



CITY OF FORT LAUDERDALE

**2<sup>nd</sup> DRAFT**

**PLANNING AND ZONING BOARD MEETING MINUTES  
CITY HALL COMMISSION CHAMBERS  
100 N. ANDREWS AVE., FORT LAUDERDALE, FLORIDA 33301  
WEDNESDAY, APRIL 20, 2022 – 6:00 P.M.**

<b>Board Members</b>	<b>June 2021 – May 2022</b>		
	<b>Attendance</b>	<b>Present</b>	<b>Absent</b>
Jacquelyn Scott, Chair	P	11	0
Brad Cohen, Vice Chair (arr. 6:45)	P	8	3
John Barranco	P	10	1
Mary Fertig	P	11	0
Steve Ganon	P	11	0
Shari McCartney	P	10	1
William Rotella	A	9	2
Jay Shechtman	P	9	2
Michael Weymouth	P	8	3

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  
Tyler Laforme, Urban Design and Planning  
Yvonne Redding, Urban Design and Planning  
Adam Schnell, Urban Design and Planning  
Lorraine Tappen, Urban Design and Planning  
Leslie Harmon, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

**Motion** made by Mr. Weymouth, and seconded by Mr. Cohen, to return the City Hall Chambers to pre-pandemic conditions and layout. In a voice vote, the **motion** passed unanimously.

**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 Mr. Weymouth, seconded by Ms. McCartney, 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. Chair Scott clarified that individuals speaking on their own behalf at tonight's meeting will have three minutes in which to speak. Representatives of organizations will have five minutes, and Applicants will have 20 minutes.

### IV. AGENDA ITEMS

#### Index

#### Case Number

#### Applicant

- |                   |                                  |
|-------------------|----------------------------------|
| 1. UDP-S21020**   | L&H Development Group LLC        |
| 2. PL-PL19004**   | West Cypress Creek Holdings, LLC |
| 3. UDP-SR21002**  | 1800 State Road, LLC             |
| 4. UDP-S21050**   | 500 Hendricks, LLC               |
| 5. UDP-S21031**   | Sunrise FTL Ventures, LLLP       |
| 6. UDP-Z22003* ** | City of Fort Lauderdale          |
| 7. UDP-S21029**   | City of Fort Lauderdale          |
| 8. UDP-T22002*    | 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.

#### ~~1. CASE: UDP-S21020~~

~~REQUEST: \*\* Site Plan Level III Review: Three-Unit Cluster Development~~

~~APPLICANT: L&H Development Group LLC~~

~~AGENT: Karyn Rivera, Martin Architectural Group, P.C.~~

~~PROJECT NAME: 1022 Cluster Homes~~

~~PROPERTY ADDRESS: 1022 NE 2 Avenue~~

~~ABBREVIATED LEGAL DESCRIPTION: Progresso 2-18-D, Lots 36 to 38  
BLK 184~~

~~ZONING DISTRICT: Residential Single Family and Duplex / Medium  
Density (RD-15)~~

~~LAND USE: Medium Residential~~

~~Mr. Barranco reiterated that he is typically used to seeing two cases in which rezoning and Site Plan review are requested separately. Attorney Spence confirmed that this process differs from the allocation of flexibility units, which allocates dwelling units to commercial parcels. This Application represents a residential parcel that is being rezoned for commercial use.~~

~~Chair Scott asked if the Applicant agrees to the request for deferral, which would allow them the opportunity to further address details of the plans with the site's neighbors. She noted that if the Applicant does not wish to defer the Item, the Board will vote on it at tonight's meeting. Ms. Bean agreed to the proposed deferral.~~

~~Attorney Wallen requested clarification of the date to which the Item would be deferred. Chair Scott advised that this would be until the May 18, 2022 meeting.~~

~~In a roll call vote, the motion to defer passed 8-0.~~

**4. CASE: UDP-S21050**

**REQUEST:** \*\* Site Plan Level III Review: Waterway Use and Yard Modification for Seven Multi-Family Residential Units

**APPLICANT:** 500 Hendricks, LLC.

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

**PROJECT NAME:** Lumiere

**PROPERTY ADDRESS:** 500 Hendricks Isle

**ABBREVIATED LEGAL DESCRIPTION:** Victoria Isles 15-67 B, Lot 22 Block 4

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

**LAND USE:** Medium-High Density Residential

**COMMISSION DISTRICT:** 2 – Steven Glassman

**NEIGHBORHOOD ASSOCIATION:** Hendricks and Venice Isles

**CASE PLANNER:** Yvonne Redding

Disclosures were made at this time.

Andrew Schein, representing the Applicant, stated that the project includes both sides of a right-of-way: the building itself will be located to the east, where there is an existing five-unit condominium, while on the west side there is a current live-aboard use, which will be removed as part of the project.

Mr. Schein showed a number of views of the property, which will be five stories in height and will include seven units. There will be 15 parking spaces in a garage and landscaping surrounding the building. Balconies on the building do not fully wrap around it: north and south balconies have been removed from the plans. The project's Site Plan shows two additional parking spaces on the west side, as there are concerns with a lack of guest

parking on Hendricks Isle. These public spaces are not tied to the development and do not count toward the parking requirement.

The request is for waterway use as well as yard modification. Mr. Schein noted that the project provides balconies, terracing, color and material banding, and mass changes. He emphasized the importance of continuity of urban scale with adjacent properties, including height, proximity to the streetfront, and relationship between building size and lot size. He felt this compatibility can be objectively quantified in the following way:

- Setback size
- Relationship of building size and lot size
- Overall building separation

It was also noted that no shadows may be cast on more than 50% of the waterway from 9 a.m. to 5 p.m. during the vernal equinox. The Applicant has provided a shadow study showing that it meets this criterion.

Mr. Schein asserted that in order to analyze compatibility, the project should be compared to other projects. This analysis began during the project's design phase: the Applicant's team analyzed 10 different projects on Hendricks Isle which have received yard modifications. The Applicant is requesting side setbacks of 12.5 ft. where the standard is half the building's height, or 27.5 ft. He reviewed yard modifications granted to other buildings in the subject area, pointing out that most of these are smaller than what is requested by the Applicant.

Mr. Schein continued that the Application cannot establish precedent, as its setback request is consistent with other projects in the area that have received yard modifications. He continued by comparing building size to yard size, using the percentage of streetfront that is taken up by buildings. The subject site's proposed structure would take up 75% of a 100 ft. lot. He reviewed the percentages of building frontage to lots at other sites in the area as well as the associated setback amounts, pointing out that one consideration for yard modification is the requirement to allow view corridors to the waterway.

With regard to overall building separation, Mr. Schein advised that this depends in part on what has been done on neighboring properties. This requirement also addresses the need to allow light and air to flow through to the waterway. He showed the setbacks of buildings located to the south and north of the parcel, noting that the Applicant's south setback and the southern property's north setback combine for a total of 30 ft. 4 in. of separation. The proposed project would widen this to 37 ft. 9 in. To the north, the combined setbacks are 10 ft. between buildings at present; the Application proposes 17 ft. 6 in. He concluded that this is compatible with existing conditions on Hendricks Isle.

Mr. Schein advised that there have been concerns regarding drainage on Hendricks Isle, and pointed out that the existing property has asphalt-covered backout parking. The drainage issue will be addressed by providing landscaping over 37% of the site. Broward County has also significantly increased drainage requirements, and all projects are

required to retain their own stormwater on-site. The project does not deviate from this requirement.

All parking will be on the ground floor, as well as one parking lift. The back of the building is open so the waterway will remain visible, although there is no access for vehicles on the back side.

On November 23, 2021, the Applicant notified the president of the appropriate neighborhood association of a DRC meeting scheduled for December. They have also exchanged emails with the association for the building located to the project's south, some residents of which have provided letters of support. On March 8, 2022, all residents within 300 ft. of the development were informed of the public participation meeting held on March 17. Mr. Schein estimated that at least 23 individuals attended this meeting. The Applicant also met on-site on April 13 with roughly 25 individuals. Some of the neighbors' concerns were taken into consideration for the project, including the removal of planned balconies on the north and south sides of the building, the addition of extra parking, and seawall repair.

**Motion** made by Ms. McCartney, seconded by Mr. Shechtman, to make the Staff Report part of the record. In a voice vote, the **motion** passed unanimously.

There being no questions from the Board at this time, Chair Scott opened the public hearing. Chair Scott requested that members of the public speaking on this item limit their comments to approximately two minutes, with five minutes provided to representatives of neighborhood associations.

Pam Kane, lobbyist representing the Club at Hendricks Isle, stated that this organization is concerned with the requested yard modifications, which represent a 54.5% setback reduction. While the Applicant's team has proposed that compatibility can be determined based on the distances between buildings, Ms. Kane asserted that compatibility considers size and scale as well as distance, and that four properties with which she felt comparisons to be appropriate were not compatible with the Applicant's request.

Ms. Kane discussed the other nearby properties, noting that their sizes would require smaller setbacks and were therefore inconsistent with the Applicant's proposal. Other considerations contributing to incompatibility were an irregularly shaped lot and a very small modification percentage.

An additional consideration affecting compatibility is how the proposed development meets the intent and spirit of dimensional regulations relating to air, light, and shadow. Ms. Kane referred specifically to these issues with regard to the Applicant's south property line, pointing out that there are minimal linear elements in this area, including fenestration and banding. Other linear elements, such as terracing, cantilevering, open views, or balconies are not provided. She added that the residents she represents are in favor of balconies which would step back onto the subject property.

Ms. Kane continued that with regard to lot size, the four properties that she stated could be accurately compared to the subject site do not have any continuity between them. She did not feel the Application is compatible with its surroundings, as it also does not provide continuity. She concluded that the two parking spaces proposed to be created across the street would need to be made available to all residents of the block; however, the developer plans to pay for their maintenance, which she felt indicated the possibility of "significant residential problems" if other residents try to use them.

Randy Aube, representing the Hendricks Isle/Isle of Venice Neighborhood Association, stated that this organization is not anti-development, nor does it oppose five-story height. They do not feel the subject project meets the Code requirements for the requested modifications.

Mr. Aube continued that there are no five-story buildings on Hendricks Isle that have the type of yard modifications requested by the Applicant. The Neighborhood Association's development review committee has met with City Staff, which provided many of the same addresses that Mr. Schein had used for purposes of comparison.

Mr. Aube compared a number of yard modifications on Hendricks Isle to the Applicant's proposals, also asserting that the proposed modifications do not meet the intent and spirit of the applicable regulations with regard to air, light, and shadow. He asked that the Application for yard modifications be denied.

Greg Lister, private citizen, advised that he lives directly south of the proposed project. He stated that most residents of his building do not support the project, as Mr. Schein had indicated; nor do many residents of the building to the project's north, nor members of the Neighborhood Association. He felt the Applicant's comparisons with other lots on the street were cherry-picked from among 150 buildings on Hendricks Isle, and that the requested modifications were excessive.

Joseph Perroto, private citizen, stated that he also lives in the vicinity of the project. He declared that he had received no written notice of any discussion regarding the Application other than a Zoom request from the Applicant's team. He added that when a sign was placed in front of the subject site, cars were parked in front of the signage. He concluded that the volume of communication from residents expressing concern with the project is indicative of the level of neighborhood opposition, and that the project should be made more compatible with the surrounding community.

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 advised that he would abstain from voting upon this Item due to a conflict.

Mr. Schein responded to some of the concerns raised during public comment, stating that if the residents of the Club at Hendricks Isle were not opposed to balconies on the south of the subject building, the Applicant would be willing to provide them as a condition of approval.

Mr. Weymouth asked if the other properties from which residents have come forward to address the project have 27.5 ft. setbacks all along Hendricks Isle. It was confirmed that the required setback in this location is one-half of the building's height; however, Mr. Schein reiterated that there have been numerous yard modifications on Hendricks Isle over the years. He added that most of the properties he had cited earlier as examples were built "over the past 24 years," and two were currently under construction.

Mr. Schein also addressed the two public parking spaces, stating that the Applicant had wished to give these spaces to the City, but the City did not want to maintain them. There will be signage showing that these are public spaces. He emphasized that yard modifications and setbacks often occurred on Hendricks Isle, and again listed examples of other properties in the area that have more significant modifications than the subject project.

Mr. Weymouth asked if Mr. Schein's references to building separation referred to separation at the ground floor only. Mr. Schein confirmed this, explaining that this is the level at which light, air, and visibility are considered. Another reason is that Code was interpreted differently when a certain type of yard modification was adopted, which resulted in tiered "wedding cake" building design. Modifications are now based on the overall height of the building.

Ms. Fertig asked why the Applicant was requesting a yard modification, pointing out that when the property was purchased, the Applicant was aware of its zoning and requirements. Mr. Schein replied that the lot is only 100 ft. in width, which means it is difficult to build on it without yard modifications. He pointed out that the site's density does not exceed what is permitted by the City.

Chair Scott asked for more information regarding the discussion on balconies. Mr. Schein advised that this will require additional discussion from the property's neighbors, stating once more that the Applicant would gladly include balconies and additional fenestration on the south if that neighbor did not take issue with them.

Chair Scott also asked for additional clarification regarding the reference to notice posted on the site or sent to neighbors. Mr. Schein asserted that the Applicant had provided the required notice, including mailed notice to neighbors within 300 ft. of the property. He felt the reference to notice may have addressed the notification of tonight's hearing, which was provided by the City.

The Board discussed the Item, with Chair Scott commenting that in her time on the Planning and Zoning Board, she did not recall approving a project on Hendricks Isle that



did not include side yard modifications. Ms. Fertig added that her concern was the evident presumption that Code does not matter in this issue and that an applicant is entitled to yard modifications because other projects in the area had received them. She was also concerned that it is apparently assumed that yard modifications have to be granted for development in the area.

Vice Chair Cohen echoed this concern, adding that because so much construction has occurred in Fort Lauderdale over the past several years, the Board should now look more closely at some proposed modifications rather than granting them because they were granted to other properties in the past.

Vice Chair Cohen asked if there are other pending applications for projects on Hendricks Isle. Yvonne Redding, representing Urban Design and Planning, replied that there is one additional project in this area that will come before the Board in the future. She confirmed that this project includes a request for yard modification and has received the support of the appropriate homeowners' association. She did not recall the exact modifications that are requested for the upcoming project.

Ms. McCartney stated that compatibility should not be comparative, and pointed out that continued growth of the size of yard modifications is not always compatible with the neighborhood. She was concerned that granting numerous yard modifications may have made larger projects less compatible going forward. She felt the requested reduction is too large.

Mr. Shechtman observed that the continued requests for yard modifications on Hendricks Isle suggest that current Code requirements may make it infeasible to develop or redevelop properties in this area to their highest and best use. He asked if the Board members who were not comfortable with the requested modifications felt they would have been comfortable with different modifications.

Mr. Ganon commented that a 200 ft. lot with a building located in its center and a 100 ft. lot with a setback in its center would be similar, which is why he felt it would be justified to allow smaller lots to reduce their setbacks. Ms. Fertig stated once again that Code exists to set a standard for development and she felt the proposed project is requesting too much variation.

Attorney Wallen recommended that the Board apply the specific Code criteria intended to determine the appropriateness of modification requests, which are included in Section 47-23.11, when making their decision on the Application.

Mr. Weymouth asked if any projects have been brought forward on Hendricks Isle with no side yard modifications. Chair Scott noted that the Board does not have this information on hand.



Ms. McCartney stated that if there is a marker for compatibility, it seemed to be that the more properties which have large reductions mean the next property to come forward with a reduction request will be less compatible, as there is less overall space remaining. Mr. Weymouth added that even if the proposed project were smaller, the size of its lot would mean additional width is still needed.

Attorney Wallen briefly reviewed the criteria for yard modifications found in Code Section 47-23.11, reiterating that the Board should limit their discussion to these criteria and determine whether or not the Applicant has proven their case.

Ms. Parker advised that Staff used these criteria when looking at the buildings developed on Hendricks Isle over roughly the last 20 years. She pointed out that there have been more massive developments constructed in this area; when neighborhood compatibility is analyzed, these existing structures must be considered as part of this environment. Some of these projects cover a higher percentage of their lots with structures, which limits views to the waterway.

Another criterion refers to on-site or public realm modifications that mitigate adverse impacts from the project. Ms. Parker pointed out that these impacts were evaluated by Staff, who ultimately concurred with the Applicant's findings that they were part of an existing pattern of compatibility.

Ms. Redding stated that the Applicant's representative had addressed compatibility with adjacent properties as well as other properties in the area, showing similarities in setbacks and height. There are only two adjacent properties, one of which is of similar scale and one of which has a lower scale and smaller setbacks; the smaller property was not included in the comparisons due to its scale.

Chair Scott asked if Staff felt adequacy requirements are met for the proposed project. She also asked if any conditions for approval were attached to the Application. Ms. Redding replied that conditions include park impact fees and school mitigation fees. The only aspects of the Application that did not meet Code were the yard modifications and the pool and other waterway amenities.

Mr. Shechtman requested clarification of the Code criteria addressing view corridors. Ms. Parker noted that this is listed under the waterway use criteria, and states that buildings on parcels abutting waterways in multi-family districts must preserve the character of their neighborhood and protect the scenic quality and tranquility of the waterway. Special design provisions are required to meet these objectives, based on building designs, siting, setbacks, landscaping, and relation to the waterway, among others.

Attorney Wallen advised that when a motion is made on this Item, the Board should cite Code and clearly state their basis for approval or denial of the Application.

**Motion** made by Ms. Fertig to deny, based on the fact that I do not believe that it meets the Code.

Attorney Wallen reiterated that a **motion** to deny or approve should cite the specific Code criteria that the Application is believed to meet or not meet.

Ms. Fertig **restated** her **motion** as follows: **motion** to deny, based on the fact that I don't feel that the information is available to say that it supports the conclusion reached in their documentation on side yard modifications.

Attorney Wallen asked if this meant Ms. Fertig did not believe the Application met Code Section 47-23.11.a.2. Ms. Fertig confirmed that this was her conclusion based on the totality of the testimony heard at tonight's meeting.

Attorney Wallen also asked if Ms. Fertig felt the Application did not meet Code Section 47-23.11.a.3. Ms. Fertig confirmed that this is also correct, based upon the testimony heard, the Staff Report, and all the information presented to the Board.

Attorney Wallen read the remaining criteria under Section 47-23.11, asking if Ms. Fertig felt the Application met or did not meet these criteria as well. Ms. Fertig stated that her **motion** would refer only to Section 47-23.11.a.2 and 47-23.11.a.3.

Vice Chair Cohen **seconded** the **motion**.

Chair Scott read the following Resolution into the record:

A Resolution of the Planning and Zoning Board of the City of Fort Lauderdale, Florida, denying a Site Plan Level III development permit for the property located at 500 Hendricks Isle, Fort Lauderdale, Florida, in the RMM-25 zoning district, for the development of a five-story structure with seven multi-family units, and denying a waterway use and yard modification, Case #UDP-S21050.

Mr. Shechtman commented that he was not certain whether or not a setback of 12 ft. 6 in. is compatible with adjacent nearby properties to the north and south, even if the proposed building is smaller than its neighbors. He pointed out that the proposed setback may have a greater impact on one side of the subject property than on the other. He concluded that he would vote against the current **motion** on the floor.

In a roll call vote, the **motion** failed 3-4 (Chair Scott, Mr. Ganon, Mr. Shechtman, and Mr. Weymouth dissenting). (Mr. Barranco abstained. A memorandum of voting conflict is attached to these minutes.)

Mr. Shechtman asked if the Applicant was willing to defer the Item and determine whether a change in the request might make the Application more acceptable to the Board members. Mr. Schein replied that there is "no other solution" for the Application, pointing

out that there is not sufficient room on the site to meet the parking and drive aisle requirements found in Code on a 100 ft. lot with a setback of half the building's height.

**Motion** made by Mr. Weymouth to approve the project as presented, with conditions that have been laid out.

Mr. Weymouth's **motion** was **restated** with assistance from Attorney Wallen as follows: **motion** to approve, based on the facts that we have heard, the testimony that we have heard tonight, the documents that we have reviewed, all the evidence on the record, and applying the conditions in the Staff Report, including that in the motion, that they must be complied with, and that it meets the applicable criteria that's in the Resolution for us, which is 47-536, 47-23.8, 47-23.11, 47-25.2, 47-25.3.

Mr. Ganon **seconded** the **motion**.

Chair Scott 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 the property located at 500 Hendricks Isle, Fort Lauderdale, Florida, in the RMM-25 zoning district, for the development of a five-story structure with seven multi-family units, and denying a waterway use and yard modification, Case #UDP-S21050.

In a roll call vote, the **motion** passed 4-3 (Vice Chair Cohen, Ms. Fertig, and Ms. McCartney dissenting). (Mr. Barranco abstained. A memorandum of voting conflict is attached to these minutes.)

~~5. — **CASE:** UDP-S21031~~

~~**REQUEST:** \*\* Site Plan Level IV Review: 54 Multifamily Residential Units and 100-Room Hotel with Associated Setback Modifications in Central Beach Regional Activity Center~~

~~**APPLICANT:** Sunrise FTL Ventures, LLLP~~

~~**AGENT:** Nectaria Chakas, Esq., Lochrie & Chakas, P.A.~~

~~**PROJECT NAME:** Ocean Park~~

~~**PROPERTY ADDRESS:** 2851, 2901 NE 9<sup>th</sup> Court~~

~~**ABBREVIATED LEGAL DESCRIPTION:** Lots 1-13 of Seabridge, According to Plat Thereof, Recorded in Plat Book 21, Page 46~~

~~**ZONING DISTRICT:** Sunrise Lane (SLA) District~~

~~**LAND USE:** Central Beach Regional Activity Center~~

~~**COMMISSION DISTRICT:** 2 — Steven Glassman~~

~~**NEIGHBORHOOD ASSOCIATION:** Central Beach Alliance~~

~~**CASE PLANNER:** Karlanne Grant~~

~~Disclosures were made at this time.~~