

**PLANNING AND ZONING BOARD
NOVEMBER 22, 2000**

1. ROLL CALL

The meeting was called to order at 7:36 p.m. Board members present were Chair George Greb, Vice-Chair Jay Stahl, Larry Davis, and Edna Moore. Also present were Board Attorney Tom Connick, Planner II Marcie Nolan and Board Secretary Carole Stratman recording the meeting. Michael Davenport was not present.

2. PUBLIC HEARING

Rezoning

2.1 ZB 10-1-00, Home Depot USA/Geiserman, Trustee and Farias, west side of University Drive, east of SW 82nd Avenue, north of Stirling Road (from A-1 to B-2)

Ms. Nolan stated that staff was requesting that this item be tabled as the petitioner also needed to apply for a variance concurrent with the rezoning.

Mr. Davis made a motion, seconded by Vice-Chair Stahl, to table this item to the January 10, 2001 meeting. In a voice vote, all voted in favor with Mr. Davenport being absent. **(Motion carried 4-0)**

2.2 ZB 10-2-00, Laystrom/Willow Acquisitions, L.L.C., northeast corner of Griffin Road and Dykes Road, west of I-75 (BP)

Bill Laystrom, representing the petitioner, stated that only the master plan of the Pointe West Park and Davie Business Park was being changed. Ms. Nolan read the planning report (Planning and Zoning Division recommendation: approval).

Mr. Laystrom advised that the request solely involved changing an exhibit to the original rezoning application to include the master plan as it was built out. He described the changes and details of the plan, including a demonstration of how Pointe West Drive was being modified.

Chair Greb asked if anyone wanted to speak for or against this item. As no one spoke, the public hearing was closed.

Ms. Moore made a motion, seconded by Vice-Chair Stahl, to approve. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davenport, absent; Mr. Davis, yes; Ms. Moore, yes. **(Motion carried 4-0)**

Variances

2.3 V 10-1-00, Stirling Place, Inc., 6851 Stirling Road (B-1 and B-2) (tabled from November 8, 2000)

Dan Duncan and Michael Janoura, representing the petitioner, were present.

Ms. Nolan read the planning report (Planning and Zoning Division recommendation: approval subject to the planning report).

Mr. Duncan described the layout of the property in relation to the building proportions, stating a need for a vertical element as a focal point. The flagpole represented 8% of the length of the building and would be located in front.

Chair Greb inquired about the height discrepancy and the necessity now for a variance, even though the 80 foot height had been reflected in the plans previously approved by the Site Plan Committee and Council. Ms. Nolan advised that no mention was made of the flagpole height during site plan or Council approval; however, when the applicant came in for a construction permit, the discrepancy and staff oversight was discovered. Mr. Connick stated that staff's previous oversight had no relevance to the issue of a variance.

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In response to Mr. Davis' inquiry, Mr. Janoura explained the reasons for the delays in the variance request. He further described tree density, problems with previous tree removal, wetland preserve acreage, and the addition of 200 trees to the wetland area. Mr. Janoura stated that it would take four to five years for the trees to grow to full density.

Mr. Connick clarified the legal aspects to the extent that anything in the staff report dealing with other issues was not relevant. The request should be judged on its own merits and factual circumstances based on the variance.

Ms. Moore was concerned regarding hardship and delays for the property owner.

Mr. Janoura understood that staff believed 60 feet would accomplish the architectural goals; however, the architects did not feel that would satisfy their objectives.

Mr. Davis asked about the potential for putting up a 100 foot flag pole/cell tower at the location. Ms. Nolan stated that the maximum height for a cell tower was 150 feet.

Chair Greb agreed with Ms. Moore that staff had reviewed the project and allowed it to go forward and was now putting the project on hold because a variance was needed. He observed that the matter was being dragged out and was concerned that the petitioner could ask for compensation from the Town if expenditures had been made and then denied the structure. Chair Greb disagreed with Mr. Connick regarding the matter of hardship, stating that he felt it was risky legal grounds to deny the variance request.

Vice-Chair Stahl asked for confirmation from the developer that the flag would be maintained and only an American flag would be flown. Mr. Janoura agreed.

Chair Greb asked if anyone wanted to speak for or against this item. As no one spoke, the public hearing was closed.

Vice-Chair Stahl commented that he was very much in favor of American flags as long as they were properly maintained. Chair Greb stated that he was not in favor of flags as markers, however, if they enhanced a project and were an integral part of the project, they should be allowed. He added that he had difficulty with creating more problems from something beyond the control of the petitioner.

Mr. Davis made a motion, seconded by Vice-Chair Stahl, to approve the variance at the 80 foot level subject to affirmative covenants running with the land, for the flag to always be in pristine condition and that it will always be an American flag. Chair Greb confirmed with Mr. Connick that the covenant would need to be provided by the applicant and recorded in the public records. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davenport, absent; Mr. Davis, yes; Ms. Moore, yes. **(Motion carried 4-0)**

2.4 V 10-3-00, Kalis/Ireland Davie Ltd., 1801 South University Drive (B-2)

Ms. Nolan stated that staff was requesting that this item be tabled to the December 13, 2000 meeting to allow for additional time to review the documents.

Vice-Chair Stahl made a motion, seconded by Mr. Davis, to table. In a voice vote, with Mr. Davenport being absent, all voted in favor. **(Motion carried 4-0)**

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Special Permit

2.5 SE 9-2-00, Nextel South Corp./Palm Peterbuilt-GMC Trucks, Inc., 2441 South State Road 7 (B-3) (tabled from November 8, 2000)

Ms. Nolan stated that staff was requesting a tabling to December 13, 2000 as staff was still waiting for information from applicant.

Ms. Moore made a motion, seconded by Vice-Chair Stahl, to table this item to the December 13th meeting. In a voice vote, with Mr. Davenport being absent, all voted in favor. **(Motion carried 4-0)**

3. OLD BUSINESS

Mr. Davis mentioned that during the R-1E presentation, something was left out during all the discussions, which was the actual current zoning of the parcels and that one of the parcels was actually vested under the old estate zoning. He mentioned that that property should be rezoned under a new category lying within the Code. Mr. Connick stated that there was memo from staff regarding that issue and an opinion, which had not been finalized. Mr. Davis asked for a copy of the opinion when it was completed. Mr. Connick clarified "vesting" issues for the Board.

Mr. Davis discussed the issue of density and questioned the legal implications. Chair Greb stated that the property on the west side of the Town created a problem as there was a special agreement regarding zoning. Mr. Connick reported that a memorandum had been issued pertaining to that agreement. He summarized the recommendation for the Parnell parcel that the landowner be permitted to proceed with the current zoning designation and noted that special weight had been given to the agreement.

Discussion continued regarding development of the Parnell parcel, prior legislation, and staff's requests for opinions regarding the new zoning. Ms. Moore mentioned the Foreman land and its M-4 zoning mandate.

Mr. Connick concluded by stating that he would try to make sure that each Board member received a copy of the memorandum regarding the vesting issues.

4. NEW BUSINESS

There was not new business discussed by the Board.

5. COMMENTS AND/OR SUGGESTIONS

Vice-Chair Stahl wished everyone a happy Thanksgiving. Chair Greb wished everyone a happy holiday.

6. ADJOURNMENT

There being no objections, the meeting adjourned at 9:00 p.m.

Approved

Chair/Committee Member