



CITY OF FORT LAUDERDALE

**CITY OF FORT LAUDERDALE  
PLANNING AND ZONING BOARD  
CITY HALL – CITY COMMISSION CHAMBERS  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA  
WEDNESDAY, JULY 17, 2019 – 6:00 P.M.**

**Cumulative**

<b>Board Members</b>	<b>Attendance</b>	<b>June 2019-May 2020</b>	
		<b>Present</b>	<b>Absent</b>
Catherine Maus, Chair	P	2	0
Mary Fertig, Vice Chair	A	1	1
John Barranco	A	1	1
Brad Cohen (arr. 6:01)	P	1	1
Coleman Prewitt	P	2	0
Jacquelyn Scott	P	2	0
Jay Shechtman	P	2	0
Alan Tinter	P	2	0
Michael Weymouth	P	2	0

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  
Anthony Fajardo, Director, Department of Sustainable Development  
Adam Schnell, Urban Design and Planning  
Jamie Opperlee, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

None.

**I. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

Chair Maus called the meeting to order at 6:00 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 City Staff.

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

**Motion** made by Mr. Tinter, seconded by Mr. Shechtman, to approve.

Ms. Scott stated that she was not certain the communication sent to the City Commission from the June 19, 2019 meeting communicated the full intent of the Board's discussion.

Mr. Cohen arrived at 6:01 p.m.

Chair Maus advised that the communication to the City Commission should note that current methods of measuring traffic impact are not capturing that impact correctly. It was clarified that the June 19, 2019 communication would be amended to accurately reflect this intent.

In a voice vote, the **motion** passed unanimously (as amended).

### III. PUBLIC SIGN-IN / SWEARING-IN

### IV. AGENDA ITEMS

#### Index

<u>Case Number</u>	<u>Applicant</u>
1. R17057**	94-96 Hendricks Isle, LLC
2. Z19002* **	Brody Family Investments, LLC

#### **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.

**Motion** made by Ms. Scott, seconded by Mr. Cohen, to defer Item 1 until August 21, 2019. In a voice vote, the **motion** passed unanimously.

**2. CASE:**                   **Z19002**  
**REQUEST:** \* \*\*           Rezoning From (I) Industrial to (B-2) General Business  
**APPLICANT:**           Brody Family Investments, LLC  
**PROJECT NAME:**       The Guitar Broker

<b>GENERAL LOCATION:</b>	816 NW 6 <sup>th</sup> Avenue, North of NW 8 <sup>th</sup> Street and South of NW 9 <sup>th</sup> Street
<b>ABBREVIATED LEGAL DESCRIPTION:</b>	Progresso Lots 32,33,34,35 and 36, Block 264, Plat Book 2, Page 18 of the Public Records of Dade County, Florida
<b>EXISTING ZONING:</b>	Industrial (I)
<b>PROPOSED ZONING:</b>	General Business (B-2)
<b>LAND USE:</b>	Northwest Regional Activity Center (NW-RAC)
<b>COMMISSION DISTRICT:</b>	2 - Steven Glassman
<b>CASE PLANNER:</b>	Adam Schnell

Disclosures were made at this time, and any individuals wishing to speak on tonight's Agenda Items were sworn in.

Matthew Scott, representing the Applicant, stated that the request is to rezone a property in the Northwest Regional Activity Center (NW-RAC). The Applicant obtained a grant from the Northwest Community Redevelopment Agency (CRA) for sod improvements and invested his own money in improvements as well. The current zoning is Industrial, and the Applicant wishes to rezone it as B-2, General Business.

The property is surrounded by mostly industrial zoning; however, roughly 700 ft. to the east there is multi-family zoning, and other business zoning districts are located a short distance to the north.

Mr. Scott advised that the property lies within a Regional Activity Center (RAC), which encourages mixed-use development and reinvestment. A major feature of the RAC's redevelopment plan was to evaluate Industrial land uses and determine where possible zoning changes are necessary for compatibility with the surrounding residential neighborhoods. The City's Comprehensive Plan encourages mixed use within the NW-RAC. Instead of requesting rezoning to NW-RAC, which would allow multi-family use, the Applicant elected to "down-zone" the property to B-2, which would allow for less intensive and additional business-related uses.

There are no negative effects of rezoning the property to B-2. Mr. Scott pointed out that the City's goal is to encourage a mix of uses in the RAC, not to encourage segregated single-use areas. The Progresso Village Civic Association has provided the Applicant with a letter of support which stated the neighborhood wanted to see more business-friendly uses.



Because the surrounding area includes a variety of zoning districts, the request is believed to be compatible with the character of the neighborhood and nearby districts and uses. Mr. Scott reviewed some of the nearby zoning districts, which include multi-family, B-3, and a mixture of commercial and business uses. The underlying land use encourages the rezoning of Industrial areas to allow for mixed use. Mr. Scott concluded that the Staff Report for this Item indicates that the request complies with all three of the City's rezoning criteria.

**Motion** made by Ms. Scott, seconded by Mr. Cohen, to include the Staff Report as part of the record of this hearing.

Assistant City Attorney Shari Wallen advised that there is an argument to be made that the request would result in "spot zoning." She recommended that the Board ask questions related to this issue, which refers to zoning of a small parcel that is not in accordance with its surrounding areas. It was her legal opinion that the Application constituted spot zoning.

In a voice vote, the **motion** passed unanimously.

Adam Schnell, representing Urban Design and Planning, addressed the issue of spot zoning, stating that Staff approves rezoning based upon three criteria in Section 47-24.4.d of the Unified Land Development Regulations (ULDR). The criteria are as follows:

- The Application is consistent with the Comprehensive Plan
- There will be no adverse impacts to the character of the development area
- The area is suited for the uses permitted within the requested zoning

Mr. Schnell confirmed that Staff discussed the issue of spot zoning with legal counsel. It is Staff's belief that with the emergence of redevelopment and the call for integration of mixed use in the NW-RAC Redevelopment Plan, there is a rationale for rezoning the property. Although the Redevelopment Plan characterizes the area as blighted and underused, Staff feels it may serve as a major source of investment and employment for the surrounding area. As more redevelopment occurs, there is a greater need for a mixture of uses.

Chair Maus asked if the City should conduct a study of potential uses within the subject area and arrive at a comprehensive plan for rezoning rather than allowing parcels to be presented for rezoning one by one. Anthony Fajardo, Director of the Department of Sustainable Development, advised that there is only the CRA Redevelopment Plan at present, which identifies the area as blighted. Although the City undertook the CRA Redevelopment Plan in 2007 and it has since been updated, they have not moved forward with any studies. The result is a remaining area of Industrial use and legal nonconforming uses. The underlying land use is consistent with the proposed zoning.

Mr. Fajardo continued that there is some overlap between Industrial and B-2 zoning, which provides some consistency between the two zoning districts. The Applicant proposes to change the parcel's zoning to a less intensive district that is still compatible with surrounding uses in the area. He concluded that while he understood the Assistant City Attorney's concern with spot zoning, an argument can be made that the request would address slum and blight within the area and provide uses that are consistent with the property's surroundings.

Chair Maus also expressed concern with the public participation aspect of the Application, pointing out that the public was informed that rezoning was being sought for one building. She felt there is a possibility that opening a non-industrial business in an Industrial neighborhood could lead to a trend of similar businesses that may have much greater impact on the community than the single original parcel would have had alone. Mr. Fajardo agreed that in other parts of the City, which do not have the CRA boundary or an existing plan for redevelopment, this could be a serious concern.

Mr. Tinter asserted that he considered the Application to represent "up-zoning" rather than down-zoning, as it would change the parcel from a use that generates less traffic and infrastructural demand to one with greater demand. He continued that to make the subject property truly consistent with the underlying land use, the parcel should be rezoned to NW-RAC. Mr. Fajardo acknowledged that the Board may make this recommendation if they wish.

Mr. Prewitt observed that although there is the possibility of spot zoning, the intent is still to redevelop a portion of a blighted area, which is consistent with the Comprehensive Plan. He asked if there is a correct way to redevelop the area and expedite address of blight. Mr. Fajardo replied that this would typically involve an expanded study of the area to determine what the City wishes to accomplish and what the area's redevelopment needs might be. This would be followed by zoning language and design criteria that are specific to the area and would help establish and maintain its character. This process would include significant public outreach.

Mr. Prewitt noted that while he did not wish to deny a project that could benefit the surrounding community, he felt allowing one example of spot zoning could lead to a trend of rezoning for the area that could have greater repercussions. Mr. Fajardo reiterated that Staff found the Application to be compatible with the three rezoning criteria.

Chair Maus asked if Industrial uses still have a place within the City. Mr. Fajardo confirmed this, adding that the question is whether or not the subject parcel is the right location for Industrial use. He pointed out that there is a residential pattern moving through the Industrial area, as demonstrated by legal nonconforming uses such as low-income housing. Less intense business zoning provides the opportunity, elsewhere in the City, to transition from residential neighborhoods into a more intensive area such as Industrial.



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

Stephanie Toothaker, representing Gaddis Capital, explained that her client owns significant property in the area. She characterized the Application as spot zoning, stating that while future development might be similar to the Application, it was not appropriate to select one small parcel for B-2 zoning when it is not abutted by the B-2 use. She noted that when owners of nearby Industrial properties became aware of the Application, they were alarmed by the proposal. She asked that the Board review the criteria for rezoning.

John Camillo, representing the Gaddis Corporation, advised that this entity is the owner of properties near the subject location. He pointed out that the location has provided several jobs for residents of the surrounding area over a long period of time. He did not believe rezoning one small piece of property would enhance the surrounding neighborhood.

Mr. Camillo identified multiple parcels owned by the Gaddis Corporation on the map provided by Ms. Toothaker, noting that they have an interest in other nearby parcels as well. He did not feel the area should be characterized as blighted, instead describing it as a vibrant business area with zoning that should be changed in its entirety rather than parcel by parcel.

Mr. Cohen asked how the redevelopment proposed by the Applicant would have a negative effect on neighboring properties. Mr. Camillo replied that what the Applicant might do with the rezoned property has not been determined. He expressed concern that patrons of the Applicant's business might park on the Gaddis Corporation's property.

Ms. Scott also felt the proposed rezoning or its uses would not negatively affect the Gaddis Corporation's properties, and that the Applicant might be prevented from improving the neighborhood.

Mr. Shechtman pointed out that the future land use of the Northwest RAC would allow multiple uses, and suggested that the Gaddis Corporation might be fighting inevitable changes. Mr. Camillo stated that he felt they were only fighting spot zoning.

Ryan Morris, private citizen, stated that allowing the proposed rezoning would be a step in the right direction for the City and would attract more business to the area.

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

Mr. Scott addressed the concern for spot zoning, noting that he had not heard anyone describe the law underlying this issue. He cited case law that upheld spot zoning on the basis that the requested zoning did not increase density, add significant changes to a residential area, or change the character of the surrounding neighborhood. He reiterated that rezoning supported the goals of the area's Comprehensive Plan.

Mr. Scott continued that the City chose to encourage redevelopment and mixed use in the subject area, and that land use trumps zoning. He felt the City should be supportive of the Applicant's efforts toward redevelopment, pointing out that there is no significant reinvestment in the area being made by the owners of nearby Industrial uses. He concluded that it is an oversimplification to identify the Application as spot zoning, and that there would be no adverse effects of the proposed rezoning on Industrial uses.

Craig Brody, Applicant, explained that he purchased the property for restoration work on cars, which is allowed under Industrial zoning. He was approached by an individual who expressed interest in renting some of the building space. When he spoke to representatives of the CRA, they were receptive to his improvement of the building. He described the building as fully functional, with roughly 20 parking spaces. He felt there were few negatives to his proposal for the property.

Mr. Scott advised that the Northwest RAC was intended to create development and reinvestment in the area. He concluded that denying the Application would be in conflict with the City's own plans.

Ms. Scott asked if the Applicant met with nearby property owners. Mr. Scott replied that while they met with the nearby homeowners' association, they did not meet with other business owners.

Mr. Cohen asked if the Application met the City's definition of spot zoning. Attorney Wallen replied that in addition to the case law cited by Mr. Scott, there are other legal cases addressing multiple factors of spot zoning which should be considered. These include compatibility of the surrounding area, detriment to the immediate neighborhood, and the effect on the health, safety, and welfare of the public. She cautioned that factors other than the site's underlying land use must be taken into consideration.

Mr. Shechtman asked which factors Attorney Wallen felt the Application did not meet. Attorney Wallen replied that there are no similar developments immediately surrounding the subject parcel, which would make it only one small area. She also cited concerns with the character of the surrounding neighborhood and the abutting landowners, which led to her determination of spot zoning.

**Motion** made by Ms. Scott, seconded by Mr. Tinter, to approve.

Mr. Tinter commented that the entire Northwest RAC seemed to be consistently spot-zoned. He encouraged Staff to review the area and make recommendations regarding



its overall zoning according to the underlying land use. He suggested the Board consider sending a communication to the City Commission stating that Staff should review the Northwest RAC in terms of potential rezoning. He concluded that while there should be greater consistency in the area, he did not feel the proposed rezoning would be detrimental to any abutting properties.

Assistant City Attorney D'Wayne Spence advised that the recently passed House Bill (HB) 7103 requires the Board to make findings of fact pursuant to decisions that they make. The **motion** must include these findings of fact, such as whether or not the Application met the criteria of the Code.

Ms. Scott **amended** her **motion** as follows: **motion** to approve because the Application meets the rezoning criteria [of the ULDR]. Mr. Tinter **seconded** the **amended motion**.

In a roll call vote, the **motion** failed 2-5 (Chair Maus, Mr. Cohen, Mr. Prewitt, Mr. Shechtman, and Mr. Weymouth dissenting).

#### V. COMMUNICATION TO THE CITY COMMISSION


None.

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

Urban Design and Planning Manager Ella Parker proposed multiple dates on which a special Board meeting could be held. It was determined that the special meeting would be scheduled for August 22, 2019 from 4 p.m. to 9 p.m. in City Commission Chambers. The Special Meeting will focus on land use, transportation, and parks. Board members may participate by telephone if they cannot attend in person.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:05 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.]