

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Shirley Taylor-Prakelt, H & CD Director (954) 797-1199

PREPARED BY: Shirley Taylor-Prakelt, Housing and Community Development Director

SUBJECT: Moratorium on the Redevelopment of Mobile Home Parks

AFFECTED DISTRICT: Town-Wide

TITLE OF AGENDA ITEM: An Ordinance of the Town of Davie, providing for a Moratorium on the acceptance of development applications for the redevelopment of mobile home parks within the corporate limits of the Town; providing for exemptions; providing for vested rights; providing for appeals; providing for exhaustion of Administrative Remedies; providing a term; providing for severability; and providing for an effective date.

REPORT IN BRIEF: On December 20, 2006 by Resolution R-2006-328, the Town Council declared that there is an affordable housing crisis in Davie; and, this lack of affordable housing is of particular concern to the residents of Davie's mobile home parks who would be permanently and involuntary displaced as a result of the sale or rezoning of such mobile home parks to another use.

Mobile homes represent 24% of Davie's housing stock @ 7,400+- units in 31 mobile home parks, and the majority of these units are older non-windstorm rated structures that are not suitable for relocation. Since the Town has more mobile home parks per capita than any other jurisdiction in South Florida, the pressures of redevelopment in Davie are far greater than in other jurisdictions. Mobile home park redevelopment will result in the permanent and involuntary displacement of thousands of Davie's lower-income and at-risk residents, including elderly people on fixed incomes.

The affordable housing crisis in South Florida, exacerbated by Hurricane Wilma, has increased prices for both rental housing and homeownership to levels that are unattainable by elderly residents on fixed-incomes, lower-income wage earners, and the majority of Davie's workforce.

Based on the above, on December 20, 2006, the Town Council directed the Town Attorney to determine if the Town can impose a one-year moratorium on the redevelopment or rezoning of any mobile home park in Davie, in order to give the Town sufficient time to analyze the magnitude of this situation and to develop viable strategies to address this problem. On January 2, 2007, the Town Attorney issued a Legal Opinion which found that a moratorium, "for the stated purpose of studying the issue of a lack of affordable housing, a growing lower-income population suffering from that lack of affordable housing, exacerbated by the displacement of mobile home residents, caused in turn by the desire to use mobile home sites for other developmental purposes" is constitutional and can be adopted by the Town Council. Thus, "Florida Statutes Chapter 723 does not preempt the Town from enacting a temporary moratorium by virtue of the Town's right to accept or deny the approval of site plans for proposed development within its jurisdictional boundaries".

The Town Council has also directed the Administration to develop a Mobile Home Task Force comprised of both mobile home owners, renters, and park owners, and other interested parties who may shed light on the affordable housing issues and offer proposed solutions. This Task Force will be set-up via a separate Resolution, and shall function during the time that the Moratorium is in effect.

PREVIOUS ACTIONS: R-2006-328 Adopted on Dec. 20, 2006

CONCURRENCES: Legal Opinion on file

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Adopt Ordinance for a One-Year Period

Attachment(s): Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, PROVIDING FOR A MORATORIUM ON THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS FOR THE REDEVELOPMENT OF MOBILE HOME PARKS WITHIN THE CORPORATE LIMITS OF THE TOWN; PROVIDING FOR EXEMPTIONS; PROVIDING FOR VESTED RIGHTS; PROVIDING FOR APPEALS; PROVIDING FOR EXHAUSTION OF ADMINISTRATIVE REMEDIES; PROVIDING A TERM; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, several Mobile Home Parks (collectively the "Mobile Home Parks") are located within the Town's boundaries; and

WHEREAS, the Mobile Home Parks serve a critical role in providing affordable housing for those persons who live in, and are employed in, the Town; and

WHEREAS, the existing supply of affordable and workforce housing is insufficient to meet the current demand for affordable and workforce housing needs; and

WHEREAS, the lack of affordable housing in the Town is of particular concern to the residents of the Town's mobile home owners who are being permanently and involuntary displaced as a result of the sale of their Mobile Home Parks to developers proposing to change the land use; and

WHEREAS, the Town finds itself facing increasing pressure concerning the possible redevelopment of Mobile Home Parks in the Town, and such redevelopment pressure could result in the loss of critical workforce and affordable housing units in the Town; and

WHEREAS, by Resolution R-2006-328, dated December 20, 2006, the Town recognized and declared that there is an affordable housing crisis in Davie and mobile home residents have no comparable affordable housing in which to relocate should they lose their residence; and

WHEREAS, the loss of affordable housing provided by the Town's Mobile Home Parks has a detrimental impact on the existing inventory of affordable housing and its availability for those who work and live in the Town; and

WHEREAS, the Town recognizes the need to develop comprehensive plan policies, land development regulations, and programs to preserve the existing stock of affordable housing and increase the availability of affordable housing for those who live in, and are employed in, the Town; and

WHEREAS, in order to address this need, the Town plans to set up a Mobile Home Task Force, consisting of Mobile Home Park residents, owners, and those appointees the Council sees fit, to study the problem of a lack of affordable housing within the Town, and to develop possible solutions; and

WHEREAS, utilization of the moratorium as a temporary measure to facilitate governmental decision-making, study, and the adoption of comprehensive plan amendments and/or land development regulations, is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and

WHEREAS, the Town has determined that Chapter 723, Florida Statutes does not preempt the Town from enacting a temporary moratorium by virtue of the Town's right to accept or deny the approval of site plans for proposed development within its jurisdictional boundaries; and

WHEREAS, the Town finds it necessary to establish a temporary moratorium on acceptance of development applications that seek development approvals for the redevelopment of Mobile Home Parks so that the Town can undertake its study to determine the number of affordable housing units in the Town including Mobile Home Parks, the population served by the Mobile Home Parks, and the affordable housing needs of those residents if the Mobile Home Parks are redeveloped; and

WHEREAS, the provisions of this Ordinance are consistent with the Town's Comprehensive Plan.

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

SECTION 1. Recitals. The above recitals are true, correct and incorporated herein by reference.

SECTION 2. Moratorium Imposed. During the time that this Ordinance is in effect as specified herein, there shall be a moratorium upon the issuance of building permits, acceptance of development applications or issuance of development orders and development permits, as those terms are defined in Chapter 163, Florida Statutes (Collectively "Development Orders") within the Town concerning the matter of redevelopment, modification or conversion of existing Mobile Home Parks to any other use, except as provided herein, as of _____, 2007.

SECTION 3. Exemptions. Exempt from this moratorium is the replacement of mobile homes pursuant to Section 723.041(4), Florida Statutes.

SECTION 4. Definitions. The following definitions shall be utilized in the application of this Ordinance:

- (1) **"Mobile Home Park"** means any real property that is governed by Chapters 513 and 723, Florida Statutes.
- (2) **"Mobile Home"** has the same definition as set forth in sections 320.01 (2) (a), 513.01(3) and 723.003(3), Florida Statutes.
- (3) **"Redevelopment"** means the proposed removal, replacement, or demolition of existing mobile homes for the purpose of installing, building or constructing on the property single family, multi-family, or other structures other than mobile homes and any appurtenances thereto.

SECTION 5. Vested Rights. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner of a Mobile Home Park to complete development where the property owner can demonstrate each of the following:

- (1) A governmental act of development approval obtained prior to the effective date of this Ordinance:
- (2) Upon which the owner has detrimentally relied, in good faith, by making substantial expenditures: and
- (3) That it would be highly inequitable to deny the property owner the right to complete development.

Any property owner claiming to have vested rights under this Section must file an application with the Town staff for a vested rights determination within 45 days of the effective date of this Ordinance. The application shall be accompanied by a fee established by resolution of the Town Council and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the Town and any other documentary evidence supporting the claim. The Town Council shall hold a public hearing on the application and based upon the evidence submitted shall make a determination as to whether the property owner has established vested rights.

SECTION 6. Exhaustion of Administrative Remedies. No property owner claiming that this Ordinance as applied constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim unless he or she has first exhausted all administrative remedies.

SECTION 7. Term. The moratorium imposed by this Ordinance is temporary and, unless dissolved earlier by the Town Council, shall automatically dissolve in one (1) year unless otherwise extended in accordance with applicable law, or upon adoption of new comprehensive plan policies and land development regulations concerning affordable housing, the formulation of which shall be expeditiously pursued. Town staff shall institute such steps as may be necessary to form the committee to conduct the study to determine what specific types of housing are provided by the Mobile Home Parks, including affordable and workforce housing and prepare any changes the Town Council directs to amend the Town's comprehensive plan and land development regulations to address the lack of adequate affordable housing and the loss of existing affordable housing caused by the redevelopment of Mobile Home Parks.

SECTION 8. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 9. Effective Date. This Ordinance shall be effective immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2007.

PASSED ON SECOND AND FINAL READING THIS _____ DAY OF _____, 2007.

Mayor/Council Member

ATTEST:

Town Clerk

APPROVED THIS _____ DAY OF _____ 2007

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