



**PLANNING AND ZONING BOARD MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, SEPTEMBER 22, 2021 – 6:00 P.M.**

CITY OF FORT LAUDERDALE

Board Members	Attendance	June 2021 - May 2022 (Cumulative)	
		Present	Absent
Jacquelyn Scott, Chair	P	4	0
Brad Cohen, Vice Chair	A	2	2
John Barranco	P	3	1
Mary Fertig (via Zoom)	P	4	0
Steve Ganon	P	4	0
Shari McCartney	P	4	0
William Rotella	P	3	1
Jay Shechtman	P	3	1
Michael Weymouth	P	3	1

Communication to the City Commission

Motion made by Mr. Shechtman and seconded by Ms. Fertig, to request the City Commission ask staff to review existing parks within the Downtown Regional Activity Center which are not currently designated as parks to determine why they are not, and if they should be.

In a voice call vote, the **motion** passed 8-0



DRAFT

**CITY OF FORT LAUDERDALE
PLANNING AND ZONING BOARD MEETING MINUTES
CITY HALL COMMISSION CHAMBERS**

100 N. ANDREWS AVE., FORT LAUDERDALE, FLORIDA 33301

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Steve Ganon	P	4	0
Shari McCartney	P	4	0
William Rotella	P	3	1
Jay Shechtman	P	3	1
Michael Weymouth	P	3	1

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
Jim Hetzel, Principal Planner
Trisha Logan, Historic Preservation Planner
Nicholas Kalargyros, Urban Design and Planning
Tyler Laforme, Urban Design and Planning
Yvonne Redding, Urban Design and Planning
Christian Cervantes, Urban Planner II
Jamie Opperee, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Mr. Shechtman, seconded by Ms. Fertig, to request the City Commission ask Staff to review existing parks within the Downtown Regional Activity Center which are not currently designated as parks to determine why they are not, and if they should be. In a voice vote, the **motion** passed 8-0.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Scott called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited and roll was called.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

Motion made by Ms. McCartney, seconded by Mr. Weymouth, to approve. In a voice vote, the **motion** passed unanimously.

III. PUBLIC SIGN-IN / SWEARING-IN

Any members of the public wishing to speak at tonight's meeting were sworn in at this time.

IV. AGENDA ITEMS

Index

Case Number

Applicant

- | | |
|-----------------|-------------------------|
| 1. UDP-P21003** | 1100 Hotels, LLC |
| 2. UDP-V21001** | Flagler Sixth, LLC |
| 3. UDP-S21002** | 777 Townhouses LLC |
| 4. PL-R17037** | Florida Power and Light |
| 5. PL-R19052** | SE Fourth, 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 Mr. Weymouth, seconded by Mr. Shechtman, to defer Item number 5 [to October 20, 2021]. In a voice vote, the **motion** passed unanimously.

1. **CASE:** UDP-P21003

REQUEST: ** Plat Review

APPLICANT: 1100 Hotels, LLC

GENERAL LOCATION: 1100 West State Road 84

AGENT: Jim McLaughlin, McLaughlin Engineering Company

LEGAL DESCRIPTION: Portion of NE ¼, NE ¼, Acreage 21-50-42, Broward County,
Florida

ZONING DISTRICT: Boulevard Business (B-1)

COMMISSION DISTRICT: 4 - Ben Sorensen
NEIGHBORHOOD ASSOCIATION: Edgewood Civic Association
LAND USE: Commercial
CASE PLANNER: Christian Cervantes

Disclosures were made at this time.

Jerry McLaughlin, representing the Applicant, stated that the request is for a plat of approximately 1.9 acre. The plat will be restricted to a 172-room hotel. It was reviewed by the Development Review Committee (DRC) on July 27, 2021, and all comments have been addressed.

Mr. Barranco noted that access onto the property is available at the east and west ends of the site. There is no access from any location other than State Road (SR) 84. This was determined in conjunction with the Florida Department of Transportation (FDOT). Mr. McLaughlin advised that there has been no discussion thus far of possible cross-access easements.

There being no other questions from the Board at this time, Chair Scott 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.

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

Motion made by Mr. Weymouth, seconded by Mr. Barranco, to approve. In a roll call vote, the **motion** passed 8-0.

2. CASE: UDP-V21001

REQUEST: ** Vacation of Right-of-way Review: 40-foot by 125-foot Wide Portion of NE 5th Terrace

APPLICANT: Flagler Sixth, LLC.

GENERAL LOCATION: North of NE 6th Street, South of NE 7th Street, West of N Federal Highway

AGENT: Robert Lochrie, Lochrie & Chakas, P.A.

LEGAL DESCRIPTION: Portion of Northeast 5th Terrace Lying North of the Westerly Extension of the South Line of Lot 32 and Lying South of the Westerly Extension of the North Line of Lot 36, Block 313, Progresso

ZONING DISTRICT: Regional Activity Center - Urban Village District (RAC-UV)

COMMISSION DISTRICT: 2 - Steven Glassman

NEIGHBORHOOD ASSOCIATION: Flagler Village Civic Association

LAND USE: Downtown Regional Activity Center
CASE PLANNER: Yvonne Redding

Disclosures were made at this time.

Andrew Schein, representing the Applicant, stated that the request is to vacate a portion of a street located just south of a previously vacated street. This street vacation was proposed as part of the Downtown Master Plan in order to increase the developable depth of lots on Federal Highway. It will shift the roadway and allow a 20 ft. right-of-way and utility easement once the streetscape is complete. The easement will be a condition of approval of tonight's application and will also be a condition of the project's Certificate of Occupancy (CO) when it is issued.

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

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

Motion made by Mr. Shechtman, seconded by Mr. Barranco, to approve the request with all conditions because it meets the criteria of the ULDR. In a roll call vote, the **motion** passed 8-0.

3. CASE: UDP-S21002

REQUEST: ** Site Plan Level III Review: 8-Unit Cluster Development

APPLICANT: 777 Townhouses LLC

GENERAL LOCATION: 843 SW 14th Court

AGENT: Patrick Soares, Fieldagency Architecture

LEGAL DESCRIPTION: Esmonda Gardens 22-20 B Lot 16,17 Block 1

ZONING DISTRICT: Residential Single Family/Duplex/Low Medium (RD-15)

COMMISSION DISTRICT: 4 - Ben Sorensen

NEIGHBORHOOD ASSOCIATION: Croissant Park Civic Association

LAND USE: Residential Medium

CASE PLANNER: Tyler Laforme

Disclosures were made at this time.

Patrick Soares, representing the Applicant, stated that the Application would improve an existing corner site with two buildings on each parcel by adding two new buildings with four units per building. The Site Plan complies with all requirements of the Unified Land Development Regulations (ULDR). All garages face each other on an interior street, which

maximizes the urban connection to SW 14th Court and SW 9th Avenue. Mr. Soares showed the typical floor plan of a unit, noting that the development includes a mixture of three- and four-bedroom units with roof decks that can be occupied.

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

Ted Inserra, private citizen, stated that he opposes the proposed development. He did not feel a complex of the size of this project was appropriate for the area, as it would contribute to traffic and congestion. The sidewalk on 9th Avenue only exists on the west side of the street, and there are no sidewalks on 14th Street in this area. Both roadways are two lanes only in the subject area.

Mr. Inserra also expressed concern for sewage problems, recalling that a large spill occurred the previous year. He advised that this development does not represent safe growth and would compromise the existing single-family residential neighborhood.

Mr. Ganon asked if the two existing buildings were single-family residences or duplexes. Mr. Soares clarified that they are duplexes. The project would increase the total number of units from four to eight.

Ms. Fertig asked if 9th Avenue would be closed for construction while the project is built. Mr. Soares replied that there was no reason to close the roadway. Ms. Fertig also asked if the Applicant's team made a public presentation to the Croissant Park Civic Association or any other nearby associations. Mr. Soares advised that all residents within a 300 ft. radius were invited to the first presentation, and responded positively at the first meeting. At a subsequent physical meeting, only one individual attended but also gave a positive response.

Mr. Shechtman asked if the Applicant was willing to provide a sidewalk on 9th Avenue as a condition of approval. Mr. Soares stated that he could not speak for the Applicant, but did not feel this would be an issue. It was noted that the Site Plan includes a 5 ft. concrete sidewalk on the east side of 9th Avenue.

Ms. Fertig asked if the Applicant made a presentation to the River Oaks neighborhood association. Mr. Soares replied that River Oaks residents were invited to a presentation but did not attend.

Mr. Barranco commented that while the Applicant's calculations refer to the site as "32% green area," the Site Plan does not reflect this percentage. Mr. Soares reviewed a visual of green space in the area, adding that driveway paving will also be permeable.

Henriette Markwell, private citizen, stated that she lives near the subject property and opposes the proposed cluster homes, which she felt would not fit into the neighborhood.

She expressed concern with drainage and flooding in the area and advised that she had not received notice of tonight's meeting.

Tracey Gunn, private citizen, also reported that she was not mailed notice of tonight's meeting, although she lives in the subject area. She was concerned with drainage, traffic, and the parking spaces allocated to the proposed project.

Mr. Soares addressed the concerns with drainage, stating that the project will take extra steps to ensure that water is retained on the Applicant's site. These include a retaining wall, a deep well system, and permeable pavers. With regard to parking, he pointed out that there is no on-street parking, and the units will have two-car garages that face neither right-of-way.

Mr. Shechtman recalled that when reviewing a previous cluster development, the Board had recommended that the City Commission consider adjusting the parking requirements for cluster/town homes. Ms. Parker replied that this communication was sent to the City Commission. Staff had performed initial analysis of this request per the Board's directive and determined that current Code sufficiently addresses parking criteria. This was further supported by Code revisions resulting from the neighborhood development criteria revisions program held some years ago.

Mr. Shechtman asked if the Board had recommended a specific number of spaces per unit. Ms. Parker recalled that Staff determined two parking spaces per unit, plus 0.25 space for guest parking, were sufficient and consistent with the research done on parking requirements in other communities.

Mr. Shechtman commented that the Site Plan appears to show the sidewalks do not connect to the horizontal streets. Ms. Parker replied that this is typical of sidewalk design. Mr. Soares added that while the Applicant does not object to connecting with the street, there is "nothing to connect to."

Mr. Shechtman stated that he felt the intent for this project should be to build each property in a way that would eventually connect. He pointed out that 9th Avenue is one of the City's busiest cut-through streets, and felt there should be a system of sidewalks. Mr. Soares advised that the Applicant did not object to this and would accept it as a condition of approval.

Mr. Weymouth noted that the civil plan within the Application proposes a 5 ft. concrete sidewalk, and asked if this was approved by the DRC before coming to the Planning and Zoning Board. Ms. Parker confirmed that this sidewalk would be constructed as part of the project. Mr. Shechtman advised that the sidewalk would not necessarily extend to the street, citing accessibility to 14th Court under the Americans with Disabilities Act (ADA) as another concern.

Luis DeJesus, private citizen, stated that he owns the property adjacent to the subject parcel. He confirmed that drainage issues are a problem in the neighborhood. He also opposed the project because he objected to a rooftop terrace from which neighbors could look into his yard. He concluded that parking and sidewalks are also a concern.

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

Mr. Barranco commented that some of the changes proposed by the Applicant would be improvements, such as upgrades to drainage. He asked how much the proposed units are expected to cost for sale. Mr. Soares replied that he did not know this, but advised that the sale would be fee simple. Mr. Barranco pointed out that having residents own the units rather than rent would also be an improvement to the area.

Mr. Barranco also asked if the cluster development will include shared amenities. Tyler Laforme, representing Urban Design and Planning, stated that amenities are not a requirement for cluster homes. Mr. Barranco noted that trash bins are intended to be kept in the units' garages and rolled out to a pickup area, which contains no landscaping. He suggested that the bins be placed behind a hedge or a fence in order to screen them.

Mr. Barranco continued that another concern is guest parking, which is located behind the buildings and may not be visible to guests. He pointed out that there is no place on the property to turn a car around. Mr. Laforme explained that the parking spaces themselves serve as turnarounds.

Mr. Barranco pointed out that he had seen on-street parallel parking on some of the renderings associated with the Application, and asked why this was removed. Mr. Laforme advised that Staff does not support on-street parallel parking in the subject area, and asked that it be removed from the plans.

Mr. Barranco continued that he was concerned with light poles and palm trees within interior landscape aisles. He also recommended that a fence and a hedge along 14th Court and 9th Avenue be reversed so the hedge is in front of the fence. He concluded that he felt some of the project's technical details should be more thoroughly addressed before it is built.

Chair Scott also expressed concern with garbage plans, as well as with wastewater. She requested information regarding the condition of wastewater pipes in the area, as she felt condition can be as important as capacity. Mr. Laforme replied that the lines will be able to handle capacity from the project once a gravity main is upsized. Chair Scott emphasized the need to know the condition of this infrastructure as well as its capacity.

Ms. Parker advised that the water and wastewater capacity availability letter notes that an approximately 30 ft. portion of the gravity sewer would be upsized from 16 in. to 24 in. Chair Scott reiterated that this also addresses capacity rather than condition.

Ms. Fertig stated that she was concerned with the project increasing the number of units from four to eight, as well as with the 32% green space referred to in the Application. She expressed additional concern that some neighbors had not received notice of public meetings.

It was suggested that the Applicant may wish to defer the Item in order to address some of the issues raised during discussion. Mr. Soares advised, however, that he would prefer conditional approval to deferral, stating that the Applicant would agree to changes regarding sidewalks and landscaping in the trash pickup area. He felt the Application had “checked every box” within Code and addressed all issues of concern.

Mr. Barranco pointed out that Code does not always address every concern for safety, and that there are inherent problems with the proposed Site Plan. He cited the example of vehicles backing out onto 9th Avenue, which he felt was not a safe condition, and recommended that the Applicant reconsider deferral. Mr. Soares agreed that deferral would be acceptable.

Motion made by Mr. Barranco to defer to November 17 for the Applicant to make the revisions and work with Staff addressing the concerns of the Board.

Ms. Fertig recommended that in addition to the other concerns raised at tonight’s meeting, the Applicant also consider scheduling another meeting with neighbors to resolve some of the issues.

Mr. Soares requested that the deferral date be earlier than November 17. The Board declined to make this change.

Mr. Rotella **seconded** the **motion**. In a voice vote, the **motion** passed 8-0.

4. CASE: PL-R17037

REQUEST: ** Site Plan Level III Review: Conditional Use for a Telecommunications Facility

APPLICANT: Florida Power and Light

GENERAL LOCATION: 1750 SW 31st Avenue

AGENT: Hope Calhoun, Dunay, Miskel & Backman, LLP

LEGAL DESCRIPTION: Rohan Acres 22-43, according to the plat thereof, as recorded in Plat Book 22, Page 43, of the public records of Broward County, Florida

ZONING DISTRICT: Utility (U)

COMMISSION DISTRICT: 4 - Ben Sorensen

NEIGHBORHOOD ASSOCIATION: Chula Vista Isles Homeowners
Association

LAND USE: Utilities

CASE PLANNER: Nicholas Kalargyros

Disclosures were made at this time.

Matthew Scott, representing the Applicant, showed a PowerPoint presentation on the Application, which requests conditional use for an existing electrical substation with an existing telecommunications tower. The tower was permitted and constructed in compliance with permits; however, during the permitting process, it was discovered that a conditional use application must also be filed. Florida Power and Light (FPL) has worked with the community for a number of years to address concerns and has received positive feedback with regard to on-site landscaping.

The substation is located in the Riverland neighborhood, and the property's land use and zoning are both Utilities. The request is for a lightning shield pole, which was installed in 2014. Permits were issued in 2015 for wireless attachments to the pole.

Mr. Scott continued that criteria for conditional use approval include impacts on neighbors. Because the site is an unmanned station, many of the typical concerns associated with conditional use do not apply, such as noise, traffic and circulation, odor, light, and others.

The project is beneficial to the neighborhood because it significantly improves cell service in an area where this service was previously poor. The Applicant also plans to install landscaping, including trees and a hedge, around the facility to shield it from view. A fence already exists around the site.

The Applicant has held many meetings with neighbors over the years and asked what could be done to address their concerns. Landscaping was the primary concern. FPL has also indicated that no additional facilities will be added to the pole, which was another important issue to neighbors.

One key issue regarding utility facilities is setbacks, which are typically required to be twice the height of the pole. This means there would be a setback of approximately 200 ft. on all sides. Some years ago, the Applicant obtained variances for the east and south setbacks, which were granted by the Board of Adjustment. The other setbacks comply with Code and exceed requirements.

Motion made by Mr. Shechtman, seconded by Mr. Barranco, to make the Staff Report part of the records tonight. In a voice vote, the **motion** passed unanimously.

There being no questions from the Board at this time, Chair Scott 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.

Chair Scott asked if Mr. Scott represents FiberNet or FPL. Mr. Scott explained that he was hired by both entities. FiberNet performed the contracting work for the site.

Motion made by Mr. Shechtman, seconded by Ms. McCartney, to approve.

Assistant City Attorney Shari Wallen asked if the member who made the **motion** wished to adopt the findings of fact reflected in the Staff Report. Mr. Shechtman confirmed this.

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 conditional use permit after the fact for an existing 100 ft. uni-pole tower for the property located at 7050 SW 31st Avenue, Fort Lauderdale, Florida, in the Utilities zoning district, Case #PL-R17037.

In a roll call vote, the **motion** passed 8-0.

V. COMMUNICATION TO CITY COMMISSION

Mr. Shechtman advised that Hardy Park, unlike other City parks, is zoned RAC-CC rather than Parks. He recommended that this facility be rezoned to Park.

Motion made by Mr. Shechtman, seconded by Ms. Fertig, to send a communication to the City Commission to have Hardy Park rezoned from RAC-CC to Park.

Mr. Weymouth asked if this request could also apply to other City parks within Regional Activity Centers (RACs). Ms. Parker advised that while there is little or no history on why this occurs, Staff has undertaken an effort to rezone some park facilities as Park. She noted that there may be limitations on a facility's use once it has been rezoned to Park.

Mr. Shechtman **amended** his **motion** as follows: to rezone any existing parks within the Downtown Regional Activity Center future land use designation to Park if they are not already. Ms. Fertig **seconded** the **amended motion**.

Attorney Spence pointed out that Section 8.21 of the City's Charter, which deals with the disposal of public property, states that the City shall not sell, transfer, or lease, for more than one year, any land zoned Park in accordance with the ULDR without a unanimous vote of the full City Commission. In addition, any land zoned Park on November 10, 2004 shall require a unanimous vote of the entire City Commission to remove such designation.

Ms. McCartney asked why park facilities within RACs are not already zoned Park. Chair Scott asked if this question could be sent to the City Commission, with the intent of the Commission asking Staff to research this issue.

Ms. Parker stated that Staff may evaluate parks, noting that there may be nuances affecting what can or cannot be done on specific park sites. She suggested that the communication be twofold: to examine these parks and, based on that analysis, the Commission could then determine whether to request staff rezone them. Ms. Fertig agreed that this would be a more timely communication.

Mr. Shechtman again **amended** his **motion** as follows: that we send a communication to the City Commission to ask Staff to review existing parks within the Downtown Regional Activity Center which are not currently designated as parks, to determine why they are not, and if they should be. Ms. Fertig **seconded** the **amended motion**. In a voice vote, the **motion** passed unanimously.

Ms. Parker advised that the City Commission has requested that the Board member who makes a motion for a communication be present when it is discussed in case they have questions.

Chair Scott noted that two members of the Planning and Zoning Board recently gave their opinions on an issue at a public meeting, which was questioned by a member of the public, as the opinions addressed an issue that may come before the Board at a later date. She explained that her intent was to protect the integrity of the Board, and requested an opinion on how Board members should conduct themselves if a similar situation arises again in the future.

Ms. Fertig emphasized that if the issue had involved an application that could come before the Board, she would not have given an opinion. She was not comfortable with placing restrictions on public comment from Board members.

Attorney Spence stated that the City Attorney has been asked to opine on this matter and will draft a memorandum to provide guidance. He advised that the Board sits as a fact-finding entity in quasi-judicial matters in a manner similar to a jury or panel of judges. In a quasi-judicial hearing, an applicant brings forward an application and provides evidence and testimony to prove to the Board that they meet the criteria of the Code.

The Board's function is to hear this testimony and review it in comparison to Code to determine if the testimony meets the burden of proof to show competent, substantial evidence that the application meets the criteria of Code. Anything that gives the appearance that members have come to the table with a preconceived opinion on the project would question the due process of the quasi-judicial hearing and therefore make it open to challenge in court. This is one reason why disclosures are given before each

item. Any comments on specific projects that could be viewed as preconceived ideas or notions on how a member may vote could overturn the Board's decision.

Chair Scott stated that if the Board members may not express their opinions in a City Commission conference meeting, she did not feel the City Commission would be able to provide opinions without risking a challenge as well. Attorney Spence replied that his guidance referred only to the Board's role as fact-finding body.

Attorney Spence reiterated that the City Attorney will directly address this issue in a forthcoming memorandum. He advised that his intent in providing guidance was to ensure that there was no telegraphing of any opinion that would prejudice the Board's role.

VI. 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 7:44 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.]