

**PLANNING AND ZONING BOARD
FEBRUARY 8, 2006**

Robert Muccio, 13501 SW 14 Place, was opposed due to the density, drainage issues and traffic. He believed it was out of character for the community.

Laura DellaPenta, 12900 SW 13 Manor, was opposed because it conflicted with the 1982 published vision statement for the Town. She wanted some accommodation for affordable housing. Another concern regarded drainage issues at the SW 130th Avenue and SW 14th Street intersection.

Harry Hausman, 13251 SW 14 Street, was opposed for the abovementioned reasons and believed that because of the size of the houses on the small lots, there were sure to be many future variance requests.

Kathleen Foster, 1300 SW 129 Way, was opposed because of traffic safety problems.

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

Mr. Synalovski responded to remarks by first reminding that in 1989, this discussion was made and the residential five units per acre went into effect. As a matter of information, he indicated that the proposed landscaping on the south side of SW 14th Street would extend for over 600 feet. Mr. Synalovski reiterated that the property was absolutely self-sufficient for drainage and would afford the community an opportunity to tie into a drainage system at the developer's expense which currently did not exist. He advised that the lift station would be designed, built and maintained to "the public standard".

Mr. Synalovski responded to the remark which had been made regarding this application as a "land use" issue. He stated that the land use was what it was and that the issue before the Board was to hear a rezoning application that would allow within the land use designation to use R-5 zoning and the plat application clearly identified 11 homes. Mr. Synalovski emphasized that the request was tied to the site plan and if there were any attempt to modify that, it would require action through this Board as well as the Site Plan Committee and ultimately through the Town Council. He reiterated that he was committed to restrictive covenants at any level to insure the community and Council that what was presented would be exactly what was developed.

Mr. Stevens asked Mr. Kiar how the Board was to address the issue of how it should view the fact that this was R-5 in the Land Use Plan in relation to the applicant's request for it to be rezoned. Mr. Kiar opined that the Board had the discretion to the extent that they were to listen to the evidence presented, to weigh the various findings of fact, to weigh the criterion, and if the Board found that there was substantial credible evidence one way or the other, they had the discretion to vote as they deemed fit.

Mr. Luis asked Mr. Kiar if he could take into consideration whether or not this project fit into the surrounding neighborhood as a criterion for his decision. Mr. Kiar responded affirmatively and Mr. Stevens pointed out that item (d) in Findings of Fact of the planning report addressed that criterion.

Chair Bender started the discussion by reminding everyone that when the land use plan had been determined, no one had a crystal ball and could know about Hurricane Andrew and its impact on Southwest Broward's development. He continued that in the past, the Town had been sued because developers felt that they had a legal use based on the Land Use Plan, and that was okay. Chair Bender recalled an example of 60 acres on Orange Drive on which developers wanted to build a super Wal-Mart. The Town had denied it and it went to court where it had been tied up for a few years. Subsequently, the property sold and it was now a County park.

Chair Bender stated that he would not approve these 11 houses and he was not sure that he would have approved the application even if it had been reduced to 8 houses. He believed that the houses were too big for the lots and they were not consistent with the character of the neighborhood. Chair Bender expressed his opinion of what the intentions were for those who were developing the Land Use Plan. He commented that the land use for these three and four acre parcels may have been overlooked for reclassification in a municipality that was 30 square miles large; however, now that everything was built-out and these smaller parcels were popping up, this would be like opening up a "can of worms".

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Chair Bender had hoped that the applicant would bring back something that they could compromise on and have a compromise that everyone could “live with”.

Mr. Stevens stated that he was also disappointed because he thought that a compromise was worked out at the end of the last meeting in order to try to resolve some of the issues.

Vice-Chair McLaughlin commented that he would abstain from voting and disclosed that he was retained by the owner of the property to provide the plat for the project. He believed that the community was designed based on the knowledge one had at that time. Vice-Chair McLaughlin shared his knowledge of designing from the center outward with clear lines of delineation and believed that SW 130th Avenue and SW 14th Street were clear lines of delineation. He encouraged residents to be visible and express their opposition for all future similar projects as he may vote affirmatively for the next one having the knowledge that this was the way it should be.

Ms. Turin expressed that although she was not present for the previous presentation of this application, she was fully aware of the existing drainage problems. She could not see adding to that problem. Ms. Turin also agreed that there were serious traffic problems where people could not get in or out of their driveways and that adversely affected the living conditions in that neighborhood.

Chair Bender asked for a motion on item 3.1.

Ms. Turin made a motion, seconded by Chair Bender, to deny. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – abstained; Mr. Luis – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 4-0)**

Chair Bender asked for a motion on item 4.1, ZB 8-2-04

Mr. Stevens made a motion, seconded by Ms. Turin, to deny the rezoning on the basis of Section 12-307(A)(1) of the Code for the following reasons: that the proposed change would adversely affect living conditions in the neighborhood. The Board having received substantial credible evidence from those testifying determined that the proposed change would adversely affect the living conditions in this surrounding neighborhood; Subsection (e), the Board having received substantial credible evidence had determined that the proposed change would create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or otherwise affect the public safety; Subsection (i), the Board having received substantial credible evidence from those testifying believed that there was not substantial reasons why the property could not be used in accord with the existing zoning; therefore, the Board respectfully moved that the rezoning be denied. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – abstained; Mr. Luis – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 4-0)**

4. PUBLIC HEARING

Rezoning

4.1 ZB 8-2-04, Lorson One, LLC/POA/Acecon Construction Corp., 1275 SW 130 Avenue
(from A-1 to R-5) **(tabled from January 11, 2006)**

This item was denied earlier in the meeting.

4.2 ZB 10-1-05, Hollingsbrook & Mather/Zoppeit, 1380 South Flamingo Road (from CF to R-5)

Wesley Curran, representing the petitioner, was present. Mr. Abramson read the planning report.

Ms. Turin asked if frontage access would go directly to Flamingo Road. Mr. Curran explained that it would not and pointed out the access on a site plan. He provided a brief presentation and emphasized the point that the zoning request was for 15 units as opposed to 28 units which the land use permitted. Later in the meeting, Mr. Curran clarified that the two-story townhouse had a 2,000 square-foot “footprint” thereby allowing it to fit properly on the lots.

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Mr. Stevens asked Mr. Kiar if there was any way to restrict the developer to the 15 houses.

Mr. Kiar asked Mr. Curran if he would voluntarily agree to stipulate to the 15 units. Mr. Curran answered affirmatively and indicated that that was why he had provided a site plan which he was not required to do. Mr. Kiar noted that Mr. Curran would voluntarily enter into a contractual agreement to stipulate that there would be a limit of 15 units and that the agreement would run with the land.

Vice-Chair McLaughlin had Mr. Curran clarify the traffic pattern from the access into the community.

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

Laura DellaPenta, 12900 SW 13 Manor, expressed that this project would impose the same burden on traffic, drainage and schools as the previous item and asked that the Board take that into consideration.

Jim Andrews, 1211 SW 129th Way, asked to see the site plan in order to clarify its location. He wanted to know what the plans were for SW 14th Street between Flamingo Road and 130th Avenue. Mr. Andrews indicated that with a portion of SW 14th Street being undeveloped, it acted as a buffer. His issues concerned traffic and that additional developments would necessitate additional traffic lights on Flamingo Road.

Dennis Morgan, 1110 SW 129 Way, was concerned with student overcrowding and traffic congestion. He was incredulous about the townhouses being “moderately priced”.

Danny Eaheart, 13021 SW 14 Place, was not sure of the lot sizes; however, if they were similar to the previous item, he would not be for it.

Karyn Hill, 1121 SW 129 Way, was opposed because Davie was supposed to be rural and because of the increase it would have on the school population.

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

Mr. Curran spoke of the benefits of limited growth and visualized this project as a “buffer” with less density than what was permitted under the land use plan.

Ms. Turin asked what kind of uses could be placed as it presently existed with a CF zoning. Mr. Abramson responded that community facility usually meant churches and schools. Ms. Turin explained that she would like to compare the traffic generated by the proposed rezoning and that of a school. It was agreed that the R-5 would generate far less traffic. Ms. Turin also remarked that CF would not add to the tax base whereas the 15 homes would.

Vice-Chair McLaughlin expressed his opinion regarding “affordability” and the formularies that were used in that determination. Although there may be a better use for this land for the Town and its tax base such as that of a commercial nature, he believed that it might not be the best step for the neighborhood. Vice-Chair McLaughlin indicated that this development fit the neighborhood and should move forward.

Mr. Stevens stated that he had been in the neighborhood twice recently and had the opportunity to observe the traffic on the frontage road. He believed that the access on the frontage road to SW 14th Street seemed appropriate for the community that was being proposed. Mr. Stevens indicated that as long as the applicant was willing to restrict the development to 15 units, he had no problem with it.

Ms. Turin expressed her opinion on how this application was distinguished from the previous item specifically regarding traffic impacts and drainage issues. She had no objections as both issues were well thought out for this area.

Mr. Luis agreed that this location was better than the location of the previous project; however, he felt that there may be a better use of the land. He would have preferred a commercial use and believed that valuable areas of the Town were being let go and that 10- to 15 years from now, there might be regrets. Mr. Luis provided an example and reiterated that perhaps although this was a good project, he was not sure it was the best use of the land for that area.

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Chair Bender advised the audience that Councilmember Crowley would be the best person to speak with regarding drainage issues. He also informed the group of the 33 acres on Shotgun Road which had been rezoned for a school, but that the School Board had determined not to build a school on that property.

Chair Bender explained that rather than see Flamingo Road develop the way it had in Cooper City, he would prefer to see the 15 homes instead of a Walgreen's. As the Triple Cross was located to the north and Sheridan House to the south, he believed that this was a suitable fit despite his reservations about density.

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

The Board took a brief recess at 8:35 p.m. and reconvened at 8:45 p.m.

Variances

4.3 V 11-1-05, Markovich, 1070 Cedar Creek Way (PRD 3.8)

Ed Markovich, the petitioner, was present. Mr. Abramson summarized the planning report.

Mr. Markovich explained the need for the addition which was to accommodate a parent who could no longer live alone. He advised that a neighbor's variance request to provide a home office had recently been granted yet this request was less obtrusive. Mr. Markovich produced a survey and a homeowner's application which appeared to be an approval for the addition.

Mr. Kiar examined the homeowner's application and opined that it appeared to be an approval by the president of the "Shenandoah DRB".

Mr. Stevens asked if approval could be granted by the Designer Review Board or if the homeowner's association board of directors was the approving authority. Mr. Kiar said that was a good point and that staff should look into it. He suggested that Mr. Markovich work with staff to clarify that issue. Mr. Kiar advised that if the Board were to approve the request, that it be contingent upon verification of approval by the homeowner's association.

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

Mr. Luiz indicated that if the homeowner's association gave its approval, it must be acceptable because they were a difficult group to satisfy. Later in the meeting, he commented that this may become a more common situation because of the impact of Alzheimer's disease on the "baby-boomer" generation and the need to take in their parents.

Later in the meeting, Ms. Turin stated that based on the applicant's testimony that since there was another home in the area that extended even beyond this variance request, and that she believed Mr. Markovich did have a family hardship situation, those were the reasons she voted affirmatively; otherwise, she would have been opposed.

Mr. Luis made a motion, seconded by Chair Bender, to approve contingent upon verification of approval by the homeowner's association. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – yes; Mr. Luis – yes; Mr. Stevens – no; Ms. Turin – yes. **(Motion carried 4-1)**

4.4 V 12-1-05, Lallouz, 3495 Meadowbrook Way (AG)

Soloman Lallouz, the petitioner, was present. Mr. Abramson read the planning report.

Ms. Turin asked why the petitioner was going beyond the setback when the addition could be done within the required perimeter.

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Mr. Lallouz responded that subsequent to the home being built, the setbacks were changed to 35-foot side setbacks. In order for the addition to be consistent with the existing home, it should be built at a 30-foot setback. He stated that having a pool, he could not get the dimensions he wanted for the addition.

Other scenarios were discussed and Mr. Lallouz explained his reasons for not selecting those alternatives.

Vice-Chair McLaughlin understood that through no fault of the homeowner, the setbacks had been changed. His contention, however, was that the addition, if it were to pass, would create a very long wall with no undulation and no planned landscaping. Vice-Chair McLaughlin asked if there had been any homeowner's application for landscaping. Mr. Lallouz said he was approved for coconut trees along the sides and there was an existing hedge. Vice-Chair McLaughlin indicated that he would like to see a landscape plan for the addition out of consideration for the neighbors not having to look at a 120-foot long wall.

Ms. Turin expressed that based on her reading of the staff report, she did not see where this request fell within the requirements for a variance. She was concerned that there was no hardship and the addition could be done without the need of a variance. Ms. Turin indicated that she was reluctant to give a variance unless there was a basis for it.

Chair Bender stated that this request appeared to be too excessive and that variance requests from this development were all too frequent. He believed that a 1,500 square-foot addition was huge, that there was no hardship as it could be designed within the conformity of the lot, and that the variance requests from Long Lake Ranches would just be never ending.

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

Discussion continued among Boardmembers. It was established that when the house was built there was a 25-foot side setback; that the house was built with a 30-foot setback; and that later, the Town changed the Code to a 35-foot side setback. Vice-Chair McLaughlin stated even though he would like to see some undulation in the addition and a landscape plan, this was one of those instances where the Town changed the rules after the fact. He did not think that was fair.

Chair Bender noted Vice-Chair McLaughlin's point. He did not want to appear "wishy-washy" on this subject and neither did he want to make an example out of this applicant. Chair Bender considered himself liberal with variance requests; however, he cited an example of a recent approval which he regretted granting. Chair Bender stated that he would be more diligent in the future and would want to see some kind of hardship.

Mr. Luis asked if the applicant had permission from the homeowner's association and Mr. Lallouz responded affirmatively. Since there had been no objections from neighbors and this addition would not hurt the value of the homes, he believed that it would hurt no one.

Vice-Chair McLaughlin made a motion, seconded by Mr. Luis, to approve and that before it went to Council, there be some semblance of a landscape plan to be included in the package and to get together with Mr. Abramson to give some idea of the landscaping to be placed around this project. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – yes; Mr. Luis – yes; Mr. Stevens – no; Ms. Turin – no. **(Motion carried 3-2)**

5. OLD BUSINESS

There was no old business discussed.

6. NEW BUSINESS

There was no new business discussed.

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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 was adjourned at 9:25 p.m.

Date Approved: _____

Chair/Board Member