

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, APRIL 17, 2013 – 6:30 P.M.**

Cumulative

<u>Board Members</u>	<u>Attendance</u>	<u>June 2012-May 2013</u>	
		<u>Present</u>	<u>Absent</u>
Patrick McTigue, Chair	P	10	1
Leo Hansen, Vice Chair	P	10	1
Brad Cohen	P	8	0
Stephanie Desir-Jean	P	9	2
Michael Ferber	P	9	2
James McCulla	P	10	1
Michelle Tuggle	P	11	0
Tom Welch	P	9	2
Peter Witschen	P	9	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
Jenni Morejon, Urban Design and Development
Anthony Fajardo, Urban Design and Development
Tom Lodge, Urban Design and Development
Todd Okolichany, Urban Design and Development
Yvonne Redding, Urban Design and Development
Randall Robinson, Urban Design and Development
Linda Mia Franco, Urban Design and Development
Tom White, City Landscape Architect
Al Battle, Northwest CRA Director
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

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	<u>Case Number</u>	<u>Applicant</u>
1.	Item of Discussion	
2.	1Z13** *	City of Fort Lauderdale / Townsend Park
3.	2Z13** *	Saint John United Methodist Church

- ~~4. 7ZR12** * Second Avenue Properties / Boat Owners Warehouse~~
- ~~5. 4P13** Gunther Motors Company / Gunther Motors Plat~~
- ~~6. 1P13** New Mount Olive Baptist Church, Inc. / New Mount Olive Baptist Church Plat~~
- ~~7. 1T13* Downtown RAC Flexibility Units~~
- 8. 6T13* City of Fort Lauderdale
9. 3Z13** * City of Fort Lauderdale
- ~~10. 3T13* City of Fort Lauderdale~~
- ~~11. 4T13* City of Fort Lauderdale~~
- ~~12. 5T13* City of Fort Lauderdale~~
- ~~13. Communication to the City Commission~~
- ~~14. 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 6:33 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.

Chair McTigue advised that Applicants are allowed 15 minutes for their presentations; representatives of associations and groups are allowed five minutes, and individual speakers are allowed three minutes each.

Motion made by Ms. Tuggle, seconded by Mr. McCulla, to approve the minutes of the March 20, 2013 minutes. In a voice vote, the **motion** passed unanimously.

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

~~Ron Centamore, member of the Downtown Civic Association, advised that this organization's Board of Directors unanimously supports the amendment, as they believe it will make the City a more vibrant place to live.~~

~~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. Witschen, seconded by Ms. Tuggle, to approve. In a roll call vote, the motion passed 9-0.~~

~~It was noted that Items 8 and 9 would be heard together.~~

8. City of Fort Lauderdale

Linda Mia Franco

6T13

Request: * Amendment to City's Unified Development Regulations; Recommend adoption of the Northwest Regional Activity Center – Mixed Use east (NWRAC-MUe) & Northwest Regional Activity Center – Mixed Use west (NWRAC-MUw) Zoning Districts

Project Description Implementation of the 2006 Sistrunk Boulevard Urban Design Improvement Plan & 2008 NPF CRA Implementation Plan (NWRAC-MU: Illustrations of Design Standards) and proposed NWRAC-MUe (east) and NWRAC-MUw (west) zoning districts.

General Location: NW 6th Street (Sistrunk Boulevard) corridor from the Florida East Coast Railway to the east to NW 24th Avenue to the west & NW 7th Avenue from NW 6th Street (Sistrunk Boulevard) to the north and NW 2nd Street to the south

District: 3

9. City of Fort Lauderdale

Linda Mia Franco

3Z13

Request: ** * Rezone from Residential Low Rise Multifamily/Medium Density (RM-15) District, Community Business (CB) District, General Business (B-2), Heavy Commercial/Light Industrial Business (B-3) District and General Industrial (I) to Northwest Regional Activity Center – Mixed Use east (NWRAC-MUe) & Northwest Regional Activity Center – Mixed Use west (NWRAC-MUw) Zoning Districts

General Location: NW 6th Street (Sistrunk Boulevard) corridor from the Florida East Coast Railway to the east to NW 24th Avenue to the west & NW 7th Avenue from NW 6th Street (Sistrunk Boulevard) to the north and NW 2nd Street to the south

District: 3

Disclosures were made, and any members of the public wishing to speak on these Items were sworn in.

Linda Mia Franco, representing Urban Design and Development, showed a PowerPoint presentation on the two Items, explaining that the Northwest RAC was established to permit and encourage redevelopment through flexibility and to preserve the single-family residential neighborhoods in the area by allowing a mix of uses. Over several years, a significant amount of analysis has been made for the area, including the Sistrunk Boulevard Urban Design Improvement Plan in 2006.

A good deal of community outreach was conducted for the area, beginning in 2002. Meetings and workshops included residents, community leaders, business owners, and other stakeholders in order to elicit community input and sustain participation throughout the planning process and gain community consensus for improvements and initiatives. In 2008, the Northwest Progresso-Flagler Heights Implementation Plan was established as the agent of change within the targeted area.

Additional neighborhood outreach meetings were held during March and April 2013 regarding the proposed implementation plan and design guidelines. This outreach also addressed the prohibition of "noxious uses," such as convenience and liquor stores, and transitional development between commercial and residential uses. Ms. Franco stated that she has received a great deal of positive feedback from residents.

She continued that next steps include the establishment of new zoning districts for the Northwest RAC with mixed-use (MU). The development approval process will be made easier and more predictable, and parking requirements along the corridor will be reduced to encourage reuse of existing buildings. Certain uses that encourage negative activity will be eliminated.

The proposed district will provide two areas of design standards, which will preserve the character of each particular area while following the recommendations of the implementation and improvement plan. To the east, the Northwest RAC and MU-E will allow for greater density and intensity, as it is a connector to the Downtown area and the City's urban core. To the west, the Northwest RAC and MU-W will have lower density to preserve the residential character of mostly one- to two-storey residences. Ground floor uses should be active and interesting to pedestrians, and street landscaping should reflect a tropical urban setting. A mix of uses should be allowed and promoted.

Ms. Franco noted that the Northwest RAC includes CB, B2, B3, Industrial, and RM-15 zoning districts. Uses are currently segregated and a mix of uses is not

allowed. The proposal will allow a mixture of complementary uses and allow both residential and non-residential uses within the entire study area. Rather than setbacks that vary between 25 and 5 ft., the proposal will allow a build-to line and reduced front setbacks based on the existing infrastructure of the sidewalk.

Standard parking regulations are currently based on use, which can stifle redevelopment, as it is not possible to meet parking requirements. The proposal is for a reduced parking regulation similar to what was adopted in the South RAC, which will require no parking for the first 2500 sq. ft. of commercial space and a 60% parking requirement for the remainder. This is intended to promote redevelopment efforts.

There will be no requirement for neighborhood compatibility, as this will be achieved through the development of transitional zones, which have height limits where they abut residential districts. As development is built higher, greater setbacks are required.

The current approval process requires developers to go through four separate processes before they receive a building permit. These processes include DRC review, planning review, administrative review, Planning and Zoning Board review, and City Commission review. Most uses will now be required to go through an administrative DRC review, although conditional uses must still go through the City Commission.

The Northwest RAC's standards are similar to those adopted as part of the Downtown, South RAC, and Central Beach Master Plans: they follow the same basic theme within the character of the Northwest area. Proposed development is allowed flexibility within a basic Code. The design guidelines dictate neighborhood compatibility, which means a developer will not have to demonstrate or address this requirement. Ms. Franco showed slides of current and projected conditions in the area, reflecting the proposed changes.

Ms. Franco concluded that Staff has received several responses from the community with respect to the proposed guidelines, including some concerns regarding height and parking. For this reason, Staff recommends that the adoption of the Northwest mixed-use district and the rezoning of the Sistrunk Corridor be postponed until a later date, so Staff can conduct more community outreach and work out a more universally acceptable proposal.

She recommended, however, that the Board address the existing moratorium on convenience and liquor stores, which was originally set to expire on June 2, 2013. She referred the Board members to pp.32-34 of their information packets, which refers to permitted uses within the CB, B1, B2, and B3 zoning districts. These pages address the amortization of liquor and convenience stores,

including a five-year amortization to replace them and promote other business uses within the area.

Ms. Franco advised that crime statistics throughout the City were analyzed within a quarter-mile of convenience or liquor stores within the Northwest RAC. She noted that there is an overconcentration of these businesses in the area, with almost one store per block within the Northwest RAC. The concentration of crime in the area is one reason to proceed with the permitted uses, as the community has asked the City to address this issue and promote new development.

Anthony Fajardo, representing Urban Design and Planning, advised that Staff received a letter from the Midtown Business Association, which agrees with Staff's recommendation and urges further outreach between Staff and the community. The Association also recommends proceeding with the restriction on liquor and convenience stores in the area, as well as the proposed five-year amortization period by which these uses would be removed.

Vice Chair Hansen requested clarification of what the Board was asked to vote upon. Mr. Fajardo clarified that the recommendation is to make a motion regarding adoption of the text amendment rather than the rezoning portion or design guidelines.

Vice Chair Hansen requested clarification of the five-year amortization period. Mr. Fajardo confirmed that this would get rid of the existing uses currently within the Northwest RAC. An establishment can be re-used for a use that is allowed within the zoning district: for example, an owner could replace a liquor or convenience store with a retail establishment, bar, or restaurant.

He added that the design guidelines were presented to the Board for informational purposes so they could see what was planned for the Northwest RAC. Further discussion between Staff and the community is necessary before adopting these guidelines.

Mr. Cohen commented that he found it unbelievable that existing establishments could be eliminated by "zoning them out." He asserted that he did not agree with this proposed solution, as it would put people out of business.

Al Battle, Northwest Community Redevelopment Agency (CRA) Director, advised that the map showing the proximity of crime to convenience or liquor stores showed one reason the Northwest CRA is unable to consistently attract businesses to the Sistrunk Corridor portion of the CRA. After conducting research into crime statistics and speaking with residents, the CRA feels very strongly that convenience and liquor stores contribute to an inability to succeed at redevelopment.

Mr. Battle pointed out that recourse would be offered for those businesses that would be amortized out over time, including a CRA program that would help these establishments repurpose themselves. He noted that these stores, once the predominant shopping outlets in the CRA, charged excessive prices for basic goods. Their business practices also allowed for loitering and permitted "drive-by activity" in the area, which has had the effect of stifling other development within the corridor. He concluded that the CRA has determined it is necessary to take broad steps to address these issues and encourage other uses that would improve the community.

Ms. Desir-Jean asked if the existing convenience and liquor stores had contributed any positive or negative input to the plan. Mr. Battle replied that many of these businesses are silent, as they are not locally owned or their owners are difficult to contact. The owners that have spoken with Staff are open to the opportunity to repurpose their businesses. Aggressive incentives will be offered to encourage repurposing, as the existing businesses and practices do not encourage other owners to come into the area.

Ms. Tuggle recalled that there had been neighborhood opposition some months ago to putting in a new convenience store in the area, and the Board had not recommended approval of the business. She requested information on the specific types of stores to which the amendment would apply. Mr. Fajardo said there are three definitions for these establishments: convenience kiosks, convenience stores, and convenience stores/specialty. The amendment would apply to these three types of businesses as well as to liquor stores.

Ms. Tuggle asked if the goal was for there to be no such uses on the street within the defined area. Mr. Fajardo confirmed that this is eventually part of the recommendation.

Ms. Tuggle asked why there was no neighborhood discouragement of shopping at these stores rather than prohibiting them. She pointed out that if all these uses went away, the neighborhood might later wish some were still present. She felt the Board should not help prohibit these uses; instead, the community should discourage them by not shopping in these stores or requesting that Code Enforcement address any violations.

Mr. Battle said this has been the community's approach for the last 25 years, but it has not been successful. He pointed out that this part of Fort Lauderdale offers compelling statistics, including the City's highest poverty rate, highest concentration of rental units to low-income individuals, highest mass transit ridership, and poorest educational statistics. He explained that the CRA is attempting to reinforce positive behavior by curbing the negative behavior that seems to be accentuated by these uses.

Ms. Tuggle noted that other "dramatically gentrified" areas were the result of evolution over a lengthy period of time. She asked if Staff had looked at the practices used to improve these areas to determine the best way to proceed. Mr. Battle confirmed this, but noted that many of these cases could not be applied to a specific area; instead, they would require a City-wide application of rules. He stated that in the case of the Northwest CRA, this is not a City-wide problem, which means help is needed in one specific area.

Mr. Ferber asserted that he shared Mr. Cohen's concern that the stores are the justly acquired properties of individual owners. He advised that the CRA has the power of eminent domain, which means Code could be changed to prohibit new convenience and liquor stores. While this would be more expensive for the CRA, he felt it was a more appropriate way to address the problem, and would accomplish the desired goal within a quicker time frame while removing unwanted uses in a more equitable manner.

Mr. Cohen agreed with this, stating that if the uses were considered offensive the CRA should seek to buy them out. He said the amendment would not be an appropriate precedent to set, and that the area has potential for redevelopment without eliminating these types of businesses, particularly during a difficult economy.

Ms. Desir-Jean noted that the City does not like to pay for legal costs within the Northwest CRA, and taking on this issue was an act of good faith. She declared that the subject businesses are not typical chain convenience stores, or businesses that act in partnership with local homeowners', school, or community organizations. She pointed out that the businesses have the option of transforming into more positive and useful establishments. Ms. Desir-Jean concluded that the businesses are not good partners in the community, and she hoped the Board would consider it from this perspective.

Attorney Spence advised that the Board would be acting in the capacity of a Local Planning Agency to review a recommendation from Staff to amend the ULDR, and whether or not this amendment would be consistent with the City's future Land Use Plan. The proposed amendments are the result of a policy decision made by the City Commission, which requested a moratorium and a study by Staff of the impact of liquor and convenience stores within the Northwest RAC. Staff has presented evidence that there is a connection between high crime statistics and these types of businesses, and has recommended the prohibition of these two uses in the area. The suggestion of a five-year amortization period was calculated to provide these business owners a time period in which to recoup their investments.

Attorney Spence continued that the Board may make a recommendation to adopt the provisions as a whole, or they may make suggestions to alter any portions of

the provisions to which they objected. He concluded that Staff was bringing forward the best remedy they had found for the issue they hoped to correct.

Vice Chair Hansen stated that having a grocery store within a neighborhood was a positive aspect, as this promoted pedestrian traffic and community interaction. He added that while he shared the Northwest CRA's concern regarding convenience and liquor stores, and did not take issue with prohibiting these uses in the future, he felt removing the current uses, even within a set amortization period, was not an appropriate action. He suggested there may be other ways to resolve the issue, such as limiting the hours of operation for convenience and liquor stores. He asked if there might be another way to discourage or remove these uses in order to address the community's concerns.

Mr. Battle responded that the neighborhoods would like to see grocery stores and markets, which might be encouraged by prohibiting liquor and convenience stores. He explained that the five-year time frame was determined because the Northwest CRA will expire in 2025, and they would like to use their resources to repurpose and attract wanted businesses after the amortization period is over. If the amortization period is longer, the CRA might not have access to the same resources when it is complete.

Vice Chair Hansen asked if the Northwest CRA could reach out to the City Commission to request that the sale of beer and wine at convenience stores be prohibited within the CRA. He explained that this would be a Commission decision rather than a planning initiative. Attorney Spence pointed out that State law preempts the City from making a regulation of this nature.

Mr. Cohen asserted that he would like to know whether or not it is legal to restrict the hours during which alcohol may be sold by these stores. Attorney Spence said he could not answer this question.

Ms. Desir-Jean declared that the proposed amendment would not put the stores out of business, as they have the opportunity to conform their business to the desires of the community within five years. Mr. Cohen said he was not willing to vote in favor of the amendment without first knowing if the hours in which alcohol is sold might be limited, or other possible solutions.

Mr. McCulla said while he understood the community's concerns, he was equally opposed to "forcing somebody out of business." He requested clarification of what Staff was recommending for adoption. Mr. Fajardo explained that the recommendation does not include the Northwest RAC zoning districts, but was strictly an amendment to the existing zoning districts of CB, B1, B2, and B3.

Mr. McCulla asked if the only issue before the Board was the prohibition and amortization of convenience and liquor stores. Mr. Fajardo confirmed this, stating

that Staff would bring the issue of mixed-use districts before the Board at a later date, following additional community input.

Mr. McCulla asked if the Board might be asked, at a later time, to prohibit other uses presently allowed within a given zoning district. Mr. Fajardo stated that Staff is not considering a prohibition of this nature. Mr. McCulla concluded that while he could agree to the prohibition of new convenience and liquor stores, a restriction of their hours, or other regulation of these uses, but was not in favor of removing existing legal uses over an amortization period.

Mr. Ferber advised that the CRA has the authority to invoke eminent domain through established processes, and asked if this authority was applicable to leasehold interests such as the convenience and liquor stores. Mr. Battle said the CRA's ability to use eminent domain for the purpose of taking property has been greatly restricted under Florida law, and its use regarding leasehold interests has been precluded. Attorney Spence confirmed this.

Mr. Witschen recalled that when the moratorium on new uses was enacted, the CRA was charged with bringing information that would support their case back to the Board. He asked if calls to the Police Department have validated the CRA's argument that these stores are a "noxious use." Mr. Battle stated that the number and frequency of Police calls support this characterization. Mr. Witschen commented that if the data was correct, it could provide a legal basis by which the Board could recommend the text amendment. Attorney Spence confirmed that this was correct.

Vice Chair Hansen proposed that the Board extend the existing moratorium until all possible scenarios have been explored, as the majority of the Board appeared to be against the amortization period. Mr. Fajardo said the Item before the Board is presented for recommendation to the City Commission; if the Board wished, they have the option of recommending a portion of the Item rather than rejecting it or recommending it in its entirety.

Mr. Witschen asked if the Board has the legal ability to extend the moratorium. Attorney Spence replied that the existing moratorium has been extended two to three times, and will expire on June 2, 2013; it may not be possible to extend it further. Mr. Witschen noted that this would allow roughly another 30 days for the Board to review any alternative proposals to address the issue. Attorney Spence advised that at this point, there must be definitive regulations to be considered.

Mr. Witschen asked if it might be possible for the Board to determine an acceptable alternative amortization period, and then review the amendment in the future if new information was presented. Attorney Spence suggested that the Board consider adopting the portions of the amendment that prohibit the use of liquor and convenience stores within the stated zoning districts, and leave the

issue of the amortization period for further discussion when the overall Ordinance is presented by Staff.

Mr. McCulla agreed that the Board's only objection appeared to be the issue of the amortization period. He advised that the Board could recommend Staff's proposals with the exception of 47-3.8, Termination of Nonconforming Status. Attorney Spence noted that the Board could recommend approval of the other portions of the Item and recommend denial of this specific portion. Both portions of the Item would proceed to the City Commission with the Board's recommendations for approval and/or denial.

Vice Chair Hansen said he felt the Board would be open to additional regulation of the uses in question, such as regulation of hours or sales of alcohol; however, this would have to be proposed to the Board before it could be entertained as a separate motion.

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

Pamela Adams, private citizen, stated that her business is located within the Sistrunk Corridor. She has been a member of various City advisory entities, including the Beach CRA Planning and Zoning Board. She is also a member of the Midtown Business Association, and stated she had sent a letter to Mr. Battle in support of Staff's recommendation to eliminate convenience and liquor stores.

Ms. Adams estimated that between 7 Avenue and 24 Avenue, there are "at least one of each" type of these business on each block and on either side of the street. She also pointed out that there had never been neighborhood grocery stores before the addition of a Save-a-Lot store, and asserted that the businesses in question are convenience and liquor stores that sold uncontrolled liquor, unlabeled cigarettes, and other items that contributed to the crime statistics reflected in Staff's presentation.

Ms. Adams advised that while she understood the need for businesses to thrive in the area, this would not occur as long as convenience and liquor stores were also thriving. She recalled that the Beach CRA had changed uses on the beach in order to counteract the "spring break" image associated with that area, and felt the Sistrunk Corridor should be able to similarly improve its image. She noted that the proposed changes would benefit not only than the Northwest CRA, but the entire City; however, a thriving economy cannot be achieved in the Northwest RAC while these uses remained. She did not feel that restricting or regulating the store hours would be sufficient to address the impact of these businesses on the community.

Ms. Adams concluded that drastic measures should be taken in order to rectify the conditions on the Sistrunk Corridor. She added that the stores sell substandard food products and contribute to the existence of a "food desert" within the Northwest RAC. She requested that the Board reconsider their perception of how the issue should be addressed, and consider the needs of the residents of the subject area.

Geno Shahan Jameson, private citizen, stated he was also a member of the Midtown Business Association. His concern was for the Northwest community, which hopes to be a part of the mainstream of the City and has been overlooked in the past. He asked that the Board understand the desires of the community's residents and the nuisance brought to the community by the targeted stores.

Mr. Jameson added that the City has invested a great deal of funds in the infrastructure necessary to improve the Sistrunk Corridor, and the community's residents are excited about the changes taking place. He concluded that the residents have experienced years of negativity brought to the community by liquor and convenience stores, and have determined that the best solution is for these stores to discontinue their current use.

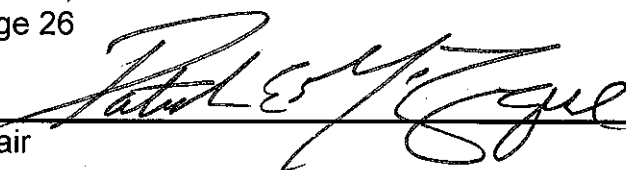
Roosevelt Walters, private citizen, stated that not every business should be made to suffer because some businesses are breaking the law; he felt there should be a way to target these specific stores for removal from the community rather than removing all such stores. He concluded that he did not want to see opportunities to conduct business on Sistrunk Boulevard lessened further by removing all the businesses in question instead of only the ones creating problems.

Janet Scraper, private citizen, stated that she does not reside in the Northwest RAC, but was in agreement with Mr. Walters and the Board members that it should not be possible to remove businesses. She felt the community should work together with Code Enforcement, the Police Department, and other regulatory entities to address the issues raised regarding convenience and liquor stores.

Charles King, private citizen, said he did not feel it was accurate to state that the Sistrunk Corridor was not being redeveloped because of the existence of convenience and liquor stores. He advised that the lack of development is due to the construction of several low-income housing developments in the area. He felt the Corridor should be "treated like the rest of the City" rather than subjecting it to further regulation.

Mr. Witschen suggested that Staff could arrive at an alternative solution and bring it back to the Board at its May meeting, in advance of the June expiration date for the moratorium. He recommended that Staff look into what other

Chair



Prototype



There being no further business to come before the Board at this time, the meeting was adjourned at 9:17 p.m.

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