



CITY OF FORT LAUDERDALE

DRAFT

**PLANNING AND ZONING BOARD MEETING MINUTES
CITY HALL COMMISSION CHAMBERS**

100 N. ANDREWS AVE., FORT LAUDERDALE, FLORIDA 33301

WEDNESDAY, DECEMBER 15, 2021 – 6:00 P.M.

Board Members	June 2021-May 2022		
	Attendance	Present	Absent
Jacquelyn Scott, Chair	P	7	0
Brad Cohen, Vice Chair	A	4	3
John Barranco	P	6	1
Mary Fertig	P	7	0
Steve Ganon	P	7	0
Shari McCartney	P	7	0
William Rotella (dep. 7:20)	P	6	1
Jay Shechtman	A	5	2
Michael Weymouth	A	5	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
Shari Wallen, Assistant City Attorney
Karlanne Grant, Urban Design and Planning
Lorraine Tappen, Urban Design and Planning
Tyler LaForme, Urban Planner II
Glen Hadwen, Sustainability Manager
Mark Williams, Urban Forester
Laura Tooley, Landscape Inspector
Porshia Williams, Code Compliance
Jamie Oppерlee, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Scott called the meeting to order at 6:00 p.m. Roll was called and the Pledge of Allegiance was recited. The Chair introduced the Board members present, and Urban Design and Planning Manager Ella Parker introduced the Staff members present.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

Motion made by Ms. McCartney, seconded by Mr. Ganon, to approve. 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.

IV. AGENDA ITEMS

Index

<u>Case Number</u>	<u>Applicant</u>
1. UDP-S21002**	777 Townhouses LLC
2. UDP-T21002*	City of Fort Lauderdale
3. UDP-T21011*	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.

- CASE:** UDP-S21002
REQUEST: ** Site Plan Level III Review: 8-Unit Cluster Development
APPLICANT: 777 Townhouses LLC
GENERAL LOCATION: 843 SW 14th Court
AGENT: Patrick Soares, Fieldagency Architecture
LEGAL DESCRIPTION: Esmonda Gardens 22-20 B Lot 16,17 Block 1
ZONING DISTRICT: Residential Single Family/Duplex/Low Medium (RD-15)
COMMISSION DISTRICT: 4 - Ben Sorensen
NEIGHBORHOOD ASSOCIATION: Croissant Park Civic Association
LAND USE: Residential Medium
CASE PLANNER: Tyler LaForme

Disclosures were made at this time.

Robert Lochrie, representing the Applicant, stated that this Application first came before the Board in September 2021, at which time the Board had provided a number of specific comments to be addressed. The Applicant has reviewed the plans since that time and made a number of changes.

The subject property is currently zoned RD-15 and is a multi-family site with two buildings currently located on the parcel. One feature of the existing site is backout parking onto the street. The site includes eight residential units, each of which is two stories of indoor space as well as a rooftop patio area. The overall height of the project is 31 ft. 6 in. Additional stepbacks are included where the property adjoins other developments to the north and the east.

The buildings include a number of different materials. The structures that extend into the yard also meet setback requirements, while other elements of the building are pushed back even further. Mr. Lochrie noted that rather than have driveways out onto the street, these buildings are clustered around an internal driveway so all vehicular access and garages are internal to the site and cannot be seen from the street. Each unit's front door faces the street along 14th Court and 9th Avenue.

Some of the concerns raised by the Board at the September meeting include:

- Driveway width
- Conflicts between light poles and palm trees
- Lack of screening around garbage bins
- Concerns with landscaping and fencing
- Guest parking

The revised Site Plan addresses a number of these issues. The Applicant did not remove the guest parking spaces on the east side of the property, but added two more spaces at the front of the site. While Code requires only two guest spaces, the project now includes four.

The private driveway between buildings has addressed "pinch points" approximately 19 ft. to 20 ft. in width by widening the driveway width to 24 ft. along all of its length. The Applicant also enclosed the areas where garbage will be placed for collection with landscape screening. The site includes one access point onto 9th Avenue.

The landscaped area along 14th Court now includes a fence on the inside of the landscaped hedge rather than on the outside. The Applicant also plans to improve the sidewalk area by providing connections across 9th Avenue and 14th Court. The Applicant has incorporated sidewalks along both roadways, as required by Code.

The Applicant has moved electrical panels from 9th Avenue to an internal location so they will not be visible from the street. The development's main entrance now faces 9th Avenue to encourage pedestrian interaction.

The Applicant conducted additional neighborhood outreach as requested by the Board. Notice was sent to the presidents of the Croissant Park and River Oaks civic associations, as well as to all neighboring properties within 300 ft. of the subject parcel. This notice was sent two weeks prior to the Zoom meeting.

Mr. Lochrie concluded that landscaping and drainage will be maintained and enhanced throughout the site.

Chair Scott noted the conditions of approval listed in the Staff Report, and asked if the Applicant has agreed to them. Mr. Lochrie confirmed that the Applicant agrees to these conditions.

The Board agreed by consensus to make the Staff Report part of the record.

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

Ted Inserra, private citizen, pointed out that SW 9th Avenue is a two-lane road, and expressed concern with the effects of increased traffic on this roadway, which is already heavily travelled and serves multiple bus routes. He did not feel the project was compliant with Section 47-19.1.G, H, and K, and concluded that with the planned rooftop patio areas, the development may need more than four guest parking spaces.

Nancy Long, president of the River Oaks Civic Association, stated that this Association did not receive notice of the Applicant's Zoom meeting. She cited concerns regarding height, shadows, lot lines, and traffic on 9th Avenue, and expressed concern with existing cluster home developments in the area as well as rainwater drainage.

Jorge Garcia, private citizen, advised that Fort Lauderdale needs to be revitalized, and suggested that the project could enhance property values in the area. He noted that traffic has been an ongoing problem in the area and characterized this as a City rather than a neighborhood issue.

Samuel Thomas, private citizen, stated that every development would present challenges, and felt the proposed project would improve property values in the neighborhood.

[Name not provided] commented that property values are likely to increase and better neighbors might move into the neighborhood if the proposed project is completed.

Scott Davis, private citizen, asked if the sidewalk to the north of the subject property would be compliant with the requirements of the Americans with Disabilities Act (ADA). It was confirmed that the sidewalk would meet these requirements.

Mr. Lochrie addressed some of the concerns raised during public comment, pointing out that bringing the project's driveways within internal control would help with traffic on 9th Avenue. Cars will not be pulling out of driveways directly onto 9th Avenue. In addition, the buildings meet required setbacks, including a 15 ft. front setback onto 14th Court and a 15 ft. rear setback on the north and west sides. There will be a traditional 5 ft. side yard setback on the east side, with portions of the buildings which are taller than 22 ft. stepped back even further.

Mr. Lochrie recalled that at the most recent public participation meeting, a resident from River Oaks had expressed support for the project. He concluded that the subject property is within the boundaries of the Croissant Park Civic Association, with the River Oaks Civic Association across the street.

As there were no other individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

Mr. Barranco requested additional information regarding drainage on the site. Mr. Lochrie explained that the City's development standards require that all water on the site must be retained there. This is part of the project's engineering plan. The Applicant has incorporated a permeable central driveway so water can move through it to the ground.

Mr. Barranco asked if the units are for sale. Mr. Lochrie also confirmed this, noting that the market rate for this area begins at approximately \$1.2 million.

Ms. Fertig requested clarification of when the public participation Zoom meeting was held and when notice was mailed for it. Mr. Lochrie replied that notice was sent just over two weeks in advance of the meeting, which was held approximately one week ago. Only four people attended the meeting. Neither the Croissant Park nor the River Oaks association took a position on the development.

Ms. Fertig also expressed concern with traffic on 9th Avenue. Mr. Lochrie repeated once more that none of the homes on the subject property will back onto 9th Avenue, which is an existing condition up and down that roadway. He also recalled that at the September meeting there had been discussion regarding closure of 9th Avenue, and emphasized that this is not under consideration.

Motion made by Mr. Rotella, seconded by Ms. McCartney, to approve with all three Staff conditions in the Staff Report, and adopting the findings of fact in the Staff Report.

Assistant City Attorney Shari Wallen read the following Resolution into the record:

A Resolution of the Planning and Zoning Board of the City of Fort Lauderdale, Florida, approving a Site Plan Level III development permit for an eight-unit cluster development located at 843 SW 14 Court, Fort Lauderdale, Florida, Case #UDP-S21002.

In a roll call vote, the **motion** passed 6-1 (Ms. Fertig dissenting).

2. CASE: UDP-T21002

REQUEST: * Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) Section 47-21, Landscape and Tree Preservation Requirements

APPLICANT: City of Fort Lauderdale

GENERAL LOCATION: Citywide

CASE PLANNER: Glen Hadwen and Mark Williams | Public Works

Glen Hadwen, Sustainability Manager, and Mike Conner, senior landscape architect representing consultant Calvin, Giordano and Associates, recalled that at the November 2021 meeting, the Board had passed a motion to defer the proposed amendments to tonight's meeting in order to allow attachment of comments for consideration by the City Commission. Staff and the consultant have reviewed those comments and suggested a number of small recommended changes. Staff requests that the Board approve the proposed amendments.

Mr. Conner distributed a handout reflecting additional suggestions and clarifications to the Ordinance as proposed in November, noting that these additions have been reviewed by Staff and the City Attorney's Office. They include the following:

- Amendments to the following definitions: hardscape, interior landscape area, low-impact site design practices, planting plan
- Specify that soil analysis is part of the landscape plan only when required by ULDR
- Clarify proposed distances between large, medium, and small trees, as well as small palms
- Add exemption for putting greens to requirements for the installation of artificial turf, including the height of the fiber and the weight of the full system
- Amend maintenance of large trees to ensure a minimum 30 ft. canopy spread
- Clarify references to both peninsular and island landscapes in vehicular use areas
- Establish that the minimum island size in vehicular use areas is at least the same size as an adjacent parking space
- Apply requirements for the spacing of trees throughout the document
- Correct scrivener's errors in section 14 A, B, and C
- Correct misspelling of genus araucaria

Mr. Conner noted that City Staff and the consultants met with an stakeholder group and addressed 30 specific issues identified by that group. They met with this group three times and arrived at a consensus on how to solve these issues, which were then incorporated into the Ordinance.

Ms. Fertig asked if comments recommending the creation of an Urban Forestry Master Plan could be incorporated into the Ordinance. She noted that this could be paid for using

dollars from the Tree Canopy Trust Fund. Mr. Hadwen replied that this was not the purpose or intent of the Ordinance and was not part of the direction given to Staff. He suggested that the Board include the Urban Forestry Master Plan among its recommendations to the Commission if the Ordinance is approved.

Ms. Fertig also asked if it would be possible to create an incentive plan for saving specimen trees in addition to a punitive plan. Mr. Conner advised that this was likely to arise from the Urban Forestry Master Plan effort. He noted that the replacement value of trees is increased by the proposed Ordinance.

Ms. Fertig continued that the revised Ordinance includes mention of writing grant proposals to protect “old growth” trees, and asked if this would also be part of an Urban Forestry Master Plan. Mr. Conner agreed that it would be part of the Master Plan effort.

Mr. Barranco recalled that his comments had also referred to the need to incentivize preservation of trees. He felt it was important to provide developers with incentives to preserve the City’s trees rather than having them pay into a fund to mitigate their loss.

Assistant City Attorney D’Wayne Spence addressed discussion of an Urban Forestry Master Plan, pointing out that the ULDR includes land regulations that are statutorily required in order to provide detailed provisions for implementing the City’s Comprehensive Plan. The ULDR is not considered a planning document. The Comprehensive Plan, however, is a planning document which includes goals set by the community, and which the ULDR seeks to implement. Including a provision in the ULDR that requires implementation of a Master Plan is not an appropriate fit for that document, and it may be more suitable to include this mandate in either the Comprehensive Plan or in Volume 1 of the Code of Ordinances than in the ULDR.

Chair Scott recalled that the City revised its Comprehensive Plan approximately one year ago, and asked if that revised Plan includes reference to an Urban Forestry Master Plan. Lorraine Tappen, representing Urban Design and Planning, confirmed that the Comprehensive Plan includes policies to develop an Urban Forestry Master Plan, which can stand alone: policy does not require it to be incorporated into the ULDR.

Ms. Fertig pointed out that the Ordinance states an Urban Forestry Master Plan can be funded with money from the Tree Canopy Trust Fund. She suggested that this reference be deleted if necessary and the City could instead fund the Urban Forestry Master Plan from its budget. Attorney Spence explained that if the Master Plan is included in the ULDR and the City then fails to create it, the result could be that the City has violated the ULDR. Chair Scott concluded that the Board may make the suggestion to the City Commission to include the Urban Forestry Master Plan, and the Commission may make the final decision.

Chair Scott requested input from the Board on the opening of the public hearing on this Item, recalling that this hearing was closed when the Item was discussed at the November 2021 meeting. It was determined that the public hearing would not be reopened.

Mr. Rotella asked what was done with the comments received from both the Board and the stakeholder/advisory group after the November meeting. Ms. Parker clarified that at that meeting, the Board's motion had specifically referred to the incorporation of comments from other Board members, with no mention of public comments. Staff did receive a number of community comments, which were included as a separate exhibit.

Mr. Rotella asked if community comments were also incorporated into the revised Ordinance or only attached in exhibit form. Mr. Conner explained that when all comments were reviewed, some of them were related to clarification and/or correction of the Ordinance, while others were contradictory or would have changed the Ordinance's intent. If there was consensus on a particular issue, it was incorporated into the document.

Attorney Spence explained that the proposed Ordinance itself was not amended. Based upon all the comments received, Staff arrived at the list of changes provided earlier in the meeting, which they are recommending based on their review of Board and community comments. Those comments are the basis for the recommended changes presented by Staff and the consultant.

Mr. Rotella stated that he relied heavily on the input of the advisory group that participated in creation of the Ordinance, and asked if they have seen the comments and agree with them. Mr. Conner replied that the comments were distributed to all members of this advisory entity. The result was a compromise in which the majority of the members of the advisory group agreed "to move in this direction," resulting in the revised Ordinance.

Attorney Spence requested that the term "advisory group" be clarified for the record. Mr. Hadwen replied that this term refers to the group of landscape architects and other experts who met earlier in the year to work with Staff on the Ordinance. It does not mean an advisory entity appointed by the City Commission. It was noted that a list of the group's participants is included in Exhibit 2.

Chair Scott asserted that it is time for the Board to make a recommendation to the City Commission, as they have discussed the proposed Ordinance for some time now. Ms. Fertig stated that while she did not disagree, she had provided comments to which she did not receive a response. She did not oppose moving the Item on to the City Commission, but wished to do so with at least three suggestions included as amendments.

Mr. Barranco stated that one issue of particular importance to him was the encouragement to use synthetic turf, which is a petroleum-based product. He expressed concern with its ability to retain heat, as well as its lack of permanence. He did not believe

this specific material should be recommended in Code, as there may be better products manufactured in the future.

Motion made by Ms. Fertig to amend the Ordinance to require an Urban Forestry Master Plan for the City of Fort Lauderdale.

Mr. Ganon stated that while he understood Attorney Spence's caution not to include items such as this Master Plan in their recommendation, he has also seen incentives to encourage affordable housing as part of other Ordinances. He did not feel there was a difference in the proposed Ordinance.

Attorney Spence clarified that he had not referred to the inclusion of incentives in an Ordinance, but to the inclusion of a specific Master Plan, which may be inappropriate as part of a regulation. Ms. Fertig noted that the proposed Ordinance refers to the funding for an Urban Forestry Master Plan but not the Plan itself.

Mr. Barranco commented that some of the provisions mentioned in the proposed Ordinance refer to the use of money from the Tree Canopy Trust Fund. Attorney Spence advised that these provisions outline the use of funding that comes from fines paid into the Tree Canopy Trust Fund. State law regulates how the City can collect funds: for example, they cannot levy what the state considers "illegal taxes," as these are not authorized by State Statute. For this reason, the Ordinance must outline how these funds will be expended. This is the reason the provisions specifying the receipt and allocation of funds are included in the Ordinance.

Mr. Barranco **seconded** the **motion**.

Mr. Barranco called the Board's attention to p.116, line 10 of the exhibit, which specifically mentions the Urban Forestry Master Plan. Attorney Spence advised that this refers to a funding mandate for the Urban Forestry Master Plan, for which funding from the Tree Canopy Trust Fund may be allocated. It also describes what the Plan, at a minimum, should contain. Ms. Fertig observed that this statement does not ensure that the City will develop this Master Plan.

Attorney Wallen asked if the **motion** is intended to recommend that the Ordinance be amended to include the Urban Forestry Master Plan. Ms. Fertig stated that the **motion** was intended to amend the Ordinance to require this Master Plan. Attorney Wallen explained that since the Board is acting as a recommending body in this instance, its recommendations must be brought before the City Commission.

Ms. Fertig and Mr. Barranco **withdrew** their **motion** and **second**.

Motion made by Ms. Fertig, seconded by Mr. Barranco, that we recommend the Ordinance number whatever to the City Commission, with a strong recommendation to

require an Urban Forestry Plan for the City of Fort Lauderdale, and that if that Plan is not required, they remove any provisions for funding from this document.

It was noted that there was no mention of the term “approval” in the **motion**.

Ms. Fertig restated her **motion** as follows: **motion** for approval of this with a strong recommendation for an Urban Forestry Plan, that that Plan will incorporate incentives to maintain specimen trees and old growth forestry.

Urban Forester Mark Williams advised that it was not a good idea to suggest that an Ordinance will include something when this inclusion cannot be guaranteed. He explained that all that can be guaranteed is further discussion of incentives as part of the process.

Ms. Fertig restated her **motion** once again: **motion** to recommend the Ordinance to the City Commission with a strong recommendation to require an Urban Forestry Plan for Fort Lauderdale, and that Plan will include incentives to maintain specimen trees and old growth forestry.

Attorney Wallen pointed out once more that the **motion** must include a recommendation for approval.

Ms. Fertig further restated the **motion**: and suggest the Urban Forestry Master Plan include incentives for retaining specimen trees and old growth forests. Mr. Barranco **seconded** the restated **motion**.

In a roll call vote, the **motion** passed 4-2 (Ms. McCartney and Mr. Rotella dissenting).

Mr. Rotella left the meeting at 7:20 p.m.

3. CASE: UDP-T21011

REQUEST: *Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) Section 47-38.C, Education Mitigation, to update level of service standard.

APPLICANT: City of Fort Lauderdale

GENERAL LOCATION: Citywide

CASE PLANNER: Lorraine Tappen

Lorraine Tappen, representing Urban Design and Planning, explained that this Item’s proposed amendments to the ULDR would update the level of service of schools within regulations currently included in the inter-local agreement with the School Board and the Comprehensive Plan’s Education element. It addresses 100% gross capacity, including “relocatables,” or 110% permanent capacity for those schools with less than 10% of their population in relocatables.

The Broward County School Board, in agreement with the municipalities, has included this level of service in its inter-local agreement, based upon increasing flexibility for schools and their capacities. This prevents boundaries from being easily changed.

Residential development is required to show that they meet school requirements for concurrency. Each residential development must provide the City with a school capacity availability determination letter. Two sections of the ULDR are being amended: a section addressing adequacy will be changed to mention the requirement of this letter on school availability, and the education mitigation section will be updated to reflect the new level of service. This is intended to streamline and clarify the review process and update language in accordance with the inter-local agreement.

Ms. Fertig noted that several Fort Lauderdale schools are currently operating at or over capacity, and asked how the proposed amendment would affect them. Ms. Tappen replied that Staff can review the School Board's capital planning program to determine what their plans are for schools currently over capacity, and forward this information to the Planning and Zoning Board.

Ms. McCartney requested clarification of the distinction between the proposed amendment and the developer concurrency obligations already in existence. Ms. Tappen replied that the inter-local agreements are already in place and developers are already making applications to the School Board for their review of school concurrency. The School Board then takes these level of service standards and applies them to the schools, letting developers know whether or not the school will meet the required level of service. Staff reviews this letter as well.

Ms. McCartney requested more information on what the proposed amendment is intended to accomplish. Ms. Tappen replied that the level of service is already in the inter-local agreement and part of the Comprehensive Plan; however, it must also be included in the ULDR as a requirement of the inter-local agreement with the School Board. The proposed amendment achieves this.

There being no other questions from the Board at this time, Chair Scott 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.

Attorney Wallen explained that this Item would need a motion to recommend either approval or denial.

Motion made by Mr. Barranco, seconded by Mr. Ganon, to approve recommendation to the City Commission for the modification suggested by Staff. In a roll call vote, the **motion** passed 5-0.

Chair Scott noted that Ms. Fertig had arrived after the Board approved the November 17, 2021 minutes and wished to discuss potential changes to the document. Attorney Wallen

advised that any Board member who had voted to approve the minutes earlier in the meeting may make a motion to reconsider them now.

Motion made by Ms. McCartney, seconded by Mr. Barranco, that we reconsider the minutes. In a voice vote, the **motion** passed unanimously.

Ms. Fertig noted that p.11, paragraph 7 attributed a comment to her when Chair Scott had made the comment. Chair Scott confirmed this.

Ms. Fertig also noted that on p.12, paragraph 2, the Attorney's actual comment had indicated that "Staff had been directed to have the Board pass the proposed Ordinance on to the City Commission with a recommendation for either approval or denial." She wished the record to reflect this direction. Attorney Wallen confirmed that this had been the language she used.

Motion made by Ms. Fertig, and duly seconded, to approve with corrections. In a voice vote, the **motion** passed unanimously.

V. COMMUNICATION TO THE CITY COMMISSION

None.

VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE

Ms. Fertig asked if it would be possible for the Board to receive training on its role as the Local Planning Agency (LPA). Attorney Spence stated that he would be willing to provide this training. It was determined that the Board would meet at 5 p.m. rather than 6 p.m. in January 2022 so training could take place immediately prior to the next meeting.

Mr. Barranco stated that as an architect, he regularly deals with the City with respect to reading Code. He noted that one recurring issue for designers and developers is that different groups must be satisfied at the City level, including planners, sanitation, engineers, school representatives, landscapers, and others. While most comments relate to the ULDR, engineers can sometimes become bogged down in details that do not affect the outcome of a Site Plan, which slows the process. He wished to encourage Staff to keep these comments simple and provide direction to the City's engineers to streamline the approval process and prevent delays.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:41 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.]