.~~ The character of the area proposed is suitable for the uses permitted in the proposed zoning district and is compatible with surrounding districts and uses.
- E. *Effective date of approval.* A rezoning shall take effect at the time provided in the ordinance approving the rezoning.
- F. *Withdrawal of an application.* An applicant may withdraw an application for rezoning at any time prior to a vote by the planning and zoning board on the application. If two (2) applications for rezoning of the same parcel of property are withdrawn by the same applicant within one (1) year, no other application to rezone the tract of land shall be considered by the city for at least two (2) years after the date of withdrawal of the second application.
- G. *New application after denial.* No application for a rezoning which has been previously denied by the planning and zoning board or by the city commission shall be accepted for at least two (2) years after the date of denial. An application to rezone property to a designation that is different than the designation which was applied for and denied and is different than a designation that was considered and denied as part of an application by the planning and zoning board, city commission or both, will be accepted and considered without consideration of time since a previous application was denied.
- H. *Appeal.* If the planning and zoning board or city commission denies the rezoning and the applicant desires to appeal the denial, the provisions of Section 47-26B, Appeals, shall apply.