



CITY OF FORT LAUDERDALE

**PLANNING AND ZONING BOARD MEETING MINUTES  
CITY HALL COMMISSION CHAMBERS  
100 N. ANDREWS AVE., FORT LAUDERDALE, FLORIDA 33301  
WEDNESDAY, SEPTEMBER 21, 2022 – 6:00 P.M.**

<b>Board Members</b>	<b>June 2022 – May 2023</b>		
	<b>Attendance</b>	<b>Present</b>	<b>Absent</b>
Michael Weymouth, Chair	P	4	0
Brad Cohen, Vice Chair	P	3	1
John Barranco	P	4	0
Mary Fertig	P	4	0
Steve Ganon	P	4	0
Shari McCartney	P	1	3
Patrick McTigue	P	2	0
William Rotella	P	4	0
Jay Shechtman	P	3	1

**Staff**

Ella Parker, Urban Design and Planning Manager  
D'Wayne Spence, Assistant City Attorney  
Shari Wallen, Assistant City Attorney  
Yvonne Redding, Urban Design and Planning  
Adam Schnell, Urban Design and Planning  
Dr. Nancy Gassman, Assistant Director, Public Works  
Leslie Harmon, Recording Secretary, Prototype, Inc.

**Communication to City Commission**

**Motion** made by Ms. Fertig, seconded by Mr. Shechtman, to create a Sea Level Rise Task Force. In a roll call vote, the **motion** passed unanimously (9-0).

**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 and Staff members present.

**II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM**

**Motion** made by Mr. Ganon, seconded by Mr. Rotella, to approve the minutes from last month's 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.

**Motion** made by Mr. Weymouth, seconded by Ms. McCartney, to make the Staff Reports part of the items. In a voice vote, the **motion** passed unanimously.

## I. AGENDA ITEMS

### Index

<u>Case Number</u>	<u>Applicant</u>
1. UDP-S22006**	SCC Property Holdings and Management, LLC
2. UDP-Z22014* **	1700 N Andrews, LLC
3. UDP-Z22015* **	1700 N Andrews, LLC
4. UDP-T22010*	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-S22006

**REQUEST:** \*\* Site Plan Level III Review – Parking Reduction for 7,500 Square-Foot Retail Use

**APPLICANT:** SCC Property Holdings and Management, LLC.

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

**PROJECT NAME:** HSC Dollar General – Fort Lauderdale

**PROPERTY ADDRESS:** 2525 NW 19<sup>th</sup> Street

**ABBREVIATED LEGAL DESCRIPTION:** North West Lauderdale 25-25 B Lot 42 Less S 5 For St Blk 2

**ZONING DISTRICT:** Community Business (CB)

**LAND USE:** Commercial

**COMMISSION DISTRICT:** 3 – Robert McKinzie

**NEIGHBORHOOD ASSOCIATION:** Rock Island Community Development, Inc.

**CASE PLANNER:** Yvonne Redding

Disclosures were made at this time.

Andrew Schein, representing the Applicant, stated that the request is for Site Plan Level III approval with a parking reduction. The subject property is mostly a vacant lot, with a small piece of an adjoining parcel to the west included as well.

The Applicant has proposed a Dollar General store to be built on the parcel. Code requires 30 parking spaces; however, the Applicant's team conducted a parking study



which showed that peak demand would need only 18 parking spaces. The Applicant proposes 24 spaces.

The Applicant has met with the Rock Island Community Development Association, in which area the project is located. Mr. Schein advised that the project received unanimous support from this association. Another public participation meeting was held via Zoom, and a third meeting was held with the neighborhood located south of the project, as it is within 300 ft. of the parcel. He provided letters of support.

Behind the store will be a 30 ft. to 32 ft. landscaped buffer yard with trees, as well as a 5 ft. retaining wall, in order to lessen any perceived impacts to the neighborhood and meet neighborhood compatibility requirements.

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.

Vice Chair Cohen asked if voting against the parking reduction would also be a vote against Site Plan approval. Yvonne Redding, representing Urban Design and Planning, confirmed that both items are presented together. Should the parking reduction not pass, the Applicant would be able to modify the Site Plan and bring the Application before the Board again.

**Motion** made by Mr. Ganon, seconded by Mr. Barranco, to approve.

Assistant City Attorney Shari Wallen requested clarification that the **motion** was based on the findings of fact in the Staff Report and the testimony heard at tonight's meeting. Mr. Ganon confirmed this was the case.

Attorney 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 and a parking reduction for the property located at 2525 NW 19 Street, Fort Lauderdale, Florida, Community Business zoning district, for the development of a 7500 sq. ft. retail business, Case Number UDP-S22006.

In a roll call vote, the **motion** passed 7-2 (Vice Chair Cohen and Ms. McCartney dissenting).

The Board agreed by unanimous consensus that Items 2 and 3 would be presented together and voted upon separately.

**2. CASE: UDP-Z22014**

**REQUEST:** \* \*\* Rezoning from Community Facility (CF) District to Residential Multifamily Low Rise/Medium Density (RM-15) District

**APPLICANT:** 1700 N Andrews, LLC



**AGENT:** Debbie Orshefsky, Esq.

**PROPERTY ADDRESS:** 1700 North Andrews Avenue (Eastern Portion of Parcel)

**ABBREVIATED LEGAL DESCRIPTION:** A Portion of Lots 12 and 29 and all of Lots 13 and 30, of PLACIDO PLACE RESUBDIVISION, According to the Plat Thereof, as Recorded in Plat Book 34, Page 36, of the Public Records of Broward County, Florida.

**ZONING DISTRICT:** Community Facility (CF)

**PROPOSED ZONING DISTRICT:** Community Business (CB)

**LAND USE:** Commercial

**COMMISSION DISTRICT:** 2 – Steven Glassman

**NEIGHBORHOOD ASSOCIATION:** South Middle River Civic Association

**CASE PLANNER:** Adam Schnell

**3. CASE:** UDP-Z22015

**REQUEST:** \* \*\* Rezoning from Community Facility (CF) District to Community Business (CB) District

**APPLICANT:** 1700 N Andrews, LLC

**AGENT:** Debbie Orshefsky, Esq.

**PROPERTY ADDRESS:** 1700 North Andrews Avenue (Western Portion of Parcel)

**ABBREVIATED LEGAL DESCRIPTION:** A Portion of Lots 14, 15, 27, 28 and 29, of PLACIDO PLACE RESUBDIVISION, According to the Plat Thereof, as Recorded in Plat Book 34, Page 36, of the Public Records of Broward County, Florida.

**ZONING DISTRICT:** Community Facility (CF)

**PROPOSED ZONING DISTRICT:** Community Business (CB)

**LAND USE:** Commercial

**COMMISSION DISTRICT:** 2 – Steven Glassman

**NEIGHBORHOOD ASSOCIATION:** South Middle River Civic Association

**CASE PLANNER:** Adam Schnell

Disclosures for Items 2 and 3 were made at this time.

Janna Lhota, representing the Applicant, stated that both Applications request rezoning of the subject property, which is currently vacant. The property directly abutting Andrews Avenue would be rezoned from Community Facility (CF) to Community Business (CB), and the eastern portion of the property would be rezoned from CF to Residential Multi-Family Low Rise (RM-15).

The parcel being rezoned from CF to CB is roughly 0.42 acre in size. The underlying land use associated with this property is Commercial. The proposed CB zoning is consistent with the City's Comprehensive Plan and builds upon the existing CB uses that are located along the Andrews Avenue corridor.



The larger portion of the property located to the east, which is approximately 7.7 acres, is abutted by RD-15 and RM-15 parcels. The rezoning of the parcel to RM-15 would be consistent with these adjacent zoning districts. The underlying land use associated with the property is Medium Residential. This proposed rezoning is also consistent with the Comprehensive Plan and seeks to expand upon the existing RM-15 zoning to the east and south, creating a transition area between existing residential and proposed and existing commercial uses on Andrews Avenue.

Ms. Lhota provided a conceptual Site Plan for the property, clarifying that no formal Site Plan application has been submitted thus far. The owner proposes up to 5000 sq. ft. of commercial/office uses to serve the adjoining neighborhoods. A townhouse project will be located to the east.

A public participation meeting was held on August 15, 2022. Ms. Lhota noted that she spoke with one of the individuals who provided written comments on the project to the Board, noting that many of the comments relate to the conceptual Site Plan. She reiterated that no formal Site Plan has been submitted thus far.

Mr. Shechtman asked what could be constructed on the parcels under CF zoning. Ms. Lhota replied that options would include schools, Police or Fire Stations, or similar facilities. She anticipated that a full Site Plan may be submitted in the next one to two months following rezoning.

Mr. Barranco asked if Staff knew why the properties were zoned CF. Urban Design and Planning Manager Ella Parker replied that CF zoning had been in place for a long time, although she did not know the specific history behind this.

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

Matt D'Antonio, vice president of the Spanish Spring Town Homes Association, stated that the town homes in this development form a "U" shape around the subject property, spanning three blocks. The owners in this association are supportive of the proposed project if two issues, noise and traffic, can be mitigated in the following manner:

- Adding a "No Through Traffic" entrance monument after the commercial space
- Confirming that new businesses would not subject the neighborhood to noise pollution

Frank Gonzalez, private citizen, advised that he had sent a letter to the Board regarding the Applications. He addressed the history of the subject site, recalling that in 2004-2005, when the Uptown Village was proposed, the developer had promised a new building across the street would be constructed. This was the reason the subject property was zoned CF.

Mr. Gonzalez also stated there is a discrepancy on the zoning map provided during the Applicant's presentation, asserting that the residential properties to the south on both



sides of Andrews Avenue are zoned RDS-15. These include single-family homes and grandfathered duplexes.

Vice Chair Cohen advised that the Applications before the Board tonight are rezoning requests rather than Site Plan review. He noted that comments regarding improvements such as the proposed monument sign are typically made during Site Plan review.

Vice Chair Cohen asked if Mr. Gonzalez had discussed his concerns with the Applicant. Mr. Gonzalez replied that he had spoken to Ms. Lhota earlier in the day and was aware that Site Plan approval was not before the Board tonight; however, he had wished to ensure his concerns were made public from the beginning of the process.

Robert O'Dor, private citizen, expressed concern with the CB portion of the rezoning, noting that traffic would have to drive onto NE 16 Place in order to access the commercial space. He recommended that commercial traffic be able to enter the commercial property directly from Andrews Avenue rather than accessing a residential street. He noted that commercial traffic also has a tendency to exit through the residential neighborhood.

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. Shechtman commented that the proposed rezoning made sense, as he felt they were consistent with the character of the surrounding neighborhood. He echoed Vice Chair Cohen's clarification that the Board is not able to attach conditions, such as the monument sign or confirmation of uses, to a rezoning request.

Mr. Shechtman asked if the Applicant would be willing to agree on the record to work with and consider the concerns of the neighborhood, particularly regarding ingress/egress, when proceeding with a Site Plan for the project. Ms. Lhota reiterated that the Site Plan has not yet been finalized; however, another representative of the property has assured her that the Applicant plans to meet with the South Middle River Civic Association once more after the Site Plan has been finalized. She felt the items raised in Mr. Gonzalez's letter would be considered during the Development Review Committee (DRC) process.

Adam Schnell, representing Urban Design and Planning, confirmed that the parcels south and southeast of the subject property are zoned RDS-15, while the parcels to the northeast are RM-15. Mr. Shechtman stated that he found this discrepancy in the presentation to be disappointing and recommended that it be revisited, although he noted that it did not affect his opinion on the project's compatibility.

**Motion** made by Mr. Shechtman to approve the Item UDP-Z22014, based on Staff's conclusions and conditions and including if the Applicant will agree to continue to work with the adjoining neighbors to ensure that whatever project they propose does not adversely impact.



Assistant City Attorney D'Wayne Spence advised that only the rezoning criteria are before the Board at tonight's meeting. He recommended that comments outside the scope of rezoning be omitted from the **motion**.

Mr. Barranco asked if approval of the proposed units and commercial building would come before the Board again at a later date. Mr. Schnell confirmed that the parcels would be required to go through the DRC process, as they propose CB zoning within 100 ft. of residentially zoned properties. Notice would be sent to the appropriate neighborhood association and they would be able to attend the DRC meeting and provide comments there.

Mr. Barranco continued that he would also like to see additional evidence regarding the map provided to the Board members, as it was not fully accurate. Ms. Parker noted that the information presented to the Board and included in their backup materials was based on the City's geographic information system (GIS) data, which is based on the current zoning district of RM-15. She advised that the misleading information reflecting RDS-15 zoning is on the Broward County Property Appraiser's website. This will be looked into by Staff.

Attorney Wallen recommended that the Board and Staff take a brief recess to review the information. The Board took a recess from 6:37 p.m. to 6:41 p.m. for this purpose.

It was determined that the information provided in the Board's backup materials was correct, and the misunderstanding had occurred due to the color-coding of the map. Ms. Parker pointed out that the Staff Report reflects the correct information, with RDS-15 to the south and RM-15 adjacent to the north.

Mr. Barranco observed that it would be unlikely for the Applicant to gain access from Andrews Avenue to the commercial parcel. He expressed concern with the safety of a residential road accommodating "cut-through" traffic, and recommended consideration of traffic calming measures.

Mr. Ganon encouraged the Applicant and the nearby association to continue to work together throughout the DRC process to ensure concerns are addressed.

Mr. Shechtman restated his **motion** as follows: **motion** to approve UDP-Z220014 with Staff conditions and because I believe it meets the criteria and intention of the ULDR. Mr. McTigue **seconded** the **motion**.

In a roll call vote, the **motion** passed unanimously (9-0).

**Motion** made by Mr. Shechtman, seconded by Mr. Rotella, to approve UDP-Z22015 with the conditions and recommendations of Staff, because it meets the ULDR criteria. In a roll call vote, the **motion** passed 8-1 (Mr. McTigue dissenting).



**4. CASE:** UDP-T22010

**REQUEST:** \* Amend ULDR Section 47-19.3 Boat Slips, Docks, Boat Davits, Hoists and similar Mooring Structures; Create ULDR Section 47-19.13 Resiliency Standards for Tidal Flood Protection; Amend ULDR Section 47-39 Development Regulations for Annexed Areas

**APPLICANT:** City of Fort Lauderdale

**GENERAL LOCATION:** City-Wide

**COMMISSION DISTRICT:** City-Wide

**CASE PRESENTER:** Nancy J. Gassman, Ph.D. Assistant Director, Public Works

Dr. Nancy Gassman, Assistant Director of Public Works in charge of Sustainability, gave a presentation on proposed changes for the Unified Land Development Regulations (ULDR) Sections related to seawalls, as well as the addition of a Section on tidal barriers.

The City last modified its seawall Ordinance in 2016 by establishing a minimum elevation of 3.9 ft. North American Vertical Datum (NAVD) 88. Other aspects of this Ordinance included the recommendation that seawalls be designed to accommodate future height adjustments up to 5 ft. NAVD, with a maximum height elevation for seawalls and docks based on the property's base flood elevation. It also included a number of provisions which allowed the City to cite properties that needed to improve their seawalls if they were in disrepair or allowed tidal waters to exit the property and affect adjacent properties or public rights-of-way.

Any seawall requiring substantial repair would need to meet the new minimum/maximum height requirements. Fixed docks may extend 10 in. above adjacent seawalls, and floating docks were addressed by the Ordinance in a way they had not been in the past.

In 2018, the U.S. Army Corps of Engineers, working with Broward County, performed a flood risk management study, which recommended a regionally consistent seawall minimum height. Broward County incorporated these findings into its land use policies and Code of Ordinances. The regional standard would require all tidal flood barriers, including seawalls and other major structures between tidal bodies of water and upland properties, to meet a minimum seawall or top-of-bank elevation of 5 ft. NAVD by the year 2050.

Broward County's Comprehensive Plan and Land Use Plan reflect the intention to have a regionally consistent top elevation for seawalls and other tidal barriers in all tidally influenced municipalities across the County. The Army Corps of Engineers' recommendation was based upon a regional sea level rise projection, which has been accepted by the Fort Lauderdale City Commission for planning purposes. The proposed change would ensure that the useful life of a new seawall or tidal barrier would be effective against sea level rise for approximately 50 years.



Key modifications to the ULDR occur in the following Sections:

- Section 19.3: changes to the definitions of “mooring device” and “mooring structure”; removal of language associated with seawall-specific elevation in order to focus this Section exclusively on docks; change maximum dock elevation above the associated tidal barrier or shoreline structure from 10 in. to 12 in.
- Section 19.13: this is a new Section related to resilience standards for tidal flood protection; most changes are prescriptive from Broward County’s model Ordinance, and include definitions, extend elevation requirements to include all potential tidal flood barriers, and require a minimum elevation of 5 ft. NAVD 88 for new or substantially repaired tidal barriers; structures permitted prior to January 2035 may be built at a lower elevation, but must be designed so they can be elevated to the higher elevation by January 2050
- Section 47-39: ensures that properties located in annexed areas of the City also require compliance with tidal barrier/flood protection measures

Dr. Gassman advised that following the City’s presentation of the proposed ULDR amendment to the Marine Advisory Board on September 1, 2022, a representative of the seawall and marine development industry expressed concerns that base flood elevation (BFE) alone was not an appropriate maximum elevation, and that the new Federal Emergency Management Administration (FEMA) requirements and changes to maps showed some properties attempting to build tidal barriers at elevations of up to 9 ft. This was not consistent with the intent of the proposed Ordinance, which sought to preserve the views of adjacent neighbors and prevent a canyon effect on the City’s waterways. An addition was added to Section 19.13 to state that the maximum elevation for tidal barriers in relation to a property may be its BFE or 6 ft., whichever is lower.

The County model ordinance requires that tidal structures built where there was no previous seawall must provide some type of habitat enhancement to encourage incorporation of living shorelines. There is a City-specific provision that relates to the City Engineer’s ability to issue a waiver for structures with habitable floors which are listed 4 ft. NAVD 88.

The County’s model Ordinance also requires a disclosure related to the sale of real estate where there is a tidal barrier in place or which has potential for the implementation of a tidal barrier.

Dr. Gassman advised that the new Ordinance will not change the substantial repair threshold, which remains at 50%. It also continues to require that seawalls and tidal barriers are maintained in good repair. If cited, property owners must make repairs within a one-year time frame. Guidance is provided on both minimum and maximum top elevations.

The concepts related to the proposed Ordinance were previously supported by the Rio Vista Civic Association, and the majority of the text, with the exception of the reference to FEMA maps, was supported by the Marine Advisory Board. When the text was



provided to Broward County, the County determined that the proposed Ordinance was in compliance with the requirements of the model Ordinance; while the waiver language was not consistent, the County would consider the Ordinance to be in substantial compliance if the City amended this language to define the length of the term of a waiver. This revised language has been added to the Ordinance.

Dr. Gassman explained that the Planning and Zoning Board is asked to determine whether or not the proposed Ordinance is compliant with the City's Comprehensive Plan. She noted that there is one inadvertent error in the Staff Report. Other portions of the Comprehensive Plan are related to the Ordinance under the Neighborhood Resilience element. There is also a very specific policy within the Climate Change element which states that the City would adopt these changes once a model Ordinance is issued. Staff requests that the Board find the proposed Ordinance in compliance with the City's Comprehensive Plan and move it forward for consideration by the City Commission.

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.

Mr. Shechtman requested additional information regarding the Ordinance's provision regarding the implementation of measures where none previously existed. Dr. Gassman replied that if a property does not currently have a tidal barrier, and the owner decides or is compelled to install one, they must provide for habitat improvements. This is part of the Broward County model Ordinance.

Mr. Shechtman asked if the Ordinance would require any property to make improvements that do not conform to existing regulations. Dr. Gassman replied that this would occur only if the property is found to allow tidal waters to trespass across the property and impact others, or if an existing structure or barrier is in disrepair. If the owner is cited by the City for allowing the trespass of tidal waters, they would have to elevate their seawall to the new regionally consistent standard within one year of the citation.

Mr. Shechtman asked how far the tidal water would need to extend for this citation to occur. Dr. Gassman stated that a citation would be issued if tidal water impacts either adjacent properties or the public right-of-way. This is consistent with the City's existing Ordinance.

Ms. Fertig observed that many seawalls in need of improvement are owned by the City. Dr. Gassman confirmed that the City will also be responsible for responding to the Ordinance. A Seawall Plan has been established for the replacement or elevation of City seawalls over the next five to ten years. The seawalls the City has replaced thus far already meet the 5 ft. regionally consistent minimum standard.



Mr. Shechtman asked for an estimate of how much the inclusion of tidal barriers would expand the number of residents who may be out of compliance. Dr. Gassman replied that this would not change the number of residents affected: it addresses all existing seawalls, and the citation aspect is no different from the City's current seawall Ordinance. The difference is the required height to which an owner must build when they replace a seawall.

Ms. McCartney requested clarification of waiver criteria. Dr. Gassman explained that the City's previous seawall Ordinance had a waiver option, as there are still properties with base flood elevations or finished floor elevations below the current seawall elevation requirement. The City has adopted a waiver provision that will allow for these properties to come into "some type of compliance" in order to prevent the installation of a seawall at an elevation that might threaten the property.

Dr. Gassman further clarified that the minimum elevation of a seawall or tidal barrier is intended to keep the ocean out, while the maximum elevation is intended to prevent stormwater from receding from the base of a seawall into a building. If the seawall is higher than the finished floor elevation, water can run toward the building instead of away from it during a rainstorm.

Ms. McCartney asked for information regarding the criteria for a waiver. Dr. Gassman advised that the City Engineer would make this determination based on information they would request from the homeowner. She added that a number of waivers have been issued since the adoption of the existing Ordinance in 2016. Waivers last for three years and must be renewed.

Ms. McCartney also requested more information regarding habitat enhancement. Dr. Gassman stated that this provision is found in the Broward County model Ordinance: there are new seawall manufacturers who create textured seawalls, which allow for marine flora or fauna to more easily attach to the structure and create a habitat. New seawalls installed where there were none before must meet this requirement.

Ms. Fertig asked if there would be a way for homeowners to seek an extension for the 365-day time frame in which a seawall must be installed or repaired. Dr. Gassman replied that as long as an owner is showing reasonable progress toward meeting the requirement, they may be granted extensions.

Mr. Shechtman asked how the City determined the entities to which they had presented the Ordinance, and whether or not more outreach should be done before the Board votes on the Item. Dr. Gassman replied that she will address the Council of Fort Lauderdale Civic Associations for a second time in October, and will speak to the Lauderdale Isles Civic Association in November. The reason there was less robust outreach for this proposed Ordinance than for the 2016 Ordinance is that the City is mandated by the County to adopt the majority of the provisions, with little opportunity to significantly modify its language.



Vice Chair Cohen observed that he found it troubling to limit individuals' rights to their own properties without conducting as much outreach as possible to hear feedback from the public, although he acknowledged that the County's Ordinance cannot be significantly altered. He concluded that he would be more comfortable hearing from the community regarding how the Ordinance might affect them, suggesting that this type of feedback could have an effect at the County level.

Dr. Gassman addressed public outreach, reiterating that there was extensive outreach prior to adoption of the 2016 seawall Ordinance. This resulted in a public policy with which the majority of both residents and officials seemed to be comfortable. She recalled that the responses in 2016 from the Marine Advisory Board and the Council of Fort Lauderdale Civic Associations resulted in requests for additional outreach to other civic and homeowners' association. In 2022, however, neither of these two entities suggested additional outreach on the proposed Ordinance.

Dr. Gassman continued that the change to this Ordinance is not in how or when an individual may be cited: its major change is the minimum elevation to which a homeowner must build their seawall. She further clarified that raising seawalls on either side of a property does not drive more tidal waters onto a property with a lower elevation: the potential would be for a problem to arise with stormwater. There are existing provisions within the City's Ordinances which require homes to maintain water on their own property.

Mr. Shechtman noted that Fort Lauderdale is more directly affected by tidal water than other Broward municipalities, and felt the City's process should include more input from residents in order to improve the Ordinance. Dr. Gassman advised that Broward County underwent a public outreach process when their Ordinance was adopted.

Mr. Barranco expressed concern with the unintended results of previous decisions made in South Florida by the Army Corps of Engineers, some of which were made in coordination with Broward County. He concluded that he would not vote in favor of the proposed Ordinance because he did not understand it, although he also acknowledged that the City has little choice in the matter.

Ms. Fertig commented that this is a complex issue, and agreed that it was not an area in which she had expertise. She felt it would be prudent to pass the proposed Ordinance and suggest that the City appoint a task force to review Code in the context of sea level rise.

**Motion** made by Ms. Fertig to pass this to the City Commission.

Attorney Spence explained that the Board is asked to act in its capacity as local planning agency with regard to this issue. They are to review the Ordinance for consistency with the Broward County Land Use Plan, which requires consistency with the model Ordinance. He concluded that the motion must be framed as a



recommendation to the City Commission that they find the proposed Ordinance to be consistent with the Comprehensive Plan.

**Motion** made by Ms. Fertig that because we find it consistent with the City's Comprehensive Plan and the City's Comprehensive everything, we don't necessarily find that it might be best for Fort Lauderdale, but we do find it consistent.

Attorney Wallen requested clarification that the **motion** was to recommend approval of Case UDP-T22010 to the City Commission, as the Board found the proposed text amendments to be consistent with the Comprehensive Plan. It was confirmed that this was the **motion's** intent.

Mr. Ganon seconded the motion.

Mr. Ganon asked if the proposed Ordinance would also go before the City's Sustainability Advisory Board for review. Dr. Gassman replied that the Sustainability Advisory Board only recently added climate resiliency to their mission statement: their previous charge was focused on sustainability and environmental issues. When the 2016 seawall Ordinance was brought forward, it was the Marine Advisory Board that provided expert review to ensure that the Ordinance was in the best interest of the City.

Ms. Fertig asked if there is a deadline by which the City must approve the Ordinance. Dr. Gassman replied that this deadline was March 2022. The City remains in regular contact with the County to let them know they are moving forward with the process. Should the City not come into compliance, there may be an effect on the City's ability to remain in compliance with the Broward County Land Use Plan, which could prevent Fort Lauderdale from making future land use changes.

Attorney Spence advised that the Board's approval of the proposed Ordinance, notwithstanding the concerns they have stated on the record, would affirm that the document is consistent with the County's Ordinance, regardless of whether or not they agree with the County's Ordinance.

Mr. Shechtman asked why the Board was seeing the proposed Ordinance for the first time in 2022 when the policy was created "over two years ago." Dr. Gassman explained that upon its adoption of the Ordinance, Broward County issued a mandate to its municipalities for their adoption as well. The timing of the mandate was affected by the COVID-19 pandemic. The City was also required to review its existing seawall Ordinance in the context of the model Ordinance, which took additional time and outreach, particularly during the pandemic. Workload issues slowed the outreach process.

In a roll call vote, the **motion** failed 3-6 (Chair Weymouth, Vice Chair Cohen, Mr. Barranco, Ms. McCartney, Mr. Rotella, and Mr. Shechtman dissenting).



Ms. Fertig asked if the failure of the **motion** would send a message to the City Commission that the Board does not feel the Ordinance is compliant with the Comprehensive Plan. Chair Weymouth stated that he did not wish to "voice how the Commission should take the vote."

Ms. Fertig asked if the Board should vote to indicate they feel the proposed Ordinance is not in compliance. Attorney Wallen suggested that a motion to recommend denial could indicate Board consensus on why denial was recommended, so if the Commission asks Staff to revisit the Ordinance, they could request specific changes. Chair Weymouth asserted that there may be multiple reasons why the majority of the Board voted against the Ordinance.

Ms. Fertig suggested that the Board recommend the City Commission seek additional input from the community before bringing the Ordinance forward again. Attorney Spence advised that this would be better addressed as a Communication to the City Commission.

#### IV. COMMUNICATION TO THE CITY COMMISSION


Mr. Shechtman commented that he felt it would also be useful for the City Commission to hear feedback from the Council of Fort Lauderdale Civic Associations after their October meeting, as the proposed seawall Ordinance will be presented again at that time. Ms. Fertig emphasized the need to determine what Fort Lauderdale will do as a City to adequately prepare for sea level rise and ensure that Code supports these preparations.

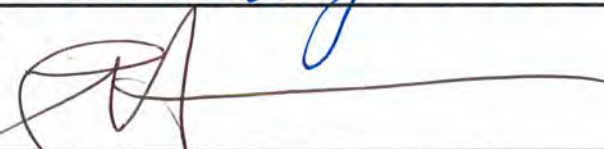
**Motion** made by Ms. Fertig, seconded by Mr. Shechtman, to create a Sea Level Rise Task Force. In a roll call vote, the **motion** passed unanimously (9-0).

#### V. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE

There being no further business to come before the Board at this time, the meeting was adjourned at 7:47 p.m.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

  
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Chair

  
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Prototype

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