



**PLANNING AND ZONING BOARD MEETING MINUTES
CITY HALL COMMISSION CHAMBERS
100 N. ANDREWS AVE., FORT LAUDERDALE, FLORIDA 33301
WEDNESDAY, APRIL 19, 2023 – 6:00 P.M.**

CITY OF FORT LAUDERDALE

Board Members	Attendance	Present	Absent
Michael Weymouth, Chair	P	11	0
Brad Cohen, Vice Chair	P	9	2
John Barranco	P	10	1
Mary Fertig	P	10	1
Steve Ganon	P	11	0
Shari McCartney	P	8	3
Patrick McTigue	P	9	0
William Rotella	P	10	1
Jay Shechtman	P	10	1

Staff

Ella Parker, Urban Design and Planning Manager
D'Wayne Spence, Interim City Attorney
Shari Wallen, Assistant City Attorney
Jim Hetzel, Urban Design and Planning
Tyler Laforme, Urban Design and Planning
Yvonne Redding, Urban Design and Planning
Adam Schnell, Urban Design and Planning
Greg Chavarria, City Manager
Chris Cooper, Director, Department of Development Services
Leslie Harmon, Recording Secretary, 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 introduced the Board members present. It was noted a quorum was present.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

Motion made by Mr. McTigue, seconded by Mr. Ganon, to approve. In a voice vote, the **motion** passed unanimously.

Ms. Fertig read the following **motion** into the record:

I move that the Planning and Zoning meeting of April 19, 2023 be deferred until a time certain for the following reasons:

1. The City of Fort Lauderdale is under a declared State Of Emergency.
2. City Hall is closed. The public has been notified through numerous electronic communications and the media that City Hall is closed until further notice.
3. It was not safe for the Commission to hold a meeting in person last night, April 18, 2023.
4. The City Commission did not feel safe to meet in these chambers yesterday but is requiring and taking on the liability of having staff, Advisory Board Members and residents meet in this room.
5. The public documents on which decisions will be based for 6 planning and zoning cases were not available for public review until after 4 pm today. This is not reasonable notice under the Sunshine Law.
6. AGO-3-53 states “[i]n the spirit of the Sunshine Law, the city commission should be sensitive to the community’s concerns that it be allowed advance notice and, therefore, meaningful participation on controversial issues coming before the Commission.”
7. s.120.525(2), F.S., requires that agencies subject to the Administrative Procedure Act must prepare an agenda in time to ensure that a copy may be received at least 7 days before the event by any person in the state who requests a copy and pays the reasonable cost of the copy. The agenda, along with any meeting materials available in electronic form excluding confidential and exempt information, shall be published on the agency’s website. Id. After the agenda has been made available, changes may only be made for good cause.

Ms. Fertig added that the backup materials for tonight’s meeting were not available until after 4 p.m. today, which she did not believe met the requirements of the Sunshine Law for public notice. She requested that tonight’s meeting be deferred in light of the potential penalties that could occur if the Board meets in violation of the Sunshine Law or if a citizen alleges a complaint. She recommended that the meeting be deferred for two weeks.

Mr. Shechtman **seconded** the **motion**.

Chair Weymouth introduced the City Staff members present at this time.

Chair Weymouth requested feedback from Interim City Attorney D’Wayne Spence on the **motion**. Attorney Spence advised that the Sunshine Law has three requirements: proper notice must be provided, meetings must be open to the public, and minutes must be recorded. The notice requirements in the Sunshine Manual do not require the listing of specific Agenda items: there is flexibility for the addition, alteration, and removal of items.

Attorney Spence continued that the Attorney General opinion cited in Ms. Fertig’s **motion** recommends that if due notice is not provided for a controversial item, the City Commission should defer action on that item; however, this is only a recommendation and not a requirement of the Sunshine Law. He also noted that Florida Statute

It was noted that the Applicant of this Item had requested deferral to the May 17, 2023 meeting.

Motion made by Ms. Fertig to defer, for all the reasons I stated, and I'll hand this same motion to our recorder, on UDP-P22005.

Mr. Ganon **seconded the motion**. In a voice vote, the **motion** passed unanimously.

The following Item was taken out of order on the Agenda.

4. CASE: UDP-Z22030

REQUEST: * ** Rezoning from Residential Mid Rise Multifamily/Medium High Density (RMM-25) District to Community Facilities (CF) District

APPLICANT: Holy Cross Hospital, Inc.

AGENT: Stephen Tilbrook, Esq., Akerman, LLP.

GENERAL LOCATION: 1900, 1930, and 1940 NE 47th Street and 1901, 1911, and 1921 NE 46th Street

ABBREVIATED LEGAL DESCRIPTION: Coral Hills 37-20 B Block 12, Lots 2 through 7 and 14 through 18

ZONING DISTRICT: Residential Mid Rise Multifamily/Medium High Density (RMM-25) District

PROPOSED ZONING: Community Facilities (CF) District

LAND USE: Medium-High Residential

COMMISSION DISTRICT: 1 – John Herbst

NEIGHBORHOOD ASSOCIATION: N/A

CASE PLANNER: Yvonne Redding

Disclosures were made at this time.

Motion made by Ms. Fertig that we defer to a time certain due to the following reasons, and they are the seven reasons I stated before.

Ms. Fertig provided the Board members with a copy of her **motion**.

Steve Tilbrook, representing the Applicant, advised that the request is for rezoning of two parcels owned by Holy Cross Hospital to Community Facility (CF). This would bring the existing ancillary uses of the hospital into compliance with current zoning.

Mr. Tilbrook showed a PowerPoint presentation on the Item, identifying the overall site of the Holy Cross Hospital campus, as well as the two main buildings addressed in the Application. The subject site is located to the south of the campus. The existing zoning for the subject parcels is RMM-25, which was left over from before the construction of the hospital. The proposed rezoning would make these parcels consistent with the rest of the campus.

Mr. Tilbrook continued that the property has been owned and operated by Holy Cross Hospital for more than 50 years and includes medical office uses accessory to the hospital. The property was developed with hospital and medical office uses under the prior zoning of R-3, which permitted these uses. Under the City's previous zoning Code, community facility uses could be built in the R-3 district.

In 1997, Fort Lauderdale adopted its Unified Land Development Regulations (ULDR), which constituted a comprehensive rewrite of zoning Code. The ULDR created the CF zoning category, to which the rest of the hospital campus, excluding the sites named in this Application, was rezoned. The subject parcel was not rezoned CF at that time. The intent of tonight's Application was to bring the parcel into conformity with existing conditions.

The hospital intends to use an existing building as a child care facility to accommodate the employees of the hospital. This corporate on-site child care facility requires conditional use approval under Code. If the rezoning request is approved, the Applicant will come back with a request for conditional use and Site Plan approvals for the facility.

There being no questions from the Board at this time, Chair Weymouth opened the public hearing. As there were no individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

The **motion** to defer died for lack of second.

Motion made by Mr. McTigue, seconded by Mr. Rotella, to approve. In a roll call vote, the **motion** passed unanimously (9-0).

The following Item was taken out of order on the Agenda.

~~3. CASE: UDP-S22046~~

~~**REQUEST:** ** Site Plan Level III: Parking Reduction Request for an Office and Museum Use~~

~~**APPLICANT:** Jim Moran Foundation, Inc.~~

~~**AGENT:** Brendan Keating~~

~~**PROJECT NAME:** Jim Moran Foundation~~

~~**PROPERTY ADDRESS:** 4545 N. Federal Highway~~

~~**ABBREVIATED LEGAL DESCRIPTION:** 13-49-42 THAT PT OF S1/2 OF SW1/4 DESC AS BEG AT INTER OF N BNDRY OF S1/2 OF SW1/4 & WLY RW/L OF FED HWY, SW ALG SAID RW/L 209.23 TO POB, SW PAR TO SAID BNDRY 315, SW PAR TO SAID R/W/L 397.84, NE PAR TO SAID BNDRY 315, NE ALG SAID RW/L 397.84 TO POB~~

~~**ZONING DISTRICT:** Boulevard Business (B-1) District~~

~~**LAND USE:** Commercial~~

~~**COMMISSION DISTRICT:** 1 — John C. Herbst~~

responsibility to look out for the best interests of their client. In discretion, he had sent an email to caution the Board regarding the implications of some members' decisions to make statements on items in a way that may demonstrate bias, followed by those members' participation in meetings in which they are required to impartially weigh facts. This participation included statements on the record which could be grounds for cross-examination by developers, should those issues go to court.

Ms. Fertig stated that when the City Attorney's Office sent the memorandum to the Board, a question was asked regarding whether or not the same rules pertained to quasi-judicial hearings before the City Commission. She asserted that it is left up to an individual to determine whether or not they can make a fair decision or not. Attorney Spence reiterated that as a representative of the City Attorney's Office, it is his job to advise his client of the potential repercussions of their actions, whether or not individuals choose to follow this advice.

There being no further business to come before the Board at this time, the meeting was adjourned at 9:07 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.]