

**PLANNING AND ZONING BOARD
FEBRUARY 14, 2001**

1. ROLL CALL

The meeting was called to order at 7:32 p.m. Board members present were Chair George Greb, Vice-Chair Jay Stahl, Michael Davenport, and Larry Davis. Also present were Town Attorney Monroe Kiar, Planning and Zoning Manager Jeff Katims, Planner Chris Gratz and Board Secretary Janet Gale recording the meeting. Edna Moore was absent.

2. APPROVAL OF MINUTES - February 10, 1999

	May 10, 2000
April 14, 1999	May 24, 2000
May 12, 1999	June 14, 2000
June 23, 1999	October 25, 2000 revised
July 14, 1999	November 8, 2000
October 27, 1999 revised	December 13, 2000
December 8, 1999	January 10, 2001
January 12, 2000	

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve each set of minutes separately. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

On the February 10, 1999 minutes, Vice-Chair Stahl requested a correction from "Vice Chair Pisula" being absent to "Vice Chair Stahl" being absent.

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve the February 10, 1999 minutes with one correction. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve the April 14, 1999 minutes. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve the May 12, 1999 minutes. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve the June 23, 1999 minutes. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve the July 14, 1999 minutes. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve the revised October 27, 1999 minutes. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve the minutes of December 8, 1999, January 12, 2000, May 10, 2000, and May 24, 2000. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

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Vice-Chair Stahl indicated that later in the meeting, he would be referencing an item in these minutes under old business and made a motion, seconded by Mr. Davenport, to approve the June 14, 2000 minutes. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to approve the October 25, 2000 (revised), November 8, 2000, and December 13, 2000 minutes. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

Regarding the minutes of January 10, 2001, Vice-Chair Stahl stated that the meeting may have been called to order later than 7:10 p.m. Additionally, he would like to see more detail with regard to item 3.6, and corrected language under item 3.6 on page 3, paragraph 5, as follows: "Vice-Chair Stahl made a motion, seconded by Ms. Moore, to return to the agenda." On page 4, third paragraph, "Vice-Chair Stahl asked staff if, under State zoning, a conceptual site plan is mandatory" should be changed to "Vice-Chair Stahl asked staff if, under *estate* zoning, a conceptual site plan is mandatory." Item 3.6 should reflect that the item was withdrawn by the petitioner. Mr. Davenport stated that on page 4, "It was suggested by Mr. Davenport that the Board vote on the request and "pass the buck" to Council to make the final decision" should be corrected to reflect that he "*did not want to pass the buck.*" Mr. Kiar indicated that under his comments in item 3.4, that the statement: "He stated that the Board was legally required to approve the request" was not accurate as he had opined several times that "arguments could be made in opposition or in favor of the request" and requested that it be corrected.

Mr. Davis made a motion, seconded by Vice-Chair Stahl, to deny approval of the January 10, 2001 minutes in order for the revisions to be reviewed by the Board. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

3. PUBLIC HEARING

Rezoning

3.1 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) **(petitioner requesting a tabling to February 28, 2001)**

Mr. Gratz stated that the petitioner was requesting a tabling so that this item could be heard at the same time as the petitioner's variance request.

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to table this item to the February 28, 2001 meeting. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davenport, yes; Mr. Davis, yes; and Ms. Moore, absent. **(Motion carried 4-0)**

3.2 ZB 1-1-01, Crown Castle/AMF Bowling Centers, Inc., 8200 West State Road 84 (from B-2A to B-2) **(petitioner requesting a tabling to March 14, 2001)**

Mr. Gratz stated that the petitioner was requesting a tabling to March 14, 2001 after receiving staff comments and he requested additional time to address staff concerns.

Mr. Davenport made a motion, seconded by Vice-Chair Stahl, to table this item to the March 14, 2001 meeting. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davenport, yes; Mr. Davis, yes; and Ms. Moore, absent. **(Motion carried 4-0)**

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Chair Greb requested a motion to take item 3.6 out of order as it was coupled with item 3.2.

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to take item 3.6 out of order. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

**3.6 SE 1-2-01, Crown Castle/AMF Bowling Centers, Inc., 8200 West State Road 84 (B2)
(petitioner requesting a tabling to March 14, 2001)**

Mr. Gratz stated that the petitioner was requesting a tabling to March 14, 2001 for the same reasons as requested in item 3.2.

Mr. Davis made a motion, seconded by Vice-Chair Stahl, to table this item to the March 14, 2001 meeting. In a voice vote, with Ms. Moore being absent, all voted in favor. **(Motion carried 4-0)**

3.3 V 5-4-00, Ross-Matz Investments, 8020 SW 30 Street (B-2) (tabled from January 10, 2001)

Enrique de la Pozuela and Barney Lombardi, representing the petitioner, were present. Mr. de la Pozuela advised that the petitioner had reviewed the request with staff who was satisfied with the design. Mr. Gratz read the planning report (Planning and Zoning Division recommendation: approval).

Mr. Davenport questioned the date the petitioner had previously been before the Board and asked if the easement was being compromised by providing access for emergency vehicles. Mr. de la Pozuela stated it was not an easement and indicated that the report was incorrect. He explained that it was an access road and 15 feet was available for emergency vehicle travel.

Chair Greb asked if anyone wanted to speak for or against this item.

Board Secretary Gale read into the record a letter received from David Womack objecting to the granting of the variance due to traffic, quality of life, and privacy issues.

Elliot Fermer, 1830 SW 81 Way, objected to the request citing road congestion and area density.

Chair Greb closed the public hearing.

Mr. Lombardi showed photographs taken from a lift to refute privacy concerns. He addressed traffic concerns and landscaping.

Mr. Davis asked if the three variances would still be an issue if the building was limited to one story. Mr. Lombardi advised that a buffer may not be needed if the building was one-story, as parking requirements would be reduced.

Mr. de la Pozuela discussed the prerequisite of the Public Works Department and limited access by providing a turnaround "T" to back up and leave the premises. The petitioner had met with Public Works, Planning and Zoning, and the Fire Department to redesign the project, subsequently arriving at a design satisfactory to all parties.

Mr. Davenport suggested photograph exhibit corrections to reflect that they were north views. He asked if the petitioner had any idea who the building occupants may be and was advised it would be offices, but the specific types of businesses were unknown.

Mr. de la Pozuela stated that the petitioner felt the better situation was to stay as far away from 30th Street as they could and to create landscape buffers.

Mr. Davenport made a motion, seconded by Vice-Chair Stahl, to approve subject to conditions in the planning report. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davenport, yes; Mr. Davis, yes; and Ms. Moore, absent.

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(Motion carried 4-0)

3.4 V 12-1-00, Bouza/Sundance at Davie, Inc., 7100 Nova Drive (R-4A, Old Code)

Jorge Bouza, representing the petitioner, was present. Mr. Gratz read the planning report (Planning and Zoning Division recommendation: approval).

Chair Greb asked if anyone wanted to speak for or against this item.

Norman Blanco, 2080 SW 72 Avenue, Davie, stated that the neighborhood residents were in agreement with the variance request.

Chair Greb closed the public hearing.

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

3.5 SE 1-1-01, Loeser/Milhem and Katz, 2000 Flamingo Road (AG)

Dr. Joyce Loeser, representing the petitioner, was present. Mr. Gratz read the planning report (Planning and Zoning Division recommendation: conditional approval subject to the planning report).

Vice-Chair Stahl questioned staff's recommendation for compliancy review upon the number of ten homes in a development, stating he would prefer it to be five homes. Mr. Katims advised that ten or more homes represented "suburbanization of the area" and any number could be specified. The time frame for compliance review was discussed at length with the Board making an effort to determine what was fair and reasonable. Dr. Loeser explained the purpose of the facility and the idea to have one central location for people to train their dogs.

Mr. Kiar asked if there would be outdoor evening training activities. Dr. Loeser requested permission to have evening activities to start with and if it became a problem to the surrounding neighbors, it could be readdressed at a later time. Chair Greb commented that even with buffering, problems usually began at 7:00 p.m. due to noise.

Mr. Davis asked what type of outdoor activities were contemplated between 6:00 p.m. and 8:00 a.m. Dr. Loeser answered that she anticipated site work with one or two dogs at a time with the rest of the dogs being contained inside. She added that she would additionally self-regulate the number of animals allowed at the site at one time.

Chair Greb asked if anyone wanted to speak for or against this item.

Dan Barr, 13323 SW 40 Street, Davie, spoke in favor of granting the special permit.

Chair Greb closed the public hearing.

Mr. Davenport asked about exploration of noise reduction alternatives. Dr. Loeser replied that there would be no outdoor runs per se; it would be individual dogs out working on the property. The only overnight dogs would be hospital patients housed in the building and there would be no boarding. Chair Greb said that if reasonable hours were kept, there probably would not be a noise problem.

Mr. Davenport suggested that whatever the initial residential development number was, the review should be concurrent with the first certificate of occupancy requested. Mr. Davis commented that this was a wonderful opportunity and asked Dr. Loeser how she felt about a later review of the permit. Dr. Loeser advised that she would have no problem with periodic reviews. Mr. Davis suggested a formula of number of years or number of homes built to trigger the review process. Chair Greb mentioned that staff usually conducted a yearly review and if there were no complaints, the special permit was extended.

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Discussion continued regarding the various procedures available for review and extension of the special permit, as well as "triggers" for review. Chair Greb's suggestion was that if there were no complaints, staff automatically extend the special permit on a yearly basis. Mr. Katims responded by stating that the Police Department and/or Code Compliance could get complaints, and many times the Building Division was not notified of problems. However, he was in agreement with Chair Greb's suggestion.

Vice-Chair Stahl proposed eliminating item three of the staff requirements as being redundant. Mr. Davenport also questioned what the term "adequately buffered" in item two of the staff requirements meant. Chair Greb responded that the Site Plan Committee would deal with the buffering issue.

Mr. Davenport made a motion, seconded by Mr. Davis, to approve subject to the first review of the special permit being started one year after the issuance of the first Certificate of Occupancy to a resident within a 500 foot radius, and afterwards, renewal of the special permit on an annual basis by staff unless there was a complaint that had been registered with the Town regarding the operation of the property which would then be reviewed by this Board; secondly, that the outdoor activities that have been recommended by staff be conducted in areas that were adequately proper, to be referred to the Site Plan Committee in order to address this issue; and that the third staff recommendation be eliminated. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davenport, yes; Mr. Davis, yes; and Ms. Moore, absent. **(Motion carried 4-0)**

4. OLD BUSINESS

Vice-Chair Stahl referred to the minutes of June 14, 2000 referencing "Vice-Chair Stahl mentioned Imagination Farms and a Councilmember's suggestion for a Code change requiring petitioners to submit a site plan when asking for zoning changes. Mr. Connick asserted that the advantage was for both rezoning and site plan to be evaluated simultaneously." He inquired regarding the status. Mr. Katims stated that the Town had created a zoning in progress for these issues with staff requesting detailed plans in the future.

Chair Greb reviewed Mr. Kiar's December 7, 2000 memo regarding interpretation of estate zoning district, vested rights versus equitable estoppel, and the impact on GL Home developments. Mr. Kiar read a paragraph from the memo as follows: "Broadly speaking, equitable estoppel will be applied to a governmental exercising land use power when a property owner (1) in good faith, (2) upon some act or omission of the government, (3) has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the acquired right." He emphasized that on a case-by-case basis, the facts would have to be examined to see whether or not they had relied upon, in good faith, some act of the government that they made a substantial change in circumstances based upon that act. Mr. Kiar indicated that the mere purchase of land, in his opinion, would not suffice to give an equitable or a vested right, it would have to be more. He stated that in the case of GL Homes, they did not meet the third test of having made such a substantial change in position or that they had incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the acquired right. Mr. Kiar advised that GL Homes had filed an administrative appeal on

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the opinion that the Town Attorney had issued and indicated that he would be responding to that issue. A brief discussion ensued and Mr. Davis asked that the Board continue to receive reports on the GL Homes appeal.

5. NEW BUSINESS

Mr. Davis mentioned a newspaper article regarding cell towers and that in addition to the flagpole camouflage, there was now a tree-version which he thought was very interesting.

There was brief discussion regarding timely receipt of Planning and Zoning meeting minutes and providing copies to the Town Council without processing delays. Mr. Katims relayed Development Services Director Mark Kutney's discussion with Council regarding the process of providing minutes. Chair Greb spoke of a fast-track system and Mr. Katims indicated that he would discuss this with Assistant Town Clerk Barbara McDaniel and report back to the Board.

Mr. Davenport reported that a neighbor called him regarding a Code Compliance issue for the building of a large barn on the property line with no permit. Mr. Katims suggested that he call Code Compliance directly. Mr. Davenport also tendered his resignation from the Board effective after the next meeting.

6. COMMENTS AND/OR SUGGESTIONS

There were no comments and/or suggestions.

7. ADJOURNMENT

There being no objections, the meeting adjourned at 9:55 p.m.

Approved _____

Chair/Boardmember