

PLANNING AND ZONING BOARD

MAY 26, 2004

1. ROLL CALL

The meeting was called to order at 7:00 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, Planner Brad Swing and Board Secretary Janet Gale recording the meeting.

2. SELECTION OF CHAIR

Vice-Chair Turin nominated Mr. Bender, seconded by Ms. Lee. There were no other nominations. In a voice vote, all voted in favor.

3. SELECTION OF VICE CHAIR

Chair Bender passed the gavel and nominated Ms. Turin, seconded by Mr. Stevens. There were no other nominations. In a voice vote, all voted in favor.

4. PUBLIC HEARINGS

4.2 Chair Bender advised that he had taken this item out of order since he had received a memo requesting that the item be withdrawn.

Mr. Stevens made a motion, seconded by Mr. McLaughlin, to withdraw this item. In a voice vote, all voted in favor. **(Motion carried 5-0)**

- 4.1 AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, REZONING CERTAIN REAL PROPERTY IN THE TOWN OF DAVIE AS SHOWN IN THE ATTACHED MAP FROM THE FOLLOWING ZONING DISTRICTS: HACIENDA VILLAGE (M-1, M-2, M-3, M-4, C-1, B-3, RM-5), BROWARD COUNTY (M-1, M-3, M-4, A-1, A-5, B-3), AND TOWN OF DAVIE (OLD CODE - RC-3, RC-8) TO VALID TOWN OF DAVIE ZONING DISTRICTS (B-3, M-1, M-2, M-3, RM-5, RM-8, RS, T) IN ACCORDANCE WITH TOWN OF DAVIE ORDINANCE NO. 2003-21; ADOPTING THE OFFICIAL ZONING MAP FOR ZONING CONFORMANCE AREA 1 MORE SPECIFICALLY DEFINED AS EAST OF FLORIDA'S TURNPIKE, NORTH OF ORANGE DRIVE TO THE NORTHERN AND EASTERN LIMITS OF THE TOWN AND ZONING CONFORMANCE AREA 2 MORE SPECIFICALLY DEFINED AS EAST OF UNIVERSITY DRIVE, SOUTH OF GRIFFIN ROAD, WEST OF 76 AVENUE AND NORTH OF STIRLING ROAD; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Swing presented this item and summarized the intent of the ordinance. He indicated that the item had been tabled in order to afford staff the opportunity of meeting with property owners regarding the ordinance.

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

Suzanne McLean indicated that she was representing Joseph Danielle whose property address was 4343 South State Road 7. She stated that although she had met with staff regarding this ordinance, there were issues that were unresolved. Ms. McLean indicated that the concerns

PLANNING AND ZONING BOARD
MAY 26, 2004

regarded the reduction of permitted uses in the M-3 zoning; the restrictions on expanding a present business to neighboring parcels; the ability to continue with a legal, non-conforming use upon the sale of property; and development issues regarding setbacks. She added that although the proposed ordinance was not satisfactory, she and her client were willing to work with the Town to improve it.

Robert Rucerto, 3411 SW 49 Way, was opposed to this item because the zoning change would decrease the value of his property.

Ted Dorsy, 4701 SW 36 Street, was opposed to the item because he had bought the property 31 years ago having an M-4 zoning, paid taxes based on that zoning, and was presently in a business which required M-4 zoning uses.

Michael Manes, 633 South Federal Highway, indicated that he was representing property owner Lawrence Danielle who was opposed to the rezoning. When Mr. Danielle purchased his property, he had relied on the annexation agreement and that the current zoning would remain in effect. Mr. Manes believed that the setbacks in M-3 would be a problem and that if the property were to be redeveloped with M-3 zoning setback requirements, only approximately six acres of the 33 acres would be useable property. He indicated that Mr. Danielle was presently seeking a vested rights determination with the Town and urged that this item either be denied or tabled until the outcome of the determination was apparent.

Larry Danielle, 4500 Oakes Road, was opposed because of the loss of 77 uses. He stressed that he would like to maintain about 10 of the 77 uses if it were to become M-3 zoning and stated which ones they were. Mr. Danielle indicated that he would have no objections to the rezoning if the five or six additional uses were allowed and if there could be an agreement on the setbacks.

Steven Cox, 4199 Kean Road, indicated that he was representing property owner Charles Powers. He stated that Mr. Powers objected to the ordinance and distributed a letter to that effect.

Shaun Lennon, 3670 SW 47 Avenue, stated that he agreed with the Danielles and that the rezoning would affect the value of his business investment which entailed oil recycling. He was opposed.

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

A lengthy discussion ensued among Boardmembers. Mr. Stevens appreciated the revisions which staff made to the ordinance following the Board's recommendations. Vice-Chair Turin inquired if this ordinance respected the terms of the Hacienda Village annexation agreements and if there was litigation on the vested rights determination. Mr. Parke responded that he did not believe this ordinance addressed the Hacienda Village annexation and that he would have to research the status of Mr. Danielle's vested rights determination. Boardmembers expressed their opinions in their deliberations.

Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to deny based upon the Town Attorney looking into the vested interests of the landowner's rights that were agreed upon for the zoning back when they were brought into the Town; that the Town had the ability to add an M-4 zoning district to address the rights and interests of those effected owners; that to move this forward as it was would be a taking of rights; that there was the possibility of the

PLANNING AND ZONING BOARD

MAY 26, 2004

existence of an agreement that was entered reasonably and relied upon by those owners at the time of the annexation and that possibly, this ordinance would undermine that agreement. 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 – no. **(Motion carried 4-1)**

Special Permit

4.2 SE 2-1-04, Dominguez, 11501 SW 17 Street (R-1) **(tabled from May 12, 2004)**

This item was tabled earlier in the meeting.

5. OLD BUSINESS

There was no old business discussed.

6. NEW BUSINESS

There was no new business discussed.

7. COMMENTS AND/OR SUGGESTIONS

There were no comments and/or suggestions made.

8. ADJOURNMENT

There being no further business and no objections, the meeting adjourned at 8 p.m.

Date Approved _____

Chair/ Board Member