

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Monroe D. Kiar, Town Attorney/ (954) 584-9770

**SUBJECT:** Ordinance

**AFFECTED DISTRICT:** Townwide

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA ADOPTING RULES AND REGULATIONS ALLOWING THE DAVIE TOWN COUNCIL TO HEAR AND APPROVE DEVELOPMENT APPLICATIONS WITHOUT THE RECOMMENDATION OF THE PLANNING AND ZONING BOARD UNDER SPECIFIC CIRCUMSTANCES; AMENDING THE PROCEDURES SET FORTH WITHIN THE TOWN CODE FOR SITE PLAN APPLICATIONS UNDER SECTION 12-371(C) OF THE DAVIE LAND DEVELOPMENT CODE, APPLICATIONS FOR REZONINGS UNDER SECTION 12-307(B)(1), APPLICATIONS FOR VARIANCES UNDER SECTION 12-309(C)(1), AND APPLICATIONS FOR SPECIAL PERMITS UNDER SECTION 12-308(2)(a), APPLICATIONS FOR VACATIONS OR ABANDONMENTS OF RIGHT-OF-WAY UNDER SECTION 12-310(B)(1) TO ALLOW DEVELOPMENT APPLICATIONS TO BE HEARD AND APPROVED BY THE DAVIE TOWN COUNCIL WITHOUT THE RECOMMENDATION OF THE PLANNING AND ZONING BOARD OR LOCAL PLANNING AGENCY UNDER SPECIFIC CIRCUMSTANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The Town Attorney's Office was requested by the Town Council to prepare an amendment to the Land Development Code allowing the Town Council to hear and deliberate upon development applications without a recommendation from the Planning and Zoning Board or Site Plan Committee under specific circumstances. The amendment will allow the Town Council to hear development applications without the recommendation of the boards in the event that a quorum cannot be reached on an application due to conflicts or the appearance of a conflict by members on the boards. Additionally, if an application is unduly delayed by the advisory boards for three consecutive meetings, the application shall be transmitted to the Town Council for its review.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** N/A

**RECOMMENDATION(S):** The application is suitable for transmittal to the Town Council for its further consideration.

Attachments: Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA ADOPTING RULES AND REGULATIONS ALLOWING THE DAVIE TOWN COUNCIL TO HEAR AND APPROVE DEVELOPMENT APPLICATIONS WITHOUT THE RECOMMENDATION OF THE PLANNING AND ZONING BOARD OR SITE PLAN COMMITTEE UNDER SPECIFIC CIRCUMSTANCES; AMENDING THE PROCEDURES SET FORTH WITHIN THE TOWN CODE FOR SITE PLAN APPLICATIONS UNDER SECTION 12-371(C) OF THE DAVIE LAND DEVELOPMENT CODE, APPLICATIONS FOR REZONINGS UNDER SECTION 12-307(B)(1), APPLICATIONS FOR VARIANCES UNDER SECTION 12-309(C)(1), AND APPLICATIONS FOR SPECIAL PERMITS UNDER SECTION 12-308(2)(a), APPLICATIONS FOR VACATIONS OR ABANDONMENTS OF RIGHT-OF-WAY UNDER SECTION 12-310(B)(1) TO ALLOW DEVELOPMENT APPLICATIONS TO BE HEARD AND APPROVED BY THE DAVIE TOWN COUNCIL WITHOUT THE RECOMMENDATION OF THE PLANNING AND ZONING BOARD OR LOCAL PLANNING AGENCY UNDER SPECIFIC CIRCUMSTANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Davie Land Development Code presently requires the Town Council to establish public hearings to consider, approve or deny the recommendations of the Planning and Zoning Board or Site Plan Committee pertaining to development applications; and

WHEREAS, the provisions of the Davie Land Development Code do not presently contemplate or address circumstances in which these advisory boards may not have the ability to issue recommendations on certain development applications; and

WHEREAS, the potential inability of these advisory boards to issue recommendations pertaining to development applications under certain situations will prohibit the Town Council from hearing, deliberating upon and making its determination on these applications under the present provisions of the Davie Land Development Code; and

WHEREAS, it is the opinion of the Town Council that the Land Development Code should be amended to allow development applications to be heard and approved by the Town Council without requiring the recommendation of these advisory boards under specific circumstances stipulated herein.

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

SECTION 1: Section 12-371(C) of the Davie Land Development Code shall be amended to state:

(C) Town Council Review: Subsequent to review by the site plan committee, the development services department will schedule the site plan on the next most appropriate agenda for review by the town council. The council shall consider the site plan committee recommendation and all relevant evidence presented by the Town and the applicant and may, based upon said evidence, deny, approve or approve with conditions the plan.

Notwithstanding the above, in the event that the Town Council's review of any application is unduly delayed by more than three regularly scheduled meetings by site plan committee members, the application

shall be transmitted by the development services department to the Town Council for its deliberation and determination. In the event that members of the site plan committee have indicated their inability to vote upon an application due to a conflict of interest or the appearance of a conflict as indicated with the Florida Statutes and upon the Town Attorney's determination that these conflicts would effectuate a lack of quorum by the committee with regard to any site plan application, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination.

SECTION 2: Section 12-307(B)(1) of the Davie Land Development Code shall be amended to state:

(1) The council shall establish a public hearing to consider the rezoning review criteria in subsection (A), above, public testimony and the planning and zoning board recommendation, and may act on the petition, deny, deny without prejudice, approve or approve with conditions, or approve an amended application for rezoning.

Notwithstanding the above, in the event that the Town Council's review of any rezoning application is unduly delayed by more than three regularly scheduled meetings by planning and zoning board members, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination. In the event that members of the planning and zoning board have indicated their inability to vote upon an application due to a conflict of interest or the appearance of a conflict as indicated with the Florida Statutes and upon the Town Attorney's determination that these conflicts would effectuate a lack of quorum by the board with regard to any land use plan application, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination.

SECTION 3: Section 12-309(C)(1) of the Davie Land Development Code shall be amended to state:

(1) The council shall establish a public hearing to consider public testimony and the planning and zoning board recommendations and may deny, approve or approve with conditions the application for variance.

Notwithstanding the above, in the event that the Town Council's review of any variance application is unduly delayed by more than three regularly scheduled meetings by planning and zoning board members, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination. In the event that members of the planning and zoning board have indicated their inability to vote upon an application due to a conflict of interest or the appearance of a conflict as indicated with the Florida Statutes and upon the Town Attorney's determination that these conflicts would effectuate a lack of quorum by the board with regard to any variance application, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination.

SECTION 4: Section 12-308(2)(a) of the Davie Land Development Code shall be amended to state:

(a) The council shall establish a public hearing to consider public testimony and the planning and zoning board recommendations and may deny, approve or approve with conditions the application for special permit.

Notwithstanding the above, in the event that the Town Council's review of any special permit application is unduly delayed by more than three regularly scheduled meetings by planning and zoning board members, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination. In the event that members of the planning and zoning board have

indicated their inability to vote upon an application due to a conflict of interest or the appearance of a conflict as indicated with the Florida Statutes and upon the Town Attorney's determination that these conflicts would effectuate a lack of quorum by the board with regard to any special permit application, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination.

SECTION 5: Section 12-310(B)(1) of the Davie Land Development Code shall be amended to state:

(1) The Council shall establish a public hearing to consider public testimony and the planning and zoning recommendation and may deny, deny without prejudice, approve or approve with conditions. Approval shall be by ordinance.

Notwithstanding the above, in the event that the Town Council's review of any vacation or abandonment of right-of-way application is unduly delayed by more than three regularly scheduled meetings by planning and zoning board members, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination. In the event that members of the planning and zoning board have indicated their inability to vote upon an application due to a conflict of interest or the appearance of a conflict as indicated with the Florida Statutes and upon the Town Attorney's determination that these conflicts would effectuate a lack of quorum by the board with regard to any vacation or abandonment of right-of-way application, the application shall be transmitted by the development services department to the Town Council for its deliberation and determination.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 7: 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 8: This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2005.

PASSED ON SECOND READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2005.

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MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_ DAY OF \_\_\_\_\_, 2005.