

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney (797-1101)
Prepared by: Bradley Swing, AICP, Planner II

SUBJECT: Application LA(TXT) 04-4, Amendment to the Recreation, Open Space and Conservation Element Text of the Comprehensive Plan

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING APPLICATION LA(TXT) 04-4 AMENDING THE TEXT OF THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE RECREATION, OPEN SPACE AND CONSERVATION ELEMENT TO ESTABLISH A POLICY TO PROVIDE SAFE PUBLIC ACCESS TO WATER BODIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The ordinance before Town Council this evening is based on a need to establish Policy 1.2-3 in the Recreation, Open Space and Conservation Element of the Town's Comprehensive Plan. Staff is proposing language to amend the text of the Recreation, Open Space and Conservation Element of the Comprehensive Plan to establish a policy to provide new or enhanced safe public access to water bodies such as lakes, ponds and canals.

The Town recently purchased open space and future park sites with water bodies and wetlands. The Town also wishes to ensure that future plans for park and open space properties incorporate safe public access to water bodies. This new policy would help the Town meet the needs of its residents by helping to provide for improvements and enhancements to existing and future parks that have or will have access to water bodies.

The proposed amendment to Recreation, Open Space and Conservation Element text is included in the attached ordinance. First reading to approve transmittal of the ordinance will occur on May 5, 2004. Second reading of the ordinance will occur at a later date subsequent to review by the Florida Department of Community Affairs (DCA).

On August 12, 2004, staff transmitted LA(TXT) 04-4 to DCA, the South Florida Regional Planning Council, the Florida Department of Environmental Protection, the Florida Department of Transportation, the South Florida Water Management District, and the Florida Department of State and requested that the proposed amendment be considered an emergency amendment in accordance with Section 163.3187(1)(a), Florida Statutes.

PREVIOUS ACTIONS: At the May 5, 2004 Town Council meeting, Vice-Mayor Paul made a motion, seconded by Mayor Truex, to approve. Motion carried 5-0.

CONCURRENCES: At the April 28, 2004 Local Planning Agency (LPA) meeting Mr. Stevens made a motion, seconded by Vice Chair Turin, to approve. Motion carried 3-0, with Ms. Lee and Mr. McLaughlin absent.

FISCAL IMPACT: n/a

RECOMMENDATION(S): Staff recommends approval of the ordinance.

Attachment(s): Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING APPLICATION LA(TXT) 04-4 AMENDING THE TEXT OF THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE RECREATION, OPEN SPACE AND CONSERVATION ELEMENT TO ESTABLISH A POLICY TO PROVIDE SAFE PUBLIC ACCESS TO WATER BODIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie requires an amendment to the Recreation, Open Space and Conservation Element of the Comprehensive Plan in order to establish a policy to provide safe public access to water bodies; and

WHEREAS, the Town of Davie recently purchased open space and future park sites with water bodies and wetlands; and

WHEREAS, the Town of Davie wishes to ensure that future plans for park and open space properties incorporate safe public access to water bodies; and

WHEREAS, the Town Council of the Town of Davie finds that adopting this ordinance will further serve the public interest and preserve or enhance the Town's wildlife, stormwater and drainage resources resulting in increased quality of life; and

WHEREAS, the Town has received evidence from the Central Broward Water Control District declaring a need for the securing of and preservation of the Town's Natural water storage areas in order to prevent potential flooding caused by inadequate drainage during the impending rainy season; and

WHEREAS, the passage of the text amendment will be of assistance to the Town in preserving its natural water storage areas and would thereby diminish the risk of potential water drainage problems facing certain areas of the Town during the impending rainy season; and

WHEREAS, the Local Planning Agency of the Town of Davie held a public hearing duly advertised as required by State Statutes on April 28, 2004; and

WHEREAS, the Town Council of the Town of Davie held a public hearing duly advertised as required by State Statutes on May 5, 2004 and on the date of adoption of this Ordinance; and

WHEREAS, the Town Council of the Town of Davie desires to transmit the Town's Comprehensive Plan Amendment provided herein as an emergency amendment in accordance with §163.3187(1)(a), Florida Statutes, to the State of Florida Department of Community Affairs (DCA) for their review and consideration; and

WHEREAS, the Town has also expended public funds on projects related to the preservation of the Town's natural water storage areas that will be forfeited and lost to the Town if the amendment is not approved on an emergency basis; and

WHEREAS, the Town finds that these circumstances create an emergency within the definition of §163.3187, F.S.; and

WHEREAS, pursuant to the provisions of §163.3187, F.S., the Town Council has adopted this amendment by unanimous vote; and

WHEREAS, the Town Council finds that adopting this emergency ordinance will further the goal of §163.3187(1)(a), F.S. by ensuring that the loss of public funds shall not occur.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That the Recreation, Open Space and Conservation Element text of the Comprehensive Plan heretofore adopted by the Town Council be and the same is hereby amended to read as follows:

Policy 1.2-3: The Town shall provide new or enhanced safe public access to water bodies such as lakes, ponds and canals.

SECTION 2. The Town Council hereby authorizes the appropriate Town officials to submit the appropriate number of copies of this ordinance and the Town's Comprehensive Plan, as amended herein, to the State of Florida Department of Community Affairs and to any other governmental agency having jurisdiction with regard to the approval of same in accordance with and pursuant to Chapter 163, Florida Statutes.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in accordance with Section 163.3184, F.S.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2004

PASSED ON SECOND READING THIS _____ DAY OF _____, 2004

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2004