

PLANNING AND ZONING BOARD
DECEMBER 10, 2003

1. ROLL CALL

The meeting was called to order at 7:02 p.m. Board members present were Chair Mike Bender, Vice-Chair Mimi Turin, Casey Lee, Scott McLaughlin, and John Stevens. Also present were Town Attorney Monroe Kiar, Planning Supervisor Marcie Nolan and Board Secretary Janet Gale recording the meeting.

2. APPROVAL OF MINUTES: July 23, 2003 - Amended
August 13, 2003

Ms. Lee made a motion, seconded by Mr. Stevens, to approve the minutes of July 23, 2003. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Mr. Stevens made a motion, seconded by Mr. McLaughlin, to approve the minutes of August 13, 2003. In a voice vote, all voted in favor. **(Motion carried 5-0)**

3. PLATS

3.1 P 4-2-02, Z.A.S. Plat, 10220 State Road 84 (A-1, County) **(tabled from November 26, 2003)**

As the applicant was not present, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to table to January 14, 2004. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Later in the meeting, this item was reopened.

3.2 P 12-1-01, McDonough Property, 4300 SW 59 Avenue (M-2)

As the applicant was not present, Mr. Stevens made a motion, seconded by Vice-Chair Turin, to table to January 14, 2004. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Later in the meeting, this item was reopened.

4. PUBLIC HEARINGS

Rezoning

4.1 ZB 2-2-03, Ulrich,Higgins-Deni & Assoc./Belle Commerce, LLC, 10220 SW 101 Road (from A-1 to B-3) **(tabled from November 26, 2003)**

This item and item 3.1 were to be addressed simultaneously. As the applicant was not present, Mr. Stevens made a motion, seconded by Mr. McLaughlin, to table to January 14, 2004. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Later in the meeting, this item was reopened.

4.2 ZB 9-1-03, Keith & Ballbe, Inc./Southern Homes of Davie V, LLC, 3151 SW 154 Avenue (from A-1 Agricultural District to Open Space Overlay District)

Bill Laystrom, representing the petitioner, was present. Mr. Laystrom explained the intent of the rezoning and that this was the first plan to conform to the Open Space Overlay District and Rural Lifestyle Initiative. Ms. Nolan read the planning report and indicated that this request was made concurrent with the master site plan and conditional upon site plan approval.

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Chair Bender asked for a description of the open space area which the Town was receiving in exchange for the designation. Mr. Laystrom complied and described the layout of the area. He answered questions posed by Board members.

Chair Bender asked if anyone wished to speak for or against this item.

Damon Carroll, 2701 SW 154 Lane, had questions about posting notices which Ms. Nolan answered. He was opposed to the project as he had concerns about traffic on Shotgun Road and he believed in one home on one acre.

Donald Geeting, 2781 SW 156 Avenue, asked about preliminary traffic studies and how to obtain a copy of the planning report. He expressed concerns regarding children's safety and increased traffic. There was some conversation regarding access on SW 28 Street and Mr. Laystrom indicated that he was flexible about not having access on SW 28 Street as long as the Fire Department did not have an issue with it. Mr. Geeting stated that he was not opposed to the project.

George Russell, 15438 SW 31 Street, was pleased that this was to be a residential project and agreed that SW 28 Street should not be an access road.

Janice Caralli, 15434 SW 31 Street, was in favor of the project; however, she was concerned with any access other than Shotgun Road and suggested that a second access be developed for emergency vehicles only. Ms. Caralli was curious about the site plans for the project and Mr. Laystrom offered to meet with residents to show them plans.

David Herbert, 2840 SW 156 Avenue, was opposed due to the "single exit, single entrance" street.

Doug Amos, 2640 SW 155 Lane, welcomed the new houses and felt that the connectivity was not necessary as he and his neighbors enjoyed the cul-de-sac lifestyle.

Giovanna Ellison, 2940 SW 156 Avenue, was concerned with increased traffic and the accidents which occur on Shotgun Road. Chair Bender spoke of the "round-about" and traffic calming measures which were planned for Shotgun Road.

As there were no other speakers, the public hearing was closed.

A lengthy discussion ensued regarding the benefits and "trade-offs" of the Open Space Overlay District. Although Board members were interested in not having a second access, they wanted to be sure emergency vehicles were able to turn around within the development. Mr. Laystrom demonstrated how that could be accomplished.

Chair Bender passed the gavel and made a motion, seconded by Mr. McLaughlin, to approve with the caveat that there be no exit on SW 28 Street and that the entrance and exit be on Shotgun Road only. In a roll call vote, the vote was as follows: Chair Bender - yes; Vice-Chair Turin - yes; Ms. Lee - yes; Mr. McLaughlin - yes; Mr. Stevens - yes. **(Motion carried 5-0)**

Variance

4.3 V-10-1-03, Stermer, 2980 SW 137 Terrace (R-1)

Matthew Stermer, the petitioner, was present. Ms. Nolan summarized the planning report.

Chair Bender asked if anyone wished to speak for or against this item. As there were no speakers, the public hearing was closed.

Ms. Lee made a motion, seconded by Vice-Chair Turin, to approve. In a roll call vote, the vote was as follows: Chair Bender - yes; Vice-Chair Turin - yes; Ms. Lee - yes; Mr. McLaughlin - no; Mr. Stevens - yes. **(Motion carried 4-1)**

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Vacations of Right of Way

4.4 VA 7-1-03, Khoury/Artistic Development Corp., 2276 Lynx Avenue (tabled from November 26, 2003)

Sam Khoury, the applicant, was present. Ms. Nolan read the planning report.

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

Mr. McLaughlin contended that the entire area should be vacated for future development. Ms. Nolan understood his premise as that was what Mr. Khoury had originally requested; however, she advised that the Engineering Department determined that half of the right-of-way was to be retained by the Town. There was a question about an existing fence; however, Mr. Khoury indicated it was not his and the disposition of the fence was not made clear.

Ms. Lee made a motion, seconded by Mr. Stevens, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Turin – yes; Ms. Lee – yes; Mr. McLaughlin – no; Mr. Stevens – yes. **(Motion carried 4-1)**

4.5 VA 10-1-03, Wolf in the Woods, 5360 South University Drive (tabled from November 26, 2003)

Suzanne McLain and William Wolf, representing the petitioner, were present. Ms. Nolan advised that while processing a site plan for this property, a right-of-way easement was discovered and needed to be “cleaned up.” Ms. McLain retraced the title work on Tract 36 and explained that the 12.5-foot easement which appeared on the plat was in error as the right-of-way easement had been deeded back to the property owners. During an extensive discussion, Mr. Stevens suggested that rather than vacate a right-of-way in which the Town had no interest, it seemed more efficient to have the plat amended. Mr. Kiar opined that the Board had no right to vacate property that the Town had no legal interest in as the easement was for the exclusive rights of the property owners in the first place. All the Board members were in agreement with Mr. Kiar and believed that it was a legal issue.

Mr. Wolf contended that his site plan had been stopped on this issue and that he could not move forward on the site plan until it was resolved. Ms. Nolan commented that if this Board, in concurrence with the Town Attorney, did not need to take an action and instead it could be a plat note amendment which could be done by resolution, then the applicant could move forward to Town Council without requiring the action of this Board. She deferred to Mr. Kiar for confirmation. Mr. Kiar indicated that without proper research, he could not give a definitive answer; however, he could not see how the Town would have the authority to vacate something that it had no interest in.

Chair Bender asked if anyone wished to speak for or against this item.

Iraj Sean Shafaghi, 5355 SW 16 Avenue, indicated that when he purchased the property to the east, he had been told that there was an agreement that he would have access to University Drive. Board members explained that they did not have any authority to take an action one way or another.

As there were no other speakers, the public hearing was closed.

Ms. McLean and Mr. Wolf advised that they withdrew this item.

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3.1 Ms. Lee made a motion, seconded by Vice-Chair Turin, to reopen item 3.1 as the petitioner was present. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Fernand Restripo and Sam Jazayre, representing the petitioner, were present. Ms. Nolan read the planning report and advised that this item was being considered concurrent with the rezoning request item 4.1 and with a master site plan which had been heard by the Site Plan Committee and had been approved.

Mr. McLaughlin asked why there was not a utility easement on the north end of the property. Mr. Restripo agreed that "conceptually," he saw no problem with installing a ten-foot easement; however, he would have to have that confirmed by others. Ms. Lee asked if the rezoning shouldn't be considered before the plat. Ms. Nolan advised that the two items could be heard concurrently then voted on individually.

4.1 Ms. Nolan asked that the planning report be entered into the record and she proceeded to read the analysis section.

Chair Bender asked if anyone wished to speak for or against this item. As there were no speakers, the public hearing was closed.

Mr. Jazayre explained the intent of the rezoning request and contended that the property was to be developed and a "blend" between the offices and the warehouses. He advised that the units were condominium ownership and that the parking would dictate the uses.

Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve item 4.1. In a roll call vote, the vote was as follows: Chair Bender - yes; Vice-Chair Turin - yes; Ms. Lee - yes; Mr. McLaughlin - yes; Mr. Stevens - yes. **(Motion carried 5-0)**

Mr. Stevens made a motion, seconded by Mr. McLaughlin, to approve item 3.1. In a roll call vote, the vote was as follows: Chair Bender - yes; Vice-Chair Turin - yes; Ms. Lee - yes; Mr. McLaughlin - yes; Mr. Stevens - yes. **(Motion carried 5-0)**

3.2 As the applicant was present, Chair Bender reopened item 3.2 with no objections being made.

Dick Coker, representing the applicant, was present. Ms. Nolan read the planning report. She explained the significance of requesting a 25-foot right-of-way along SW 58 Avenue at the time of platting. Mr. Coker indicated that he agreed with staff's recommendations except for the provision of a 25-foot right-of-way. He argued that it was too small a piece of property to make such a dedication and it would greatly affect the uses.

Mr. McLaughlin expressed that he could not see where the right-of-way was needed and he provided his reasoning.

Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to approve the plat without the 25-foot dedication. In a roll call vote, the vote was as follows: Chair Bender - yes; Vice-Chair Turin - yes; Ms. Lee - yes; Mr. McLaughlin - no; Mr. Stevens - yes. **(Motion carried 4-1)**

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5. OLD BUSINESS

There was no old business discussed.

6. NEW BUSINESS

There was no new business discussed.

7. COMMENTS AND/OR SUGGESTIONS

Ms. Lee complimented Ms. Nolan on the way she summarized the planning reports. Board members asked that if she would convey her method to the other planners, it would be greatly appreciated.

8. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 9:17 p.m.

Date Approved _____

Chair/Board Member