

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director / (954) 797-1101

PREPARED BY: Tatiana Escobar, Staff Intern

SUBJECT: ZB (TXT) 5-2-07 / Qualified applicants for proposal of text amendments

AFFECTED DISTRICT: All Districts

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, PLANNING AND DEVELOPMENT, ARTICLE X, REZONINGS, SPECIAL PERMITS, VARIANCES AND VACATIONS OR ABANDONMENT OF RIGHTS-OF-WAY, DIVISION 2, TO INCLUDE APPLICANTS ABLE TO AMEND THE LAND DEVELOPMENT CODE; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: Staff is proposing a text amendment to the Land Development Code to specify who may direct staff to work on changes to the Code. Currently the Code does not indicate who can submit an application for a text amendment, not does it describe the criteria necessary to start the amendment process.

The intent and purpose of this section is to create an organized way to promote the participation of the general public in the text amendment process to the Land Development Code.

Understanding that input can occur from many different sources, this amendment is presented to encourage the public to propose suggestions that follow the criteria necessary to initiate a text amendment process. The process listed below is intended to facilitate such amendments.

1. Any member of the public may attend a Local Planning Agency or Town Council public meeting to comment or suggest text amendments to the Land Development Code. These suggestions shall be provided to the Planning and Zoning Division at a minimum three (3) weeks prior to any meeting in written format. The written

format shall include the name of the interested person, the proposed subject matter, and any proposed recommendations.

2. In case that the Local Planning Agency determines that the suggestion proposed by the member of the public deserves to be considered by Town Council, the Local Planning Agency may make a motion to recommend the suggestion to be reviewed by Town Council. The suggestions can also be proposed directly to the Town Council at a public hearing under new business. If Town Council determines the suggestion is worth being considered as a text amendment for the Town Land Development Code, Town Council may make a motion to instruct the member of the public to meet with Planning and Zoning staff to initiate such text amendment process.

3. In addition, any member of the public may propose a suggestion through the Community Redevelopment Agency, if applicable, or the Town Administrator and his/her designee. In the event that either find the suggestions worth consideration, either may ask the member of the public to meet with Planning and Zoning staff and submit an application to initiate the text amendment process.

The text amendment process is initiated by presenting a text amendment application along with the proper fee, as amended from time to time, to the Planning and Zoning Division and meeting the following criteria:

1. The proposed change is consistent with the goals, policies and objectives of the adopted comprehensive plan.
2. The proposed change has the intention to benefit the public interest.

Staff shall follow the procedure established for text amendments including, but not limited to, the schedule and advertisement of public hearings according to the Florida Statutes. The Local Planning Agency shall make a recommendation to Town Council with or without comments. The Town Council at public hearing may approve, deny, or modify the petition by ordinance.

PREVIOUS ACTIONS:

CONCURRENCES: On the June 13, 2007 LPA meeting Vice-Chair Stevens made a motion, seconded by Ms. Turin, to table to June 27, 2007; (**Motion carried 4-0, Mr. Pignato was absent**)

On the June 27, 2007 LPA meeting, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to table to July 11, 2007. In a voice vote, all voted in favor. (**Motion Carried 5-0**)

On the July 11, 2007 LPA meeting, a motion was made to table this item to the August 8, 2007 meeting.

On the August 11, 2007 LPA meeting, Vice-Chair Stevens made a motion, seconded by Chair Bender, to approve subject to the revisions. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Ms. Turin – yes. (**Motion carried 4-0, Mr. Pignato was absent**)

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Complete and suitable for transmittal to the Town Council for further consideration. Staff has agreed with the changes proposed by the Local Planning Agency and they are included in the text presented.

Attachment(s): Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, PLANNING AND DEVELOPMENT, ARTICLE X, REZONINGS, SPECIAL PERMITS, VARIANCES AND VACATIONS OR ABANDONMENT OF RIGHTS-OF-WAY, DIVISION 2, TO INCLUDE APPLICANTS ABLE TO AMEND THE LAND DEVELOPMENT CODE; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie desires to specify who can instruct staff to initiate a text amendment process to introduce changes to the Land Development Code; and

WHEREAS, the Local Planning Agency of the Town of Davie held a public hearing on August 8, 2007; and

WHEREAS, the Town Council of the Town of Davie held a public hearing duly advertised as required by State Statutes.

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

SECTION 1. The Division 2, of Article X of the Land Development Code of the Town of Davie, Florida (the "Town"), is hereby amended to read as follows:

DIVISION 2. REZONINGS, TEXT AMENDMENTS, SPECIAL PERMITS, VARIANCES AND VACATIONS OR ABANDONMENTS OF RIGHTS-OF-WAY:-

Sec. 12-305. General purpose.

The purpose of this division is to guide the processing and granting of rezonings, text amendments, special permits, variances and vacations or abandonments of rights-of-way in a manner consistent with the Town of Davie Comprehensive Plan, existing development and in a manner which protects the public health, safety and welfare.

Sec. 12-306. Processing.

(B) *Applicants:* Qualified applicants shall be limited to the following:

(1) For rezoning, special permits and variances: the owner or agent of the owner having unified control or a recognizable interest in the property.

(2) For vacation or abandonment of rights-of-way: the owner or agent of the owner of the property adjacent to the right-of-way.

(3) For town initiated rezoning and vacations, the ~~The~~ Davie Planning and Zoning Board, or ~~town council~~ Town Council or its designee, ~~for rezonings and vacations only.~~

(4) For text amendments to the Land Development Code: the Town Council, the Local Planning Agency, the Community Redevelopment Agency (if the proposal is within the CRA boundaries), Town Administrator and his/her designee. Any member of the public may request a text amendment following the process described in Sec. 12-307.2.

SECTION 2. . The Division 2, of Article X of the Land Development Code of the Town of Davie, Florida (the “Town”), Section 12-307.1 is hereby added to read as follows:

Sec. 12-307.1 Review for text amendments

Any of the first four (4) applicants mentioned on Sec. 12.306 (B) (4) must present an application to the Planning and Zoning Division. The following criteria shall be met.

1. The proposed change is consistent with the goals, policies and objectives of the adopted comprehensive plan.
2. The proposed change has the intention to benefit the public interest.

Staff shall follow the procedure established for text amendments including, but not limited to, the schedule and advertisement of public hearings according to the Florida Statutes. The Local Planning Agency shall make a recommendation to Town Council with or without comments. The Town Council at public hearing may approve, deny, or modify the petition by ordinance.

SECTION 3. The Division 2, of Article X of the Land Development Code of the Town of Davie, Florida (the “Town”), Section 12-307.2 is hereby added to read as follows:

Sec. 12-307.2 Review for text amendments initiated by a member of the public

The intent and purpose of this section is to create an organized way to promote the participation of the general public in the text amendment process to the Land Development Code.

Understanding that input can occur from many different sources, this amendment is presented to encourage the public to propose suggestions that follow the criteria necessary to initiate a text amendment process. The process listed below is intended to facilitate such amendments.

1. Any member of the public may attend a Local Planning Agency or Town Council public meeting to comment or suggest text amendments to the Land Development Code. These suggestions shall be provided to the Planning and Zoning Division at a minimum three (3) weeks prior to any meeting in written format. The written format shall include the name of the interested person, the proposed subject matter, and any proposed recommendations.

2. In case that the Local Planning Agency determines that the suggestion proposed by the member of the public deserves to be considered by Town Council, the Local Planning Agency may make a motion to recommend the suggestion to be reviewed by Town Council. The suggestions can also be proposed directly to the Town Council at a public hearing under new business. If Town Council determines the suggestion is worth being considered as a text amendment for the Town Land Development Code, Town Council may make a motion to instruct the member of the public to meet with Planning and Zoning staff to initiate such text amendment process.

3. In addition, any member of the public may propose a suggestion through the Community Redevelopment Agency, if applicable, or the Town Administrator and his/her designee. In the event that either find the suggestions worth consideration, either may ask the member of the public to meet with Planning and Zoning staff and submit an application to initiate the text amendment process.

The text amendment process is initiated by presenting a text amendment application along with the proper fee, as amended from time to time, to the Planning and Zoning Division and meeting the following criteria:

1. The proposed change is consistent with the goals, policies and objectives of the adopted comprehensive plan.
2. The proposed change has the intention to benefit the public interest.

Staff shall follow the procedure established for text amendments including, but not limited to, the schedule and advertisement of public hearings according to the Florida Statutes. The Local Planning Agency shall make a recommendation to Town Council with or without comments. The Town Council at public hearing may approve, deny, or modify the petition by ordinance.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. 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 6. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2007

PASSED ON SECOND READING THIS _____ DAY OF _____, 2007

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2007