



CITY OF FORT LAUDERDALE

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL – CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, JANUARY 17, 2018 – 6:30 P.M.**

Cumulative

Board Members	Attendance	June 2017-May 2018	
		Present	Absent
Leo Hansen, Chair	P	8	0
Catherine Maus, Vice Chair	P	7	1
John Barranco	P	8	0
Howard Elfman	P	7	1
Rochelle Golub (arr. 6:43)	A	7	1
Richard Heidelberger	P	5	3
Alan Tinter	P	8	0

It was noted that a quorum was present at the meeting.

Staff

Ella Parker, Urban Design and Planning Manager
Gustavo Ceballos, Assistant City Attorney
Mohamed Malik, Zoning Administrator
Linda Mia Franco, Urban Design and Planning
Karlanne Grant, Urban Design and Planning
Jim Hetzel, Urban Design and Planning
Florentina Hutt, Urban Design and Planning
Nicholas Kalargyros, Urban Design and Planning
Randall Robinson, Urban Design and Planning
Lorraine Tappen, Urban Design and Planning
Benjamin Restrepo, Department of Transportation and Mobility
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Hansen called the meeting to order at 6:30 p.m. and all recited the Pledge of Allegiance. The Chair introduced the Board members present, and Urban Design and Planning Manager Ella Parker introduced the Staff members present.

Motion made by Vice Chair Maus, seconded by Ms. Golub, to approve. In a roll call vote, the **motion** passed 6-0. (Mr. Tinter abstained. A memorandum of voting conflict is attached to these minutes.)

8. CASE:
REQUEST: *

T18001

Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR)

Amending, Section 47-5.10, List of Permitted and Conditional Uses, RS-4.4 Residential Single Family/ Low Density District; Section 47-5.11, List of Permitted and Conditional Uses, RS-8 and RS-8A Residential Single Family/Low Medium Density District; Section 47-5.12, List of Permitted and Conditional Uses, RD-15 Residential Single Family/Duplex/Low Medium Density District; Section 47-5.13, List of Permitted and Conditional Uses, RDs-15 Residential Single Family, Medium Density District; Section 47-5.14, List of Permitted and Conditional Uses, RC-15 Residential Single Family/Cluster Dwellings/Low Medium Density District; Section 47-5.15, List of Permitted and Conditional Uses, RCs-15 Residential Single Family/Medium Density District, Section 47-5.16, List of Permitted and Conditional Uses, RM-15 Residential Low Rise Multifamily/Medium Density District; Section 47-5.17, List of Permitted and Conditional Uses, RMs-15 Residential Low Rise Multifamily/Medium Density District; Section 47-5.18, List of Permitted and Conditional Uses, RML-25 Residential Low Rise Multifamily/Medium High Density District; Section 47-5.19, List of Permitted and Conditional Uses, RMM-25 Residential Mid Rise Multifamily/Medium High Density District; Section 47-5.20, List of Permitted and Conditional Uses, RMH-25 Residential High Rise Multifamily/Medium High Density District; Section 47-5.21, List of Permitted and Conditional Uses, RMH-60 Residential High Rise Multifamily/High Density District; Section 47-13 Regional Activity Center Districts; Section 47-18., Specific Use Requirements, Section 47-20., Parking and Loading Requirements; Creating Section 47-24.13., Reasonable Accommodation Procedures; Creating Section 47-24.14., Community Residences Registration and Conditional Use Permit Requirements; And Amending Section 47-35., Definitions.

APPLICANT:

City of Fort Lauderdale

PROJECT NAME:

Zoning Standards for Community Residences for People with Disabilities

GENERAL LOCATION:

City-Wide

CASE PLANNER:

Karlanne Grant

Karlanne Grant, representing Urban Design and Planning, advised that this Item addresses zoning standards for community residences serving persons with disabilities. Under Federal Housing Administration (FHA) guidelines, it is unlawful to undertake land use policies or actions that treat individuals with disabilities less favorably than the rest of the population: for example, it would be unlawful for the City to pass an Ordinance that prohibits housing for persons with disabilities.

Staff has taken a preemptive approach to develop standards that provide for community residences for individuals with disabilities. This led to redefinition of the term "family" according to City Code. At present, family is defined as one or more persons living together in a single housekeeping unit supplied with a kitchen or facilities for doing their cooking on premises. The City proposes that this definition be changed as follows:

One or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, or a group of persons, not more than 3 in number, who are not so interrelated, occupying the whole or part of a dwelling as a single housekeeping unit supplied with a kitchen or facilities for doing their own cooking on the premises, and who share common living facilities; any person under the age of 18 years whose legal custody has been awarded to the State Department of Health and Rehabilitative Services; or to a child-placing agency licensed by the Department; or who is otherwise considered to be a foster child under the laws of the State and who was placed in foster care with a family, shall be deemed to be related to and a member of the family for the purposes of this definition.

Ms. Grant continued that the definition of family does not include nursing homes, clubs, boarding or lodging houses, dormitories, fraternities, sororities, or groups of individuals whose association is seasonal or similar in nature to a resort, motel, hotel, or boarding or lodging house.

Staff has developed descriptions for the living arrangements of individuals with disabilities, which will be referred to as Community Residence. This is defined as a residential living arrangement for unrelated individuals with disabilities, living as a single functional family in a single dwelling unit, who are in need of mutual support furnished by other residents of the Community Residence.

There are two types of Community Residence: the Family Community Residence and Transitional Community Residence. A partial definition of Family Community Residence refers to a relatively permanent living arrangement for 4 to 10 unrelated people with disabilities, with no limit on how long a resident may live in the home and the length of tenancy is measured in years. A Transitional Community Residence is a temporary living arrangement for more than 3 unrelated people with disabilities, with a limit on length of tenancy that is measured in weeks or months rather than years.

Ms. Grant showed a PowerPoint presentation displaying the permitted types of Family Community Residences as well as those types that would require conditional approval. The following would be permitted by right in all residential zoning districts:

- Maximum of 3 or fewer residents
- Between 4 and 10 residents located at least 1000 ft. from another Community Residence

Conditional approval would be necessary for the following in all residential zoning districts:

- Between 4 and 10 residents located less than 1000 ft. from another Community Residence
- More than 10 residents

Transitional Community residences are permitted by right to have 3 or fewer residents in all multi-family zoning districts, including R-15, RML-25, RMM-25, RMH-25, or RMH-60. In addition to the conditional approval criteria, the City requires all Community Residences to operate in a manner that does not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere. They must be located a sufficient distance from other Community Residences, and must operate as a functional family or emulate a biological family to foster normalization and community integration of its residents.

In addition to seeking conditional approval, individuals with disabilities may also request reasonable accommodation, which would be presented to the Special Magistrate. The Special Magistrate shall make findings of fact in support of all determination.

Parking standards have been changed in order to accommodate parking for individuals with disabilities. In addition to standard parking requirements, Community Residences must provide additional parking spaces for each resident that maintains a motor vehicle on the premises over and beyond the standard parking calculation for the type of dwelling unit.

Next steps include undertaking a study to determine the existing Community Residences in the City. Staff will meet with the Council of Fort Lauderdale Civic Associations in February 2018 and hope to take the Amendment before the City Commission for first reading in February and second reading in March.

Chair Hansen asked if van accessibility was addressed with respect to parking, as there have been recent changes to the Americans with Disabilities Act (ADA) regarding these vehicles. Ms. Grant replied that Staff did not take these changes into consideration. Chair Hansen also recommended clarifications to the definition of "family."

Mr. Barranco also referred to parking, pointing out that ADA-accessible parking typically counts toward parking requirements within Code. Ms. Grant explained that the requirement for Community Residences would provide additional parking for any resident with a motor vehicle. This parking does not have to consist of ADA-accessible spaces. She pointed out that this is not dissimilar to the requirement for parking to accommodate the number of bedrooms in a multi-family structure.

Mr. Barranco commented that his concern was for holding Community Residences to a higher standard than other forms of development, which could ultimately lead to a legal

challenge. He felt the requirement of an ADA-accessible space as part of a site's standard parking count should be sufficient.

Mr. Tinter added that Transitional Community Residences, in which tenancy is measured in weeks or months, serve a changing population, which makes it difficult to provide an additional space.

Nancy Stroud, legal consultant, explained that the Code change is intended to preempt issues related to "sober homes," which house individuals with disabilities that may be related to drug or alcohol abuse. It is not intended to address the needs of individuals with physical disabilities that require them, for example, to use wheelchairs. Mr. Barranco asserted that this is the reason he feels Code should remain silent on this issue, as the requirement does not treat sober homes like other residential homes.

Ms. Stroud continued that the proposed parking requirement arose from an understanding of how sober homes work. There are typically two types of these residences: one where no residents are allowed to have a car and transportation is provided as a service, and one that allows residents to have their own cars and drive. It may not be sufficient to treat the latter type of residence in the same manner as a single-family home.

Ms. Golub asked why the issue is being addressed at this time if it may be subject to change later on once the study is complete. Ms. Grant advised that Staff was directed by the City Commission to move this issue forward through the approval process. Ms. Stroud added that she was not certain the issue would change significantly in the future, as the basic system is very similar to what has been accepted in other communities.

Vice Chair Maus asked if Staff has reviewed similar Ordinances in other municipalities. Ms. Stroud confirmed this, stating that some of these Ordinances have been legally challenged, as this is an evolving area of the law.

Mr. Tinter addressed language changes to the definitions, pointing out there is a discrepancy between references to four or more individuals and other references to three or fewer individuals as a family unit in a Community Residence. Ms. Grant agreed that Staff would review the document to ensure greater clarity.

Mr. Tinter also noted a reference to conditional use requirements included in the definitions, asking if this referred to general conditional use requirements such as compatibility. Ms. Grant confirmed this as well. Mr. Tinter pointed out that one response to this criterion may be that sober homes are not compatible with a residential neighborhood.

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

Ron Centamore, President of the Fort Lauderdale Council of Civic Associations, advised that a number of City neighborhood associations have expressed concern regarding sober homes, some of which are in close proximity to each other. The Council asked the City Commission to consider a recent Ordinance enacted by Delray Beach, which could assist with the regulation of these facilities. He emphasized that the Council hopes the City can regulate sober homes through Code Enforcement and ensure that they are properly licensed.

Marilyn Mammano, private citizen, asserted that she was not certain how Community Residences relate to the existing Social Service Residential Facility (SSRF) designation already included in Code. She felt there may be unintended consequences if the City acts too quickly. She also cautioned that as other South Florida cities enact Ordinances to regulate sober homes, lack of such regulation in Fort Lauderdale may lead to proliferation of these programs in the City.

Ms. Mammano continued that many neighborhoods in which sober homes are located are unlikely to have seen or provided input on the proposed Amendment. She concluded that more time is necessary for all parties to review and absorb the content of the Amendment.

Vice Chair Maus pointed out that if the Board approves the Item at tonight's meeting, there will be sufficient time for neighborhoods to meet with Staff and offer corrections to the draft prior to its first reading; however, if no action is taken, the process may be delayed for a number of months.

Mr. Tinter asked if Staff might be able to review and modify the Item and bring it back before the Board in February or March 2018 before taking it to the City Commission. Ms. Grant replied that at the December 19, 2017 City Commission Conference Agenda meeting, Staff proposed different timelines, including one that would delay approval until the study is complete. The Commission, however, directed Staff to move forward with the process.

Mr. Barranco asked where the study fits into the timeline. Ms. Stroud stated that the study would target the first reading by the City Commission as a completion date. Ms. Grant advised that any changes made as a result of the study would be addressed in a memo to the City Commission. Ms. Golub suggested that the Board could convene a special meeting to review an amended version of the document prior to its presentation to the City Commission.

Chair Hansen declared that a schedule allowing the Council, neighborhoods, and Board time to review the document should be determined. Mr. Tinter added that he was not comfortable sending the Item on to the City Commission at tonight's meeting due to the ambiguity and inconsistencies of its parking issues. Chair Hansen added that he would also like to hear input from community leaders after the document has been modified.

Ms. Grant reiterated that Staff had presented the City Commission with alternative timelines, but the Commissioners directed them to move forward with the process.

Elly du Pre, private citizen, commented that her neighborhood association hopes to protect the area's RDS-15 zoning status. She recommended that the Amendment ensure that it addresses different types of disabilities, including individuals with physical disabilities, individuals in sober homes, and others.

Ben Sorenson, private citizen, stated that he has worked with Mr. Centamore and Ms. Mammano with regard to this issue. He recalled that in late 2016, the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Justice (DOJ) put forth a joint statement regarding how municipalities may address sober homes without violating ADA or FHA requirements. He encouraged Staff to advise the City Commissioners that the Amendment is in the best interest of the City's residential neighborhoods.

Motion made by Mr. Tinter, seconded by Mr. Barranco, to defer this Item until after the study has been completed and meetings with neighborhoods and councils has taken place before [the Board makes] any further recommendation to the City Commission. In a roll call vote, the **motion** passed 7-0.

It was clarified that the study to which the motion referred was not likely to be completed in the near term, although neighborhood outreach could begin at an earlier time.

Ms. Stroud clarified that the study would include mapping of current facilities as well as legal analysis and an update on the status of other Ordinances regulating sober homes. The target date for the study's completion is the first reading of the Ordinance before the City Commission.

Ms. Stroud continued that the data resulting from the study, as well as the mapping data, may affect the language of the Ordinance, which was adopted at the City Commission's suggestion for draft purposes. This was why the study has been placed on an accelerated schedule.

Mr. Tinter asserted that while he did not wish to rescind his earlier **motion**, any Board member who voted to approve it may vote to reconsider the **motion** if they wish.

Ms. Golub cited the example of an Ordinance regulating transient rentals, which was passed and then amended within a short time of its approval. She concluded that the study's results may lead to the identification of potential amendments.

Motion made by Ms. Golub, seconded by Vice Chair Maus, to reconsider the motion. In a voice vote, the **motion** passed 6-1 (Mr. Tinter dissenting).

Motion made by Vice Chair Maus to approve with Staff conditions. [The **motion** died for lack of second.]

Ms. Grant clarified that the next steps in the process are not considered conditions; however, if the study necessitates changes to the Ordinance's language, it would have to come back to the Board for approval.

Ms. Golub suggested a motion that the Board approve the draft document after meetings with the neighborhoods and the Council of Fort Lauderdale Civic Associations are complete. Chair Hansen proposed deferring the Item until February. Mr. Centamore advised that the Council can wait until the study is completed, even if that is later in the year, to discuss the Item further.

Ms. Grant reiterated that in lieu of deferment, Staff can bring back a text Amendment.

Motion made by Mr. Tinter, seconded by Mr. Barranco, to defer this [Item] for a month. In a roll call vote, the **motion** passed 7-0.

V. COMMUNICATION TO THE CITY COMMISSION

None.

VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE


None.

There being no further business to come before the Board at this time, the meeting was adjourned at 11:21 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.]