

**PLANNING AND ZONING BOARD
FEBRUARY 14, 2007**

1. ROLL CALL

The meeting was called to order at 7:05 p.m. Board members present were Vice-Chair Scott McLaughlin, Philip Busey and Mimi Turin. Also present were Attorney Julie Klahr, Planning and Zoning Manager Bruce Dell, Planners David Abramson and Lise Bazinet, and Board Secretary Janet Gale recording the meeting. Chair Bender and John Stevens were absent.

2. APPROVAL OF MINUTES: December 13, 2006
January 10, 2007

Vice-Chair McLaughlin asked if there was a motion for approval for the minutes of December 13, 2006. Ms. Turin so moved, seconded by Mr. Busey. In a voice vote, with Chair Bender and Mr. Stevens being absent, all voted in favor. **(Motion carried 3-0)**

Vice-Chair McLaughlin asked if there was a motion for approval for the minutes of January 10, 2007. Ms. Turin so moved, seconded by Mr. Busey. Vice-Chair McLaughlin asked that the last sentence on page three be checked by Ms. Gale as he did not believe his remarks were transcribed accurately. Ms. Gale agreed to listen to the tape and would make the appropriate correction. In a voice vote, with Chair Bender and Mr. Stevens being absent, all voted in favor. **(Motion carried 3-0)**

3. PLATS

3.1 P 6-2-04, Davie Estates, vacant land at SW 58 Avenue and SW 61 Avenue between Stirling Road and Griffin Road (R-1) **(tabled from January 24, 2007)**

Gary Bloom, representing the petitioner, was present. Mr. Abramson summarized the planning report.

Mr. Bloom concurred with the planning report. He advised that two public participation hearings had been held concerning the development and the reviews were favorable. Mr. Bloom explained that there was some concern about having a second access off SW 58th Avenue; however, both the Fire Chief and Town Engineer remained adamant that the two accesses remain open. He advised that the developer had no objections to closing one of the entrances should it be desired. Mr. Bloom pointed out some of the features of the plat and indicated the improvements that were to be made to the site as well as the roadways.

As the petitioner had gone through the Site Plan Committee process, Board members asked to see the site plan. Mr. Bloom answered questions which the Board posed regarding rights-of-way, turning radius, traffic circles and road repairs to SW 58th and 61st Avenues.

Vice-Chair McLaughlin recognized that Ms. Stenzel-Nowicki requested to address the Board on this item.

Karen Stenzel-Nowicki, 5480 SW 55 Avenue, asked that copies of certain information be submitted for the record. The documents represented letters written to and from the Florida Department of Transportation (FDOT), Broward County's Department of Transportation, a newspaper article on the fatality which occurred on 58th Avenue at the Stirling Road, and an article regarding the residents' request for the installation of traffic lights. She believed that placing guard rails along 58th Avenue or maintaining an old "muck" road was not going to resolve their traffic issues. Ms. Stenzel-Nowicki also provided copies of photographs which showed the flooding issue. She, therefore, emphasized that the community had very serious concerns with there being another access onto 58th Avenue, most of which pertained to safety. Ms. Stenzel-Nowicki advised of the recommendations made by the Site Plan Committee and asked that the Board consider the aforementioned issues in its determination.

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Vice-Chair McLaughlin thanked Ms. Stenzel-Nowicki for her input and he explained what was to be considered by the Board in determining the plat application.

Mr. Bloom responded to Ms. Stenzel-Nowicki's comments with regard to the portion of SW 58th Avenue which fronted the plat. He also believed that 19 single-family homes would not have a significant traffic impact.

Mr. Busey made a motion, seconded by Ms. Turin, to approve with the stipulation that there be an emergency only access off SW 58th Avenue. In a voice vote, with Chair Bender and Mr. Stevens being absent, all voted in favor. **(Motion carried 3-0)**

3.2 P 3-2-06, Stonebridge Estates (aka) Oak Park Estates, 5021 SW 51 Street (AG, Agriculture District)

Ms. Turin made a motion, seconded by Vice-Chair McLaughlin, to address items 3.2 and 4.1 simultaneously. There were no objections. **(Motion carried 3-0)**

Michael Woodman, Rhon Jones and Eric Grainger, representing the petitioner, were present. Ms. Klahr asked the petitioner if they had any objections to addressing both items together. Mr. Woodman indicated that they had no objections. Mr. Abramson read the planning reports.

Mr. Busey asked what was involved in the Rural Lifestyle Initiative and Mr. Abramson explained some of the details.

Vice-Chair McLaughlin asked if the 100-foot scenic corridor was supposed to be "clear" of any easements and/or reservations. Mr. Abramson responded that in order to remain consistent with other properties along the west side of Flamingo Road, the 100-foot setback started from the right-of-way of Flamingo Road; however, roads, canals and trails were permitted to be within the buffer. He also asked that Mr. Abramson clarify the 40-foot public roadway and Mr. Abramson explained that according to the Rural Lifestyle Initiative, a development of less than 20 houses was eligible for a road width reduction.

Mr. Busey asked if the Fire Department had any objections to the one ingress/egress. Mr. Abramson advised that all the agencies of the Development Review Committee had approved the application and there were only a few staff recommendations.

Vice-Chair McLaughlin asked about closing off SW 26th Street. Mr. Dell explained the situation and that the Town would grant a private access easement across the trail and open space. Mr. Abramson interjected that the Town was in the process of receiving an opinion from the Town Attorney to see if they were allowed to proceed with that plan.

Mr. Woodman explained the issue of access and the steps that had been taken in order to assure that SW 26th Street would not be a "thru" street. He concurred with staff's recommendations.

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

Don Friedewald, 12911 SW 26 Street, represented the homeowners on SW 26th Street. He believed it would be premature to vote on a plat prior to having an opinion from the Town Attorney regarding private access on vacated public property. Mr. Friedewald did not object to the development as it would be a fine addition to the community; however, he believed it was vital that SW 26th Street remain vacated, dedicated property in perpetuity for public use and not be used privately.

As there were no other speakers, Vice-Chair McLaughlin closed the public hearing.

Mr. Jones provided historical information on how the proposed access evolved and advised that FDOT would not allow any access to the site other than Flamingo Road and SW 26 Street.

Mr. Busey was concerned about setting a precedent with a minimal amount of Board members present.

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Vice-Chair McLaughlin advised that the State could do what it wanted regarding the access since Flamingo Road was a State road. He felt certain that the Town Council did not vacate the property with the intent of putting more traffic on the western portion of SW 26th Street. Ultimately the Town should not have vacated that portion of access to Flamingo Road since FDOT was the controlling entity of Flamingo Road. Vice-Chair McLaughlin believed that the Town would protect the rest of SW 26th Street beyond the first 100 feet that was being used for access; however, he would like to hear the legal opinion and get some more input on it.

Mr. Dell assured that the access easement, if granted, would be strictly limited to the amount of space needed to get in and out of the subject property. He advised of the precautions which had been recommended by the Site Plan Committee to assure the integrity of the horse trail.

Mr. Jones explained that although the Town had vacated those portions of SW 26 Street, the County has not yet done so. He was told that the State would cooperate with the developer in its efforts with the County's vacation of right-of-way if the ingress/egress easement was secured jointly for the developer and for the property owner to the north of the proposed location. Mr. Jones would be willing to move forward with the vacation by the County in order to eliminate any doubt that there would ever be any access going through SW 26th Street in the future. He was reluctant to move forward, however, because without that short easement off Flamingo Road, they would have no alternative but to use the western end of SW 26th Street for access and that was not desirable.

Mr. Busey was reluctant to move forward on this unless the Board could remain neutral on the ingress/egress issue. Vice-Chair McLaughlin responded that as an advisory board making a recommendation to Council, he would consider the plat as a whole to be a good item since it met all the Code requirements as well as the Rural Lifestyle Initiative. Insofar as the access issue was concerned, Vice-Chair McLaughlin believed that was a legal problem. He suggested that in the motion, there could be a stipulation to make Council aware that there was a dedication issue.

Mr. Dell believed that staff would have that legal opinion before it went to Council. He also advised that the access area in question was outside the plat area.

Ms. Turin believed that the item should be moved forward and that by the time it went before Council, it would have the benefit of a legal opinion on the only issue in dispute.

Mr. Busey asked that it be in the record that the Board discussed the SW 26th Street issue and realized that it had not been resolved nor was the Board making a ruling on the issue.

Mr. Busey made a motion, seconded by Ms. Turin, to approve the plat subject to the understanding that the Board was not making a judgment on the appropriateness of the SW 26th Street access. In a roll call vote, the vote was as follows: Chair Bender – absent; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – absent; Ms. Turin – yes. **(Motion carried 3-0)**

4. PUBLIC HEARING

Rezoning

4.1 ZB 11-1-05, Rhon Ernest-Jones Consulting Engineers, Inc/Nichols Associates, Ltd, southwest corner of Flamingo Road and SW 26 Street (from AG, Agriculture District to R-1, Estates Dwelling District)

This item was discussed simultaneously with item 3.2.

Mr. Busey made a motion, seconded by Ms. Turin, to approve. In a roll call vote, the vote was as follows: Chair Bender – absent; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – absent; Ms. Turin – yes. **(Motion carried 3-0)**

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4.2 ZB 11-1-06, MacDonald/MacDonald, 5410 SW 41 Street (from R-3 to R-5)

Charles MacDonald, the petitioner, was present. Ms. Bazinet read the planning report.

Mr. Busey stated that according to his calculations, the size of the property showed that there should be a little more than three units, but not four on that site. Ms. Bazinet explained that the property had two corners and to determine the R-5 density, half the distance of the road was included in the calculations. Referring to a zoning map, Mr. Busey asked if the existing R-5 zoning was contiguous or touching the subject property. Ms. Bazinet responded that it was not.

Mr. MacDonald provided a presentation to better explain his intentions for the use of the property and the need for the rezoning request. He advised that across the street to the north and also to the west, the properties were divided in the same manner as he was requesting and that it would bring uniformity to the area.

Ms. Turin asked that Mr. MacDonald confirm that his plan was to offer Town employees the first opportunity to purchase the proposed houses. Mr. MacDonald responded affirmatively and spoke of a newly hired police officer who would have to live outside the Town since he could not afford housing here. His intention was to have those units be "attainable" for public employees. When asked about the proposed price range, Mr. MacDonald responded that they would be under \$280,000.

Mr. Busey asked if there was any form of discrimination in offering property to a certain class of people. Mr. MacDonald understood that as a homeowner there would be no problem; however, as he got closer to completion, he would have to find out for sure.

Vice-Chair McLaughlin asked if anyone wished to speak for or against this item.

Conrad Barton, 3940 SW 54 Avenue, was opposed because the Little Ranches subdivision was made up of large lots and low density and that was why he bought his house there. His concerns were that there would not be adequate drainage and parking because of the required elevation and setbacks.

John Brisebois, 4310 SW 53 Avenue, was opposed because most of the lots to the south and east were quarter and half-acre lots and it should remain that way.

Howard Messner, 5490 SW 42 Street, bought in the location because of the low density and was, therefore, opposed. He believed that since there were a lot of half-acre lots in that location, he asked what would happen if everyone were to divide their lots into four pieces. Mr. Messner was concerned with the percolation capacity if four lots were built on a half-acre.

Doug Neuhaus, 4271 SW 54 Avenue, was opposed because he believed the concept of selling to municipal employees violated the Fair Housing Act, that it was an isolated parcel not contiguous of the R-5 zoning, and it would drag down surrounding home values. He would like to know how to have the Little Ranches subdivision removed from the Regional Activity Center zoning district.

Clay Cameron, 4270 SW 54 Avenue, was opposed because he lived on a half-acre lot and when he applied for an "in-laws" quarters behind his house, he had been denied. He was told that the density would not allow it. Mr. Cameron was most concerned about the traffic problems that an increase in density would cause to roads that were already overburdened.

Wayne Bragg, 3911 SW 53 Avenue, was opposed as it would set precedence and everyone would divide their lots.

Ernest Belles, 3921 SW 53 Avenue, was opposed because of the presumption that police officers and firefighters were underpaid and needed low-cost housing.

Cory Cockreham, 4231 SW 54 Avenue, was opposed because the zoning did not fit and he wanted to keep the big lots.

Karen Meyers, 5401 SW 42 Street, was in favor of the item. She indicated that this was a unique lot due to the dimensions and accessibility on three sides of the lot. Ms. Meyers pointed out that everything to the west on 55th Avenue was zoned R-5 as well as everything to the north on 41st Street. She believed the concept was worthwhile and that there was County money to support attainable housing.

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Karen Stenzel-Nowicki, 5480 SW 55 Avenue, commented that there was cause for concern since this area became part of the Regional Activity Center as well as the Community Redevelopment District and the zoning was changed and was so very contrary to the half-acre parcels of many established residents.

Steve Rodgers, 4610 SW 56 Avenue, was opposed because he represented a “blue-collar municipal employee” who could afford his home in Davie and believed others in his work unit could do so as well. He believed that by building four houses on a half acre, there would not be enough percolation to allow for sidewalks which would become a safety issue.

Paula Twitty, 4020 SW 54 Avenue, was opposed because it would create more traffic and because the EDSA consultants for the Regional Activity Center had indicated to her that the rezoning “disserved her area.”

Gloria Duncanson, 3941 SW 53 Avenue, was opposed because she moved here for the open space.

Laura Doan, 4101 SW 56 Terrace, was opposed because she liked the neighborhood the way it was with children playing on the sidewalks. She indicated that the large-scale growth would be detrimental to the neighborhood.

Thomas Mayors, 4111 SW 54 Avenue, was opposed to R-5 zoning anywhere in the Little Ranches neighborhood. Since he lived directly behind the subject property and the new required building floor height was 11-feet above sea level and his house was built at 8.3-feet above sea level, his concern was where the drainage from Mr. MacDonald’s property was expected to go. He repeated all the previously mentioned objections and believed that the rural lifestyle was being taken away.

Don Kessler, 4141 SW 53 Avenue, was opposed for all the previously mentioned reasons.

Lance Comegys, 3910 SW 54 Avenue, was opposed and commented that the Rural Lifestyle Initiative was a total contradiction to four units per half-acre. He was concerned that the congestion and traffic would impact the safety of his children. Mr. Comegys advised that at several meetings, Mr. MacDonald was not specific about the price of the units. He wanted to welcome Mr. MacDonald into the neighborhood, but not under these circumstances.

Steve Armentrout, 5499 SW 40 Street, was opposed for many of the previously mentioned reasons and added that from what he had observed, parking was problematic in the R-5 zoning areas.

Constance Gregg, 4191 SW 53 Avenue, was opposed.

Don Shaver, 4051 SW 53 Avenue, was opposed because it would destroy the rural lifestyle. He commented that Councilmember Caletka was not in favor of this item.

Joe Gegg, 5320 SW 42 Street, was opposed for previously mentioned reasons and he believed that a 1,600 square-foot home could not be built for under \$280,000.

Patty Mayors, 4111 SW 54 Avenue, submitted a petition signed by 154 neighbors who were opposed to the rezoning. She commented that after numerous meetings with the petitioner, there were many questions to which there had been no response and she would like answers to those questions.

Cindy Squires, 4120 SW 56 Terrace, was opposed because of overcrowding. She lived in the R-5 zoning area and indicated that there were three homes for sale and that two firemen and one police officer lived on her block because housing prices were attainable.

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

Vice-Chair McLaughlin and Mr. Busey made disclosures.

Mr. MacDonald responded that there was plenty of room to build four 1,600 square-foot houses on that site. He clarified that it was not affordable housing, it was attainable housing. Mr. MacDonald did not mean to imply that teachers, police officers and firefighters did not make enough money, only that when they were just starting out, homes like he planned to build were usually out of their reach. He disputed the requirement for an 11-foot floor elevation and explained that his present home was approximately ten inches below the level which FEMA required and that was why he intended to rebuild.

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Mr. MacDonald reiterated that he was not intending to build townhouses and what he had proposed would match what was across the street and what was on the west and south end of the block.

Ms. Turin asked if staff had researched whether or not the septic system would work. Ms. Bazinet explained that this was a preliminary procedure with no site plan submitted at this point.

Vice-Chair McLaughlin commented that Mr. MacDonald had no control over the water and sewer systems as it was a function of the Town. He added that the Regional Activity Center was brought in a few years ago to stimulate growth and although a request could be made for up to 22 units-per-acre, it did not mean that it would be granted.

Vice-Chair McLaughlin pointed out on the rezoning map that there was a clear line of demarcation between the R-5 and the R-3 and he believed it should be upheld. The other site issues regarding drainage and site calculations for engineering would be dealt with when the application went through the Development Review Committee. He believed that there were other issues other than dividing land and providing affordable or attainable housing. Vice-Chair McLaughlin did not see this project as attainable and that the calculations which were used for affordable or attainable actually worked. He believed that there was a lot at risk for this project and that a lot of issues needed to be addressed. Vice-Chair McLaughlin, therefore, was not in favor of it.

Ms. Turin commented that she heard someone give testimony that a resident had tried to get a variance for in-law's quarters and they had been denied because of density. She was aware that this Board had denied such requests in the past. Now that a request was being made to increase density that was not for a family reason but rather a commercial reason, she had a problem with it. Although Ms. Turin appreciated that the goal was to provide attainable housing for the entry level job force, making tiny houses on tiny lots was not the way to do it.

Mr. Busey made a motion, seconded by Ms. Turin, to deny. In a roll call vote, the vote was as follows: Chair Bender – absent; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – absent; Ms. Turin – yes. **(Motion carried 3-0)**

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 was adjourned at 9:36 p.m.

Date Approved: _____

Chair/Board Member