



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, APRIL 17, 2019 – 6:30 P.M.**

Cumulative

Board Members	Attendance	June 2018-May 2019	
		Present	Absent
Catherine Maus, Chair	A	9	2
Howard Elfman, Vice Chair	P	8	2
John Barranco	A	7	3
Brad Cohen	P	8	3
Mary Fertig	P	9	1
Jacquelyn Scott	P	10	1
Jay Shechtman	P	11	0
Alan Tinter	P	9	2
Michael Weymouth	P	11	0

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

Staff

Ella Parker, Urban Planning and Design Manager
D'Wayne Spence, Assistant City Attorney
Shari Wallen, Assistant City Attorney
Karlanne Grant, Urban Design and Planning
Trisha Logan, Urban Design and Planning
Jamie Opporlee, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Mr. Shechtman, seconded by Ms. Fertig, to communicate to the City Commission a desire to bring up for discussion to the City Commission the Flagler Greenway concept along the east side of the FEC tracks from Sunrise Boulevard to Davie Boulevard. In a roll call vote, the **motion** passed 5-2 (Mr. Tinter and Mr. Weymouth dissenting).

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

owners within 200 ft. be notified. Attorney Wallen noted that the City may not be able to identify the tenant of a given property.

Ms. Fertig **amended** her earlier **motion** as follows: **motion** to defer to correct [the Amendment] to 300 ft. for associations, 200 ft. for real property owners, and it's the public participation meeting that [the Board is] talking about, and an affidavit of who received the notice. Ms. Scott **seconded** the **amended motion**.

In a roll call vote, the **motion** passed 7-0.

Trisha Logan, representing Urban Design and Planning, advised that her presentation would address the next four Items together, as they are related.

2. CASE:

T19004

REQUEST:

Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) Section 47-24.11., Historic Designation of Landmarks, Landmark Site or Buildings and Certificate of Appropriateness, to provide additional definitions that further clarify the text contained within the ordinances; modifications to designation process; proposed language to address administrative review for minor alterations and minor demolition, amendments to work that was previously approved, and after-the-fact work by the Historic Preservation Board.

APPLICANT:

City of Fort Lauderdale

**GENERAL
LOCATION:**

City-Wide

CASE PLANNER:

Trisha Logan

3. CASE:

T19005

REQUEST:

Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) Sections 47-27.7., Historic designation and 47-27.8., Certificate of appropriateness and economic hardship exception to revise the existing notification requirements.

APPLICANT:

City of Fort Lauderdale

**GENERAL
LOCATION:**

City-Wide

CASE PLANNER:

Trisha Logan

4. CASE:

T19006

REQUEST: Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) Section 47-32., Historic Preservation Board, to adjust the number of Historic Preservation board members and to reduce the required number of members present to constitute a quorum.

APPLICANT: City of Fort Lauderdale

GENERAL LOCATION: City-Wide

CASE PLANNER: Trisha Logan

5. CASE: **T19007**

REQUEST: Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) Sections 47-3.6., Change in Structure; 47-16.5., Building Regulations; 47-16.6., Certificate of Appropriateness; 47-16.23., Parking Exemption; 47-17.4., Application for Alterations or New Construction; 47-17.5., Application for Yard and Minimum Distance Separation Reduction; 47-17.6., Alterations to Non-conforming Structures to re-number sections pertaining to Historic Preservation; and the removal of Article XII.-Purpose and Intent of the ULDR, which will be replaced by a Historic Preservation intent section within Section 47-24.11 of the ULDR.

APPLICANT: City of Fort Lauderdale

GENERAL LOCATION: City-Wide

CASE PLANNER: Trisha Logan

At a City Commission Conference Agenda meeting in summer 2018, Staff discussed an architectural resource survey of the Central Beach. As part of this discussion, the City Commissioners requested recommendations for potential updates to the ULDR, as well as recommendations for incentives. In a follow-up meeting, Staff provided the City Commission with a memorandum outlining different phases of work that they would propose for the future.

Phase 1, which is addressed by Item T19004, refers to sections of the ULDR that deal with historic preservation. The Amendment would add roughly 21 new definitions, as well as an intent section, which will be moved from another section of Code and its language updated to reflect the intent and purpose of historic preservation.

The City's historic designation process is also addressed, with modifications to who can apply for this designation. At present, an application for historic designation may be

submitted by anyone who lives or owns property within City limits. The update would allow for different entities to propose a historic designation application, including a motion from the Historic Preservation Board (HPB), a Resolution from the City Commission, nonprofit organizations, and property owners themselves. The update also includes an interim protective measure which allows for a hold to be placed on certain projects involving properties that have active historic designation applications.

Other sections address after-the-fact work by providing Staff with the ability to review this work and potentially approve it if it meets the historic preservation guidelines and certain criteria within Code. These include the Secretary of the Interior's Standards. These updates would grant Staff additional flexibility to approve items within administrative review.

Ms. Scott commented that an application involving a property with a landmark designation should be treated very differently from an application for a non-contributing structure. Ms. Logan explained that a designated historic landmark may be treated more restrictively, with more stringent application of Secretary of the Interior's Standards for Historic Preservation and fewer changes allowed to be made to these properties.

Ms. Scott noted that within historic districts, it can be difficult for homeowners to make changes or minor repairs without first appearing before the HPB. Ms. Logan advised that this is the purpose of the proposed updates: to provide more flexibility to address these requests at Staff level. At present, the Code does not differentiate between, for example, whether work is done on the front or back of a building: the proposed work would require the applicant to go before the HPB. The proposed Amendments would allow for changes not visible from the right-of-way to be reviewed and approved at Staff level, if the changes do not add or remove more than 25% of the property's square footage.

Ms. Scott requested additional information regarding incentives related to historic preservation. Ms. Logan explained that these would come in Phase 2. Staff is working to develop incentives at this time.

Mr. Tinter asked if parties other than a property owner may apply for a historic designation for a property. Ms. Logan reiterated that Code currently allows anyone who lives or owns property within the City to request this designation. The Code update limits this ability so the individual initiating the application must be one of the following:

- The property owner;
- A nonprofit organization with a vested interest in historic preservation;
- A motion by the HPB;
- A Resolution by the City Commission.

Any of these entities may initiate an application, but does not automatically approve the designation.

Ms. Logan continued that once an application has been filed for historic designation as a landmark or a historic district, the application goes through the regular process: applications for historic landmarks would go before the HPB, where a recommendation is made to the City Commission. This process includes two public hearings. The application process to designate a historic district requires three public hearings: HPB, PZB, and City Commission, with the PZB and HPB acting as recommending bodies.

Ms. Logan concluded that this Amendment also proposes cleanup of Code to make its language more consistent throughout the text, as well as slight modifications to the text's flow.

Ms. Logan next addressed Item T19005, which deals with noticing for HPB-related designations and Certificates of Appropriateness in Code Sections 47-27.7 and 47-27.8. These sections were modified slightly to align with changes being made in other portions of Code. One significant change under the historic designation section is the addition of notice for the president of a recognized civic association for any historic designation of a landmark or historic district. For Certificates of Appropriateness, a sign notice would be needed for proposed new construction projects.

Mr. Shechtman requested clarification of a reference to a simple majority of property owners within the boundaries of a proposed district. Ms. Logan explained that this is found in Exhibit 4 of Item T19004: a historic district is an area with a defined geographic boundary. A simple majority of property owners within a specific area would be able to submit an application for a historic designation of their district.

Ms. Logan also addressed proposed districts, which can refer to an area of land within a set boundary. Anything within that boundary would be part of a proposed historic district. Each property within the boundaries would be identified as either contributing or non-contributing to the area. A contributing property could be part of a significant time period or representative of a particular architectural style.

Mr. Shechtman asked what would prevent any group of property owners from proposing a district. Ms. Logan reiterated that a simple majority of owners would have to come forward and propose an application for a historic designation. Those owners would be required to fulfill the requirements of an application to be submitted to the HPB.

Ms. Scott commented that the HPB and PZB should have met for a joint workshop to discuss these Amendments collaboratively. Ms. Logan stated that Staff has met with the HPB three times to review the proposed changes, including meetings in March and April 2019.

Ms. Fertig asked if Staff would provide the HPB with notice of decisions made each month at the Staff level, giving them the opportunity to call up any of those items for further review. Ms. Logan explained that no notice would be provided to the HPB regarding some administrative changes, and those changes would not be considered

for call-up. Although the HPB did not make a motion at the end of their most recent meeting to discuss the Amendments, the majority of their membership seemed to be supportive of Staff's efforts.

Ms. Logan continued that Item T19006 addresses the administrative section of Code dealing with the HPB. The Amendment proposes to change the number of HPB members from 11 to 9 and change the number required for a quorum from 6 to 5. This would make the HPB more consistent with other City advisory boards.

Item T19007 addresses a number of areas that are affected by the other proposed changes by re-numbering them to reflect the update. The only distinction from this is Article XII, which deals with the intent of historic preservation and would be completely removed from the text. This section is currently disconnected from the remainder of the section dealing with historic preservation Code. A different intent section would be inserted within the main section of the historic preservation ULDR.

Mr. Tinter requested clarification of whether or not the next two phases of Ordinance Amendments would be more substantive than the changes presented at tonight's meeting. Ms. Logan replied that the majority of the changes proposed tonight address what Staff can do at an administrative level. The intent of the first phase is to streamline and simplify the historic preservation process, while the second phase will consider different incentives that could be implemented. The third phase would reexamine other items brought up by a 2012 working group.

Mr. Tinter asked if the PZB and HPB might be able to hold a joint meeting during the next two phases. Ms. Logan advised that the Board may wish to make a communication to the City Commission expressing this desire.

Motion made by Ms. Scott to make a communication to the City Commission that the Planning and Zoning Board would like to meet jointly with the Historic Preservation Board through the next two phases of this process.

Ms. Fertig asserted that even without a joint meeting of the two advisory bodies, she would like a clear indication from the HPB of their opinion on the proposed Amendments. She expressed concern that they have not voted to approve the Items.

Ms. Scott **amended** her **motion** to add the following: that the Board would like to also meet with the [HPB] or get some type of communication on this first phase before [the Planning and Zoning Board] votes on it.

Attorney Wallen clarified that the HPB, unlike the PZB, does not have the authority to make a motion to approve a proposed Amendment. She reiterated that Staff has met with the HPB three times on the proposed Amendments, heard their feedback, and made changes accordingly. She did not feel it was necessary to take this Item to that

advisory entity once again, as they have already met multiple times and been provided with the HPB's feedback.

Ms. Scott stated that she personally would like to hear input from the HPB before the PZB votes on the proposed Amendments. Ms. Fertig added that the PZB was not provided with the minutes of HPB meetings and does not know what that advisory body's discussion was like.

Ms. Logan recalled that at Staff's most recent meeting with the HPB, that Board raised issues relating to minor alterations and minor demolition, as well as definitions and the main portions of sections addressing administrative approvals. There was also discussion of visibility of work from the right-of-way, notice requirements, and after-the-fact approvals, including both what would be addressed at Staff level and what would come before the HPB.

The proposed Amendments began to be drafted in 2018 after Staff reviewed the modifications recommended in 2012. From September 2018 through March 2019, Staff provided presentations on the Amendments to the public, the HPB, the Sailboat Bend Historic District, and various stakeholders. Staff provided a document listing frequently asked questions to civic and business associations, and gave presentations to the Central Beach Alliance's Board and general membership. Ms. Logan concluded that the current proposed timeline is to take these Amendments to the City Commission in summer 2019 for first and second reading.

Ms. Scott stated that she had spoken with the Chair of the HPB, who had made comments to her regarding the need to make the permitting and approval processes easier for properties within a historic district. Ms. Logan replied that these Amendments would address administrative decisions that could be made by Staff regarding changes not visible from the right-of-way. Another initiative that will be discussed in the future would deal with the Ordinance associated with the Sailboat Bend Historic District. She noted that Sailboat Bend does not differentiate between contributing and non-contributing properties. Incentives will be addressed in the next phase.

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

Abby Laughlin, Vice President of the Friends of North Beach Village, stated that this organization has followed the process by which historic preservation Amendments were proposed and discussed. They agree with the suggestions for administrative changes to make the process easier for owners of historic properties. They do not, however, want any reference to "interim protection" to continue in Phase 1, as this needs further City-wide discussion. She characterized interim protection as a moratorium that could involve the property rights of over 70% of the housing stock in Fort Lauderdale.

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Ms. Laughlin continued that Phase 2 should have been addressed prior to Phase 1, including incentives and compensation of property owners. She felt the Amendment governing consent over historic designation was a positive step, but expressed concern with the inclusion of nonprofit groups specializing in preservation. She concluded that she agreed with the proposed joint meeting between the PZB and HPB.

Ms. Scott asked if Ms. Laughlin was in favor of historic preservation. Ms. Laughlin replied that she is in favor of consent, and opposes the use of historic preservation to impede development.

Russell Dion, private citizen, advised that Ms. Logan had provided the Board members with copies of a letter he had sent to Staff. He read the letter into the record at this time [attached], explaining that while he supports historic preservation, he is opposed to historic designation without the property owner's consent. He felt the historic designation process is unfair to property owners and eliminates their private property rights in exchange for a tax deduction. He also felt incentives for voluntary designation should have been included in Phase 1.

Donna Pomponi, private citizen, stated that a local organization is seeking a historic designation for the Bayshore project. She characterized the historic designation process as complicated and expensive. Ms. Pomponi also asked if applicants are bound to follow specific conditions recommended by the Board, or if there are ways they can avoid compliance. She cited the example of an applicant who was required by the Board to connect a project to a specific pump station.

Ms. Scott requested clarification of whether or not the applicant to which Ms. Pomponi had referred would be required to comply by the Board's condition. Ms. Parker replied that the conditions included in the Staff Report were revised to include the condition requested by the PZB, and Staff is coordinating with the City's Public Works Department to address this condition.

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

Mr. Cohen commented that he is concerned with a tendency for buildings or individuals to seek historic designation of a nearby property as a way to prevent further development of a site. He hoped the proposed Amendments would address this tendency.

Mr. Tinter referred to Mr. Dion's comment that designation of a historic property by a third party could take away an owner's property rights. He asked if the proposed Amendments would affect the ability to develop a property, or if this is an underlying problem with the overall historic preservation Ordinance. Attorney Wallen advised that the United States Supreme Court has ruled that designating a property as historic

without owner consent is not the same as the taking of that property. The standard for taking a property is that an owner must be deprived of all beneficial use of the property.

Attorney Wallen continued that Item T19004 is the largest Ordinance before the Board at tonight's meeting. This Ordinance would allow Staff to evaluate more applications so every applicant does not have to come before the HPB for a certificate of appropriateness. In addition, T19004 distinguishes between minor and major alterations and demolition: minor alterations or demolition go before Staff for evaluation, while major alterations or demolition go before the HPB. It also takes away the right of an individual to designate someone else's property as historic.

Ms. Fertig reiterated that she would have liked to hear the HPB's opinion on the proposed Amendments. She withdrew her earlier **second** of Ms. Scott's **motion** for a joint meeting between the PZB and HPB.

Motion made by Ms. Fertig, seconded by Ms. Scott, to defer this [Item] until after next month's Historic Preservation Board [meeting] to ask specifically of Item[s] 2, 3, and 5 for their comments on this and see a motion go through that Board.

Attorney Wallen reiterated that the HPB has provided commentary on this issue and their minutes have been posted online for review. She stated that while a motion may be requested of the HPB, that advisory body is not required to make a motion in order to give commentary.

Ms. Fertig explained that she would like to request that the HPB vote on this Item and send the PZB any comments they might have. She also asked that the PZB be provided with copies of the HPB's meeting minutes for review.

Ms. Fertig **restated** her **motion** as follows: **motion** to defer to return [Items 2, 3, and 5] to the Historic Preservation Board, requesting a motion of support or lack of support. Ms. Scott **seconded** the **amended motion**.

Ms. Fertig clarified that she would like to defer the Items to the next month after the HPB's May 2019 meeting.

Mr. Weymouth advised that the Board may wish to consider these Items in conjunction with Phase 2, as there may be aspects of Phase 2 that affect Phase 1. Ms. Logan reiterated that Phase 2 deals primarily with incentives related to historic preservation. Attorney Wallen added that Staff was specifically directed to "clean up" the historic preservation Ordinance and process, which required presenting each phase in order. The process itself must be addressed prior to the discussion of incentives so all applications no longer go before the HPB.

Mr. Shechtman requested additional information regarding interim protective measures. Ms. Logan replied that these measures are included in Exhibit 4 of Item T19004, and

provide for a hold of up to 180 days on any major request, such as major alterations or demolition, made on any property under consideration for historic designation. This allows a historic designation application to advance through the process without the structure in question being demolished or significantly altered. There are specific circumstances under which protective measures can be released.

It was suggested that the **motion** also ask the HPB whether or not the Amendments should be approved before Phase 2 has been prepared.

In a roll call vote, the **motion** to defer Items 2, 3, and 5 passed 6-1 (Mr. Tinter dissenting).

Motion made by Ms. Fertig, seconded by Mr. Tinter, to approve Item 4. In a roll call vote, the **motion** passed 7-0.

V. COMMUNICATION TO THE CITY COMMISSION

It was noted that beginning with the May 2019 meeting, the Planning and Zoning Board meetings will convene at 6 p.m. rather than 6:30.

Mr. Shechtman recalled that he was appointed by the Board members to serve as their representative to the LauderTrail Working Group, where he serves as Chair. Mr. Shechtman recommended consideration of creating a Flagler Greenway along the right-of-way on the eastern side of the FEC railway tracks. This would connect the north and south sides of the City, as well as the Downtown area, including Riverwalk and Holiday Park, along the same path.

Mr. Shechtman continued that Fort Lauderdale's Downtown Master Plan already includes plans for the proposed Flagler Greenway. He suggested that the Board send a communication to the City Commission to request that they discuss plans for this greenway.

The Board discussed the proposal, with Ms. Fertig proposing that the Board ask Staff to educate them further on the Flagler Greenway before sending a communication to the City Commission. Mr. Shechtman felt this issue should be discussed in depth, pointing out that the project has already been approved as part of the Downtown Master Plan. He felt the proposed Flagler Greenway could be significant for the City.

Mr. Shechtman continued that having Staff undertake a presentation or further exploration on this project could be a lengthy process. Ms. Scott proposed that Mr. Shechtman consider making a citizen presentation on the Flagler Greenway to the City Commission and request their help in advancing the project.

Motion made by Mr. Shechtman, seconded by Ms. Fertig, to communicate to the City Commission a desire to bring up for discussion to the City Commission the Flagler

Greenway concept along the east side of the FEC tracks from Sunrise Boulevard to Davie Boulevard. In a roll call vote, the **motion** passed 5-2 (Mr. Tinter and Mr. Weymouth dissenting).

VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE

Ms. Parker noted that Item 1 was deferred to the Board's May 2019 meeting. She added that she forwarded potential dates to the members on which a special meeting for the Board to discuss the Comprehensive Plan could be scheduled. It was determined that the special meeting would be scheduled for Wednesday, June 26, 2019 at 4 p.m.

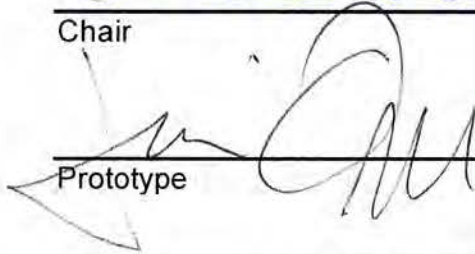
The liaison and Board members thanked Vice Chair Elfman for his service to the Board.

There being no further business to come before the Board at this time, the meeting was adjourned at 8:15 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, Prctotype, Inc.]