

PLANNING AND ZONING BOARD
APRIL 11, 2007

1. ROLL CALL

The meeting was called to order at 7:00 p.m. Board members present were Chair Mike Bender, Vice-Chair Scott McLaughlin, Philip Busey, John Stevens and Mimi Turin. Also present were Attorney DJ Doody, Acting Planning and Zoning Manager Marcie Nolan, Acting Deputy Planning and Zoning Manager David Abramson, Planner Ingrid Allen, and Board Secretary Janet Gale recording the meeting.

2. APPROVAL OF MINUTES: February 14, 2007
March 14, 2007

Mr. Stevens made a motion, seconded by Vice-Chair McLaughlin, to approve the minutes of February 14, 2007. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Mr. Stevens made a motion, seconded by Ms. Turin, to approve the minutes of March 14, 2007. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Chair Bender asked for a motion to move up item 5, Old Business, in order for Ms. Gale to read something into the record.

Mr. Stevens so moved, seconded by Vice-Chair McLaughlin. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Ms. Gale read into the record the completed Form 8B Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers by Vice-Chair McLaughlin for his abstention of a vote taken at the March 14, 2007, meeting.

Chair Bender advised that it had been clarified that a Board member may participate in the discussion of the item from which he or she plans to abstain.

Chair Bender advised that he had received a request to move up item 4.3 as the petitioner had to leave for another appointment.

Vice-Chair McLaughlin so moved, seconded by Mr. Stevens. In a voice vote, all voted in favor. **(Motion carried 5-0)**

4.3 V 11-2-06, Pico, 15031 Brighton Lane (County PUD)

George Pico, the petitioner, was present. Mr. Abramson read the planning report.

Mr. Pico explained that he intended to install a dock in his back yard which he hoped would prevent further erosion of his property into the lake. The variance was for the side setback and for the dock to protrude an additional five-foot onto the lake. He provided photos of the lake bank which had encountered a "wash-out," which removed approximately five-feet of his property.

Ms. Turin asked Mr. Pico about sand replacement for the lake bank and if the dock was a temporary measure or a permanent installation. Mr. Pico responded that it was a permanent measure to recoup property, protect his land value, and hopefully prevent further erosion. He explained that there were other alternatives that had been considered and this one proved to be the most practical. Mr. Pico detailed the construction method involved for installing the dock and why he believed it would resolve the problem.

A lengthy discussion ensued in which Mr. Pico answered questions posed by the Board members.

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

Vice-Chair McLaughlin believed that the lake maintenance easements were created for the purpose of maintaining the lake and that it was the homeowners' association's responsibility to maintain the lake. His concern was that if the PUD was looked into, they would probably find that the lake maintenance easement was not supposed to have any structures built within it.

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Vice-Chair McLaughlin expressed that he would have a problem with granting a variance to the Code based upon a PUD that had a lake maintenance easement to a lake that had not been maintained. The maintenance of the lake was a safety issue and it needed to be filled before building a dock, and, in fact, a dock may not be necessary at that point because a deck could be built instead. He had no problem with the side setback as long as the neighbors had no problem with it.

Although Ms. Turin agreed with Vice-Chair McLaughlin, her difficulty was more “theoretical.” She believed this was “masking” a problem and that it was a short term, quick remedy to a situation that may worsen over the years.

Chair Bender asked if staff had looked into who was liable for this. Mr. Abramson understood that the petitioner had received approval from the Water District and the homeowners’ association okayed the project. He advised that the Town was not responsible for enforcing the homeowners’ associations’ documents and could only approve what was permitted per Town Code.

Mr. Busey shared the concern that if the homeowners’ association had some documentation that it was suppose to follow, and if they were not following it, it still was a public safety issue. He could support the request as long as it was clarified that it did not solve the overall problem. Mr. Busey wondered if eventually the lake maintenance was necessary to fix the overall problem, what would they do about this dock.

Mr. Pico advised that the lake was owned by the South Florida Drainage District and that the District was responsible for maintaining the lake as he had met with the District and they declared their responsibility.

Mr. Stevens agreed that this request was masking the problem

Vice-Chair McLaughlin asserted that a full set of plans needed to be made by a marine engineer/designer to be submitted to the Town Engineer along with a full cross section of the lake and a topographical survey of the bank and that the slope should be maintained at six-to-one or four-to one indefinitely as a public safety issue. His concern was that if it was not properly maintained and a lawsuit were to be filed following an accident, those who were responsible would lose.

Mr. Busey asked if it were appropriate to have engineering information prior to deciding on the variance. Vice-Chair McLaughlin responded that he did not believe it was this Board’s charge and that while the Board may be concerned with the engineering, it was to apply the planning and zoning rules based on the Code. Mr. Busey felt that since this proposal was to deal with an engineering problem which precipitated this request, it needed to be considered. Chair Bender interjected that whatever this Board decided regarding the variance request, it would ultimately be up to the Engineering Department to judge whether or not it could be done.

Mr. Stevens agreed that this should be judged on whether or not they met the requirements for a variance.

Mr. Stevens made a motion, seconded by Chair Bender, to approve subject to compliance with all of staff’s comments including the engineering requirements of obtaining a marine engineer that would provide marine engineering plans to the Town for approval. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – yes; Ms. Turin – no. **(Motion carried 4-1)**

3. PLATS

3.1 P 11-1-05, M & U Properties Plat, 8280 Griffin Road (B-2)

Vice-Chair McLaughlin recused himself from the Board as he was representing the applicant on this item. He advised that he would abstain from voting. Ms. Allen summarized the planning report.

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Mr. McLaughlin concurred with the planning report and provided a revised survey and a site plan for a better understanding of the application.

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

3.2 P 6-3-06, Rountree Plat, 4561, 4575, 4595 Oakes Road and 3520, 3540 Burriss Road (M-3, Hacienda Village)

Linda Strutt, representing the petitioner, was present. Mr. Abramson asked that the rezoning item 4.2, be heard simultaneously. Chair Bender asked the petitioner if she had any objections. Ms. Strutt indicated that she had no objections. Mr. Abramson summarized both planning reports.

Mr. Busey asked which of the uses would be removed with the rezoning classification. Ms. Nolan listed some of the heavy-duty, more industrial uses that would be prohibited. Mr. Abramson pointed out that by rezoning, the Town would have more control over the allowed uses and that there would be different setback restrictions. Ms. Nolan listed the allowed uses for the Town's M-3 zoning category.

Mr. Busey asked how the rezoning would impact the Transit Oriented Corridor which was planned for State Road 441. Ms. Nolan explained that the petitioner had been working with staff to make the parcel more consistent with the redevelopment efforts. She indicated that the uses would not be an issue, it would be the "form" that would be an issue.

Ms. Strutt provided a brief presentation and explained that the primary reason for the rezoning request was that two tenants wanted to expand their businesses. She advised that they would be maintaining the two accesses to the site for the time being and that the presiding water control district had not been identified by the County at this point.

Mr. Busey asked if the petitioner would accept a less intensive zoning than M-3. Ms. Strutt responded that she had been advised by staff that the M-3 was the most equivalent for the existing uses on the site. The two tenants who were interested in expanding had dry storage businesses.

Vice-Chair McLaughlin declared that he would abstain from voting on this item as he did the survey on this plat.

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

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

Mr. Stevens made a motion, seconded by Ms. Turin, to approve ZB 6-1-06. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – abstained; Mr. Busey – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 4-0)**

4. PUBLIC HEARING

Rezoning

4.1 ZB 1-2-06, Brennand, 12700 SW 14 Place (from MH-1 to R-1)

William Harper, representing the petitioner, was present. Ms. Allen summarized the planning report.

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Vice-Chair McLaughlin noted that the aerial map showed the site being split in half and asked if there was any particular reason for that demarcation. Ms. Allen advised that the petitioner had submitted a Unity of Title to the Development Review Committee for the subject property. Mr. Busey confirmed that the Broward County Property Appraiser's Office had the site as one parcel.

Mr. Busey asked for an explanation of "isolated zoning district" and staff described the criteria used to determine an isolated zoning district from a planning perspective.

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

Richard Torres, 12860 SW 15 Street, had no objection to the project; however, he was interested in what would happen if he wanted to build a home on his half-acre property which could ultimately be surrounded by homes on one acre sites. Staff advised him that since his property had an "underlying land use density" when it was annexed by the Town, there was a provision in the Code to allow that zoning density to continue.

Glenn Kessler, 12800 SW 14 Place, was curious about the impact of property taxes on his mobile home site if this request was to be approved. He was also concerned about drainage issues should the site elevations be higher than his property.

Chair Bender explained that the property taxes would only increase on the petitioner's lot because of the addition of a home. Regarding drainage, the petitioner would have to comply with the requirement of 100% retention and that "run off" was not permitted.

Pamela Torres, 12750 SW 14 Place, asked if she would be compelled to build a home on her property. Chair Bender responded that there was no "domino effect" and it would be her choice to stay in a mobile home or build.

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

Chair Bender asked staff if the petitioner would be able to build two homes on the site. Ms. Nolan responded negatively since the petitioner had given up his vested rights with the Unity of Title.

A discussion ensued regarding the neighboring residents' concerns and Mr. Doody reminded the Board to focus on the application before them which was to judge the validity of this request.

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

4.2 ZB 6-1-06, Linda Strutt Consulting, Inc./200 Harvard Corp., 4561, 4575, 4595 Oakes Road and 3520, 3540 Burriss Road (from M-3, Hacienda Village to M-3, Planned Industrial Park)

This item was approved earlier in the meeting.

Variance

4.3 V 11-2-06, Pico, 15031 Brighton Lane (County PUD)

This item was approved earlier in the meeting.

5. OLD BUSINESS

This item was discussed earlier in the meeting.

6. NEW BUSINESS

There was no new business discussed.

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7. COMMENTS AND/OR SUGGESTIONS

Mr. Busey asked if it was possible for better drawings to be provided in the backup packets. Ms. Nolan responded that the aerials could be improved by making them in color which they would do in the future.

Mr. Stevens reiterated his concern with the “Staff Findings of Fact” portion of the planning report. Ms. Nolan indicated that it could be changed to read, “Staff Analysis of the Criteria Used to Determine” a variance or rezoning, or whatever issue they were determining. Ms. Turin agreed with the term “Analysis.”

Mr. Busey asked what procedure should be followed when an applicant had not complied with the recommendations made by the Board. Chair Bender asked whether or not the item had gone before Town Council, and if it had not, Mr. Busey could attend the Council meeting and address the issue when it was heard. Mr. Doody concurred with Chair Bender in that once the matter left the Board in the form of a recommendation, the best recourse would be through staff and then appearing before the Council to exercise his right to speak to the issue. Chair Bender stated that he had followed that procedure on a few occasions.

8. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 8:33 p.m.

Date Approved: _____

Chair/Board Member