



CITY OF FORT LAUDERDALE

**PLANNING AND ZONING BOARD MEETING MINUTES
DEVELOPMENT SERVICES DEPARTMENT
700 NW 19 AVENUE, FORT LAUDERDALE, FL 33311
WEDNESDAY, NOVEMBER 20, 2024 – 6:00 P.M.**

Board Members	Attendance	Present	Absent
Michael Weymouth, Chair	P	5	1
Brad Cohen, Vice Chair	P	3	3
John Barranco	A	4	2
Brian Donaldson	P	6	0
Steve Ganon	P	6	0
Marilyn Mammano	P	5	1
Shari McCartney	P	5	1
Patrick McTigue	P	5	1
Jay Shechtman	P	5	1

Staff

D'Wayne Spence, Interim City Attorney
Jim Hetzel, Acting Urban Design and Planning Manager
Karlanne Devonish, Urban Design and Planning
Michael Ferrera, Urban Design and Planning
Yvonne Redding, Urban Design and Planning
Lorraine Tappen, Urban Design and Planning
Burt Ford, Chief Zoning Officer
K. Cruitt, 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 members present.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

Motion made by Mr. Donaldson, seconded by Mr. Mc Tigue, to approve the minutes of the October meeting. In a voice vote, the **motion** passed unanimously.

III. PUBLIC SIGN-IN / SWEARING-IN

Any members of the public wishing to speak at tonight's meeting were sworn in at this time.

The Board agreed by unanimous consensus to make the Staff Report and recommendations for each Item part of the record.

IV. AGENDA ITEMS

Index

<u>Case Number</u>	<u>Applicant</u>
1. UDP-Z24010* **	6th on Powerline, LLC
2. UDP-A24025**	Las Olas Hospitality Group LLC
3. UDP-Z24012* **	200 W. Cypress Creek Holdings, LLC
4. UDP-L24001*	City of Fort Lauderdale

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.~~

~~Principal Urban Planner Jim Hetzel advised that Item 1, Case UDP-24038**, and Item 2, Case UDP-23029**, have waivers to the state timeline. The third Item, Case UDP-S24024**, has an extension to December 4, 2024, which is the day after a City Commission meeting.~~

1. CASE: UDP-Z24010

~~**REQUEST:** * ** Rezoning from Residential Multifamily Mid Rise/Medium High Density (RMM-25) District to Northwest Regional Activity Center-Mixed Use west (NWRAC-MUw) District~~

~~**APPLICANT:** 6th on Powerline, LLC.~~

~~**AGENT:** Stephanie Toothaker, Esq.~~

~~**PROPERTY ADDRESS:** 500, 506, 510, 522, 530, 534, and 538 NW 9th Avenue and 537 NW 8th Avenue~~

~~**ABBREVIATED LEGAL DESCRIPTION:** North Lauderdale, PB 1, PG 48, Lots 7, 8, and Lots 27 through 46, Block 16~~

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

~~**PROPOSED ZONING:** Northwest Regional Activity Center – Mixed Use west (NWRAC-MUw)~~

~~**LAND USE:** Northwest Regional Activity Center~~

~~**COMMISSION DISTRICT:** 3 – Pamela Beasley-Pittman~~

NEIGHBORHOOD ASSOCIATION: Historical Dorsey-Riverbend Civic Association
CASE PLANNER: Yvonne Redding

Disclosures were made at this time.

Stephanie Toothaker, representing the Applicant, noted a clerical error in the Staff Report for this Item: the property consists of 1.609 acres or 70,125 sq. ft.

Ms. Toothaker explained that the request is for the continuation of a pattern of rezoning within the block and the larger general location in which the property is located. Two lots immediately to the north have already been rezoned. All property owners within 300 ft. of the subject property have been notified of the proposed rezoning.

The property is located within the City's Northwest Regional Activity Center (RAC). Ms. Toothaker reviewed the pattern of rezoning for the area, stating that the Applicant requests rezoning from RM-25 to NWRAC-MUw. The Applicant's team has reviewed all rezoning criteria with Staff and has held public participation meetings with the Progresso Village, Historic Dorsey Riverbend, and Home Beautiful Park neighborhoods. They also held a virtual public participation meeting for any other members of the public.

Ms. Mammano requested clarification of the results of the public participation meetings. Ms. Toothaker replied that while the neighborhood associations with which the Applicant met do not issue letters of support, they did not indicate opposition to the project.

Mr. Ganon asked if the Applicant is seeking to rezone all the parcels on the subject block. Ms. Toothaker confirmed this, explaining that the Applicant was unable to request rezoning for all their parcels at the same time. Additional parcels on the block will come before the Board in the future.

Ms. Mammano asked if it is necessary for individual parcels to come before the Board rather than several at a time. Chair Weymouth confirmed this, recalling that this issue has been discussed in the past. Mr. Shechtman suggested that the Board may wish to send a communication to the City Commission recommending that the entire area be rezoned at once.

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.

Motion made by Ms. Mammano, seconded by Mr. McTigue, to recommend the approval of Case Number UDP-Z21010 based on the findings of fact in the City Staff Report, based on the testimony heard by the Applicant, and the Board hereby finds the Application meets the applicable criteria of the ULDR cited in the Staff Report. In a roll call vote, the **motion** passed unanimously (8-0).

2. CASE: UDP-A24025

~~**REQUEST:** ** Site Plan Level IV Amendment: Conditional Use Request for a Mixed Use Development over 10,000 square feet in the Community Business District with Increase in Building Height from 123 feet, 5 inches to 149 feet, 2 inches for 81-Room Hotel, 5,330 Square Feet of Retail Use, and Allocation of 17 Multifamily Residential Flexibility Units with an Associated Parking Reduction~~

~~**APPLICANT:** Las Olas Hospitality Group LLC~~

~~**AGENT:** Andrew J. Schein, Esq., Lochrie & Chakas, P.A.~~

~~**PROJECT NAME:** 1007 East Las Olas~~

~~**PROPERTY ADDRESS:** 1007 E. Las Olas Boulevard~~

~~**ABBREVIATED LEGAL DESCRIPTION:** Colee Hammock 1-17 B Lot 1, E 1/2 of Lot 2, Lot 15, Lot 16, All In Blk 14 Tog W/Por of 10' Alley In Said Blk 14, Bounded on W by Sly Ext of E 25 of Said Lot 2 & Bounded on E by E/L of Said Blk 14~~

~~**ZONING DISTRICT:** Community Business (CB) and Boulevard Business (B-1)~~

~~**LAND USE:** Commercial and Medium-High Density Residential~~

~~**COMMISSION DISTRICT:** 4 – Warren Sturman~~

~~**CASE PLANNER:** Trisha Logan, AICP~~

~~Disclosures were made at this time.~~

~~Robert Lochrie, representing the Applicant, stated that the request before the Board is an amendment to a previously approved Site Plan. The updated Application would reduce the number of hotel rooms from 140 to 81, add 17 residential units, increase the height by two floors, and request a lesser parking reduction than the original Site Plan.~~

~~The project was previously approved for hotel use by both the Planning and Zoning Board and the City Commission. It was reviewed again by the City Commission in 2022. Mr. Lochrie provided an overview of the Site Plan, noting that access to the property is provided on the west. The hotel drop-off area is located on 2nd Court and exits onto 10th Terrace. Most of the parking for the building will be underground, although there is a portion of overflow parking located to the east and north sides of the site. The overflow parking consists of a surface parking lot.~~

~~The proposed hotel is adjacent to Las Olas Boulevard. New development along that roadway has recently included a landscaped strip with shade trees as well as wide sidewalks and ground-floor retail. On 10th Terrace, the Applicant also proposes landscaping, shade trees, and a wide sidewalk. The second floor of the hotel is pushed back from Las Olas Boulevard by an outdoor terrace area, which is an amenity for the hotel. The top floor amenity deck will include a pool area.~~

~~Mr. Lochrie advised that the structure remains essentially the same as the Site Plan previously approved by the Board, as the only significant change is the addition of two~~

~~floors. The project meets all requirements for its zoning district, including setback, maximum height, landscaping, and open space.~~

~~Mr. Lochrie reviewed the hotel's ground floor, which includes a reception area as well as a stairwell leading to the second floor. The second floor is the main area of the hotel, with a central assembly area that can be used by the hotel or the residential units. The building also includes a rooftop café that allows users to walk out into the pool area.~~

~~The building is set back farther than what is required by Code, resulting in pedestrian plazas on the southeast and northeast corners. This also allows for larger sidewalks along Las Olas Boulevard, varying in size from 9 ft. to 14 ft. Along 10th Terrace, the sidewalk is 10 ft. wide and expands to 13 ft. in some areas. Along SE 2nd Court, the sidewalk is 7 ft. at all times with some wider spaces.~~

~~In addition to the improvements to be made along the side of the hotel, the developer has also committed to make improvements on the east side of SE 10th Terrace where the roadway curves around 2nd Court. Improvements are also planned to the intersection of 2nd Court and 10th Terrace.~~

~~The basic design of the building has not been changed from its original plan. The developer is also working with the City to make improvements to the surrounding areas, including portions of SE 10th Terrace and SE 2nd Court. Plans include landscape and right-of-way improvements as well as an additional green area.~~

~~The Applicant agrees with all the recommendations included in the Staff Report as well as the conditions of approval proposed by Staff.~~

~~Mr. Lochrie advised that the project has been presented many times to the appropriate neighborhood associations. The final public participation meeting was held in June 2024.~~

~~Mr. Donaldson addressed the surface parking lot intended to provide additional parking, asking if this area would remain in five years. Mr. Lochrie explained that the size of the requested parking reduction has actually decreased; in addition, the City requires an offsite parking agreement between participating property owners to be recorded. The agreement will run with the land and cannot be released unless other parking is made available.~~

~~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.~~

~~Mr. Ganon commented that he appreciated the proposed streetscapes, and noted that the project represents the first condominiums available on Las Olas Boulevard east of Federal Highway.~~

~~Motion made by Ms. Mammano, seconded by Vice Chair Cohen, to recommend approval of Case Number UDP-A24025 based on the findings of fact in the City Staff Report and based on the testimony presented by the Applicant; the Board hereby finds the Application meets the applicable criteria of the ULDR cited in the Staff Report and we have adopted all the conditions and recommendations of the Staff Report. In a roll call vote, the motion passed unanimously (8-0).~~

3. CASE: UDP-Z24012

REQUEST: * ** Rezoning from Intense Manufacturing and Industrial (M-3, Broward County) District to Uptown Urban Village Southeast (UUV-SE) District

APPLICANT: 200 W Cypress Creek Holdings, LLC.

AGENT: Stephanie J. Toothaker, Esq., P.A.

PROPERTY ADDRESS: 200 W. Cypress Creek Road

ABBREVIATED LEGAL DESCRIPTION: CYPRESS CREEK OFFICE DEVELOPMENT 113-3 B PARCEL A

ZONING DISTRICT: Intense Manufacturing and Industrial (M-3) District (Broward County Zoning)

PROPOSED ZONING: Uptown Urban Village Southeast (UUV-SE) District

LAND USE: Industrial

PROPOSED LAND USE: Uptown Urban Village Transit Oriented Development

COMMISSION DISTRICT: 1 – John Herbst

NEIGHBORHOOD ASSOCIATION: N/A

CASE PLANNER: Michael Ferrera

Disclosures were made at this time.

Michael Ferrera, representing Urban Design and Planning, stated that the subject property is located in the City's Uptown area, which is included within the Uptown Master Plan and associated Unified Land Development Regulations (ULDR) amendments adopted in November 2019. The amendments establish new zoning districts in order to implement the Uptown Master Plan.

During adoption of the Ordinance, the City Commission requested that Staff examine incentives that would encourage property owners to rezone their properties to the applicable new zoning districts. One incentive was that Staff would be able to process rezoning requests on behalf of property owners with the owners' consent. This Item addresses one such property.

The request before the Board would rezone 133,678 sq. ft., or approximately 3.06 acres, from the Broward County zoning district of Intense Manufacturing and Industrial (M-3) to the Fort Lauderdale zoning district of Urban Uptown Village Southeast (UUV-SE).

Ms. Mammano asked if there is an adjacent area zoned UUV-SE. Mr. Ferrera explained that the proposed rezoning would create the first UUV-SE zoning district.

Mr. Ganon observed that the subject parcel is ideally located for residents in the area to access a nearby park-and-ride lot as well as a nearby Tri-Rail station. He asked if the subject parcel will include only a single building to be used as a private club, and requested clarification of the facility's intent.

Stephanie Toothaker, representing the Applicant, advised that the zoning must be changed from Broward County to Fort Lauderdale zoning. The UUV-SE zoning category is consistent with other zoning in the Uptown area. The existing building will remain on the site and will be used as a "condominiumized private club" housing automobiles and motorcycles. The building will be retrofitted to accommodate this use, which is growing in popularity in areas like South Florida which are prone to flooding. She characterized the use as similar to high-end storage rather than a club, and clarified that this type of storage is permitted under the requested zoning.

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.

Motion made by Ms. Mammano, seconded by Vice Chair Cohen, to recommend approval of Case Number UDP-Z24012 based on the findings of fact and the testimony heard today, and the Board hereby finds that the Application meets the applicable criteria of the ULDR cited in the Staff Report and adopt all the conditions and recommendations in the Staff Report. In a roll call vote, the **motion** passed unanimously (8-0).

4. CASE: UDP-L24001

REQUEST: * Amend City of Fort Lauderdale Comprehensive Plan Future Land Use Element; Parks, Recreation, and Open Space Designation to Allow Community Facilities and Utility Uses with Acreage Restriction as a Permitted Use

APPLICANT: City of Fort Lauderdale

COMMISSION DISTRICT: City-Wide

CASE PLANNER: Lorraine Tappen, AICP

Lorraine Tappen, representing Urban Design and Planning, distributed a handout noting corrections to the Staff Report to the Board members.

Ms. Tappen explained that the Item before the Board was an amendment to the Future Land Use Element of the City's Comprehensive Plan. The amendment would affect the Parks, Recreation, and Open Space Future Land Use designation by allowing community facilities and utilities as permitted uses under that designation, with the requirement that those community facilities and utilities not exceed a total of five acres in one park or 5% of the park's total area, whichever is less.

The amendment was initiated when the Fire Department suggested rehabilitating and reconstructing the Fire Station at Birch State Park. Urban Design and Planning reviewed

~~both Code and the Comprehensive Plan and determined that Fire Stations were not currently listed as permitted uses under the Parks, Recreation, and Open Space designation. Staff also learned from the Public Works Department that stormwater pump stations may also be proposed for some parks. In order to allow future flexibility, Urban Design and Planning Staff suggested including utilities as a permitted use as well.~~

~~The text amendment includes language which states the ULDR will include criteria for future community facilities or utilities in parks. An amendment to the ULDR may include criteria such as:~~

- ~~• Analysis of alternative sites~~
- ~~• Design elements~~
- ~~• Neighborhood compatibility~~

~~Staff recommends that the Planning and Zoning Board approve the proposed uses to ensure that they meet necessary requirements and allow for a public process.~~

~~Ms. Tappen noted the following corrections to the Staff Report:~~

- ~~• Table 1: update to the total acreage of community facilities currently located in Holiday Park, which is 4.19 acres or 4.7%~~
- ~~• Comprehensive Plan Consistency section: final sentence should read "Limiting community facilities or utilities to five acres or 5% of the total park area, whichever is less, and the Parks, Recreation, and Open Space designation maintains Parks, Recreation, and Open Space element Objective PR1.1, which assures that parks, facilities, and programs adequately meet or exceed the needs of the City's residents."~~

~~Ms. Mammano requested clarification of the reason behind the proposed change, recalling that previous language addressing the proposed change had referred to retention of sufficient functional open space to serve residents, while the current language refers to Objective PR1.1. Ms. Tappen explained that the proposed amendment would limit community facilities and utilities to a total of five acres or 5%, whichever is less.~~

~~Ms. Mammano pointed out that it was the language following the five-acre or 5% reference that had changed. Ms. Tappen replied that the original language was based on a previously considered version of the amendment; after further analysis, Staff determined that five acres or 5% would be the best proposal for the amendment.~~

~~Principal Urban Planner Jim Hetzel further clarified that while there have been modifications to the language in the Staff Report, the language of the proposed text amendment itself has not changed.~~

~~Mr. Shechtman asked if a proposed facility would come before the Planning and Zoning Board for review. Ms. Tappen stated that at present, the Parks zoning designation allows utilities to be permitted as a conditional use; however, there are no specific requirements~~

~~for community facilities in parks. Staff recommends that the ULDR be amended to add criteria for permitting both community facilities and utilities as conditional uses.~~

~~Deputy City Attorney D'Wayne Spence further clarified that the Board is acting in its capacity as Local Planning Agency (LPA) by reviewing this proposed change to the Comprehensive Plan. This review would also be consistent with the Broward County Land Use Plan. He read the following language into the record at this time:~~

~~"The Broward County Land Use Plan Section 7 of the Recreation and Open Space Use states as follows:~~

- ~~A. Community facilities and utilities up to five acres, provided that community facilities and/or utility uses are publicly owned and intended to serve a public purpose to promote health, safety, and welfare~~
- ~~B. That the local government can demonstrate that it will continue to meet the minimum open space requirement of three acres per 1000 existing and projected permanent residents~~
- ~~C. That the proposed community facilities or utility use is limited to no more than five acres and the municipality must demonstrate that sufficient and functional open space serving the area residents will be retained."~~

~~Attorney Spence concluded that the proposed language is required to be consistent with this language in the Broward County Land Use Plan. Once the text amendment is adopted, the next step would be amendment of the ULDR in order to implement the new language.~~

~~Mr. Shechtman asked if there has been a previous or existing process for adding a community facility to park or open space. Ms. Tappen replied that there has been no previously existing process, although some community facilities have already been permitted in the Parks zoning district. She cited the example of Riverland Park, where a stormwater pump has been proposed within that Parks, Recreation, and Open Space zoning designation; that park, however, does not have a Parks and Recreation land use designation. Once the ULDR is amended, the stormwater pump project would be required to come before the Planning and Zoning Board for conditional approval.~~

~~Mr. Shechtman asked how the stormwater pump would be approved if the amendment is not passed and the ULDR is not amended. Ms. Tappen advised that Code requires this utility to come before the Planning and Zoning Board in any case. Staff hopes to add more criteria for that Board's review, including neighborhood compatibility and design elements, which may include appropriate screening for the pump station.~~

~~Mr. Hetzel noted that the process is for public purpose use, which requires Site Plan Level IV approval by the Planning and Zoning Board, followed by City Commission approval. This is the same process by which pump stations are permitted in residential neighborhoods.~~

Mr. Shechtman commented that members of the public may be sensitive with respect to the use of park space, and recalled that previous proposals, such as the inclusion of pickleball courts at Snyder Park, which are larger than five acres or 5% of the total open space, never came before the Board. His concern was whether or not the result of the amendment would be more park space being taken.

Mr. Hetzel explained that the intent of the proposed amendment is twofold. Staff is attempting to correct situations such as the aforementioned Fire Station at Birch Park, which will need to be rebuilt. The plan to rebuild this station brought the issue to light, as the underlying land use of that land was Parks, Recreation, and Open Space. Another consideration is that the Public Works Department has identified an increased need for stormwater pump stations throughout the City, some of which are proposed within space that is zoned Parks and that has an underlying Parks, Recreation, and Open Space land use.

Mr. Hetzel continued that amending the criteria within the ULDR will establish how the City can move forward, including appropriate siting of pump stations. At present, there are no criteria for how these stations may be accommodated within Parks zones.

Ms. Mammano asked how the existing pump station in Peter Feldman Park was constructed. Mr. Hetzel replied that while Peter Feldman Park is zoned as a park, its underlying land use is not Parks, Recreation, and Open Space but is instead Regional Activity Center.

Ms. Mammano asked if the parks that have recently come before the Board to be rezoned as park space have an underlying land use of Parks. Mr. Hetzel advised that the land use designation of Regional Activity Center (RAC) allows community facility and utility uses; however, if a residential space is rezoned as Park, that underlying land use may remain Residential. Other underlying land uses, such as Commercial, do not allow rezoning to Park.

Mr. Hetzel continued that most of the parks that have come before the Board for rezoning have been compliant with the Land Use Plan or they could not have been processed.

Ms. Mammano also addressed the Fire Station, asking if that building would qualify as a community facility that promotes public health, safety, and welfare. Mr. Hetzel confirmed this, explaining that the language to which Ms. Mammano had referred is in Broward County's but not Fort Lauderdale's Comprehensive Plan. The language must be included in the City's Plan as well.

Mr. Shechtman asked if concerns had been raised that the Fire Station was not compatible with the underlying land use. He also requested clarification of how large a pump station could be. Ms. Tappen advised that pump stations are typically 0.03 acre in size or 1500 sq. ft.

~~Mr. Shechtman stated that it seemed odd to address this issue under the premise of possible pump stations when those stations are significantly smaller than five acres. Mr. Donaldson pointed out that the reference to five acres would match the terminology used by Broward County. He also noted that there are no parks of 100 acres within the City, which means there would never be a community facility or utility use covering five acres.~~

~~Mr. Hetzel noted that the reference to five acres or 5% would require the community facility or utility space to be no larger than the smaller of those two options. The 5% limit would be the more restrictive of the two.~~

~~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.~~

~~**Motion** made by Ms. Mammano, seconded by Mr. McTigue, to recommend approval of Case Number UDP-L24001, and the Board hereby finds that the text amendments are consistent with the Comprehensive Plan. In a roll call vote, the **motion** passed 6-2 (Chair Weymouth and Mr. Shechtman dissenting).~~

~~V. COMMUNICATION TO THE CITY COMMISSION~~

~~None.~~

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

~~Ms. Mammano requested a brief discussion regarding the personal code of conduct signed by all City advisory body members, recalling that the code states the City Commission may remove any member who violates it. She pointed out that the code of conduct also refers to an exception when there is inconsistency with the City's Charter or general or special law, and requested an example of this type of exception.~~

~~Attorney Spence explained that the clause to which Ms. Mammano had referred is considered a catchall provision which may include a number of issues. He noted that there is a provision which states advisory body members should prevent the appearance of impropriety by refraining from engaging in public and private discussions about specific agenda items.~~

~~Attorney Spence continued that Section 286.0115 of Florida Statutes provides that in a quasi-judicial proceeding over local government land use matters, a person may not be precluded from communicating directly with a member of a decision-making body by application of an ex parte communication prohibition. This means the City could not adopt a policy that bars an individual from talking to Board members about quasi-judicial land use cases. This would be covered by the exception.~~

~~Ms. Mammano observed that the code of conduct also requires advisory body members from using profanity or making disparaging remarks, and asked what entity is responsible for determining whether or not a comment is disparaging. Attorney Spence replied that the Commission had asked the same question of the City Attorney, who clarified that this would be an example of "you know it when you see it."~~

~~Ms. Mammano cited the example of a discussion between a Board member and a citizen in which disparaging remarks are made, asking if the Board member could be removed for participating in this type of discussion. She felt this was an overly broad interpretation of the code of conduct. Attorney Spence confirmed that the language is written broadly.~~

~~Ms. Mammano also addressed the topic of private discussions about specific agenda items, noting that advisory body members are asked to refrain from engaging in these discussions. She pointed out that Board members regularly receive telephone calls from applicants, and asked how that would differ from prohibited private discussions. Attorney Spence advised that the Florida Statute to which he had referred earlier applies here: an individual may not be precluded from communicating directly with a member of the decision-making body.~~

- **Grade Definition Amendment Presentation**

~~Chief Zoning Officer Burt Ford recalled that the Board previously requested information of the grade definition in the ULDR, which was amended in October 2021. He clarified that the amendment addressed non-habitable accessory structures such as fences or gazebos.~~

~~When used to measure these structures, grade shall be considered the ground surface at the base of the structure being measured. If a retaining wall elevates the non-habitable accessory structure, grade shall be the finished ground surface at the base of the retaining wall. This is considered to be measurement from the lowest adjacent grade, which is the neighboring property on the other side of the retaining wall.~~

~~Mr. Ford explained that when the City began strictly enforcing the base flood elevation (BFE) requirements designated by the Federal Emergency Management Agency (FEMA), many residents came before the Board of Adjustment for variance requests. They were bringing in fill material in order to fill the entire lot and build a retaining wall all the way around the property.~~

~~The City Commission requested that the Zoning Department review grade requirements, which resulted in a change that now measures grade from the finished floor. Mr. Ford added that this can result in walls up to 14 ft. tall, while adjacent lots remained at lower elevations. There are cases in which one property owner may have a finished floor elevation of 8 but is adjacent to a neighboring owner who has a finished floor elevation of 3. The first owner may measure a fence from their elevation and build it to a height of 6 ft., resulting in a significant disparity between the neighboring properties.~~

Mr. Ford continued that most zoning districts in Fort Lauderdale require 5 ft. setbacks, which means a neighbor on a lower lot may be faced with a very tall wall beside their property. The proposed solution would change the definition of grade back to a measurement of the accessory structure from the base of that structure on the site that is installing the structure, rather than from the base of the adjacent property.

Mr. Ford showed slides illustrating the changes in how grade is defined, as well as examples of properties throughout the City. He added that for properties with a waterway side, Code states that the last 10 ft. to the property line may be no higher than 30 in. unless the fence is 75% non-opaque, as it would prevent obstruction of waterway views for neighbors.

In October 2023, the City's Flood Ordinance was updated to prohibit use of fill except in the case of minor grading for drainage. This created another issue: buildings built on stem walls are now grading down so the property will meet the grade on the other side. Because the walls are measured from the finished floor slab, there may be large walls on both sides, which meets current Code.

Mr. Ford continued that this Code change protects residents who purchase elevated lots and may want to erect a 6 ft. fence, as well as residents who will not have to look at 12 to 14 ft. walls.

Mr. Donaldson asked what would happen when a lot is sold and the adjacent property has to raise their foundation. He characterized this as creating a river between the two properties. Mr. Ford explained that this is what FEMA wants, as allowing an owner to fill in their entire property reduces the Community Rating System (CRS) score the City may receive. Fort Lauderdale's rating is currently 7.

Ms. Mammano asked if Code now requires homeowners to leave their 5 ft. side yards at existing grade. Mr. Ford confirmed this, adding that Code also allows for the City Engineer to raise those yards over what is permitted at their discretion.

Ms. Mammano asked if changing the Ordinance to prevent use of fill all the way to the lot line improved the City's CRS rating. Mr. Ford confirmed this as well. Owners are also permitted to fill the area inside the stem wall, although FEMA's recommended best practice is to leave that space empty and provide flood vents for water.

Mr. Shechtman asked if the new FEMA policy will alleviate the need for tall fencing. Mr. Ford replied that the measurement is now made from the finished floor elevation.

Mr. Donaldson asked what would become of properties, such as those in his neighborhood, that have already constructed retaining walls and filled them in. Mr. Ford replied that those homes may now install a fence measured from their own property.

~~Ms. Mammano pointed out that if this is followed to the waterfront, a property's seawall may be as high as or higher than grade. Mr. Ford advised that the maximum height of a seawall throughout the City is 6 ft.~~

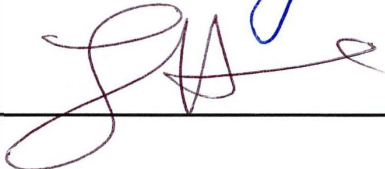
~~Mr. Shechtman asked if free standing shade structures are affected by the change in Code. Mr. Ford replied that these would be measured from the same ground level as fences, which means they should not be impacted.~~

~~There being no further business to come before the Board at this time, the meeting was adjourned at 7:14 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.]