

PLANNING AND ZONING BOARD

JUNE 27, 2007

1. ROLL CALL

The meeting was called to order at 7:04 p.m. Board members present were Chair Mike Bender, Vice-Chair John Stevens, Philip Busey, Dan Pignato and Mimi Turin. Also present were Town Attorney James Cherof, Acting Planning and Zoning Manager Marcie Nolan, Acting Deputy Planning and Zoning Manager David Abramson, Planner Lise Bazinet, and Board Secretary Janet Gale recording the meeting.

2. APPROVAL OF MINUTES: June 13, 2007

Vice-Chair Stevens made a motion, seconded by Mr. Busey, to approve the minutes of June 13, 2007. In a voice vote, all voted in favor. **(Motion carried 5-0)**

3. PUBLIC HEARING

Rezoning

3.1 ZB 7-1-06, Miller Legg and Associates/Easy Home of Davie, LLC, 5655 SW 64 Avenue (from A-1 to RO)

Ms. Turin, Mr. Pignato and Vice-Chair Stevens disclosed that they had received phone calls from Dennis Mele, one of the attorneys representing the petitioner. Ms. Bazinet read the planning report.

Dwayne Dickerson, Jill Cohen, Toni Fandry and Jeff Evans, representing the petitioner, were present. Mr. Dickerson provided a presentation and used graphics to clarify the request and the zoning districts surrounding the site.

Mr. Evans provided site plans which included an updated plan with adjustments that had been made in response to comments made by neighbors at the public meetings. Some of the changes were that the building had been shifted further away from the residents and closer to the corner; that a second access had been restricted to an entrance only off of SW 57 Street, thereby making the main entrance and egress on Davie Road; and the square footage of the building was reduced by 25%. He answered questions posed by Boardmembers regarding the footprint of the building and emergency access.

Mr. Dickerson reiterated that this was a rezoning request and that the plat and site plan process would take place at a future time. He emphasized that he met the criteria for the rezoning as the underlying land use was residential/office as designated for the parcels to the north, east and south of the site.

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

Jared Kullman was opposed because the building did not look residential and was inconsistent with the property to the west.

Jamie Saffran recalled that the renderings he first saw indicated that the building was three stories with the first floor being parking. He maintained that a 35-foot tall building was not two stories. Mr. Saffran was opposed because of the size of the building, traffic, and for the safety of his children.

William Clayton asked about the prospective tenants. He was opposed to the project and found it very disconcerting not to be able to see what changes had been made to the site plan.

Leila Golden was opposed because of traffic and that there were many children who rode their bicycles on that street.

Randy Holmes was concerned about traffic safety and that the building looked Mediterranean rather than the rural lifestyle look.

Marlene Chance was opposed because of the massive Mediterranean structure and feared for the safety of children on her street.

Paul Sherman was opposed for the same reasons as previously stated.

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James Sands was opposed and he agreed with what had been previously stated. He advised that he was the owner of the dentist's office abutting the north property line and he assured that this project would generate traffic based on his experience. When Mr. Sands went through the development process and was required to construct a building that looked like a house, it was successfully achieved.

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

Mr. Dickerson responded that they had tried to interact with the neighbors and were presently willing to continue addressing their concerns. He reminded everyone that the item was in the rezoning phase and that height, landscaping and any of the Code issues would come back before the Town during the platting and site plan phases. Mr. Dickerson stated that the building would meet all of the Code regulations and believed it was compatible with the surrounding area, surrounding land uses and in line with the residential/office zoning designation.

A lengthy discussion ensued regarding the appearance of the building and whether or not it resembled a residential structure. Boardmembers expressed their concerns regarding the rezoning issue and although the residential/office zoning was viewed as a good, clean transition to help with the tax base, the size of the project and possible traffic to be generated on SW 57 Street, was a major concern.

Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve the rezoning without regard to the building which he found not to be acceptable or within the Code.

Ms. Nolan advised that the conceptual site plan was part of the application and the Board's comments and concerns regarding that could be part of the motion.

Ms. Turin withdrew her second and Vice-Chair Stevens withdrew his motion.

Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve the rezoning with the following comments: that the proposed site plan which had been provided was not consistent with the residential/office land use category which required that the office be constructed and maintained to resemble a residential structure; that the proposed building was 15,000 plus square-feet which was substantially larger than any residential structure in the neighborhood; that its height greatly exceeded that of a residential structure and did not maintain that residential feel or character of the neighborhood and thereby did not provide an adequate transition from the road to the residential area as was intended under the land use category.

Mr. Busey urged the Boardmembers to vote no on the motion because he did not think it was the Board's job to redesign an office complex and he believed there was adequate time to provide a suitable plan based on the comments of the neighbors.

Vice-Chair Stevens asked if his thinking was correct in viewing the matter as a rezoning and that the proposed site plan was not necessarily the grounds to deny the rezoning if the applicant had met the Code provisions that set forth that this would be an appropriate zoning classification. Mr. Cherof responded that Vice-Chair Stevens was correct and that it was an appropriate observation.

Mr. Busey asked Mr. Cherof what the purpose was in having a conceptual site plan if that was the case. Mr. Cherof responded that the site plan was to provide a "sneak" preview of what the future may hold, but without the restriction on limitations on reviewing the request for rezoning.

In a roll call vote, the vote was as follows: Chair Bender – no, and stipulated that he had traffic concerns about SW 57 Street; Vice-Chair Stevens – yes; Mr. Busey – no, and stated that his reasons were because of concerns of appearance and traffic on Davie Road; Mr. Pignato – no; Ms. Turin – yes.
(Motion failed 2-3)

Mr. Busey made a motion, seconded by Chair Bender, to deny. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – no; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – no.
(Motion carried 3-2)

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The Board recessed at 8:32 p.m. and reconvened at 8:39 p.m.

3.2 ZB 2-1-07, DS Realty, 4802 SW 51 Street (from CF to M-2)

John Voigt, representing the petitioner, was present. Ms. Bazinet summarized the planning report.

Vice-Chair Stevens asked Mr. Cherof if it was appropriate for the Board to consider the contingencies and recommendations in the planning report in the rezoning issue. Mr. Cherof opined that it was not.

Mr. Busey had a question regarding one of the contingencies that were not supposed to be considered. He asked about the purpose of the 25-foot right-of-way. Ms. Bazinet responded that it was an existing gravel road at this point in time.

Mr. Pignato asked what type of equipment would be rented at the proposed facility. Mr. Voigt responded that it would be similar to NationsRent; however, it would be on a smaller scale of construction and yard equipment for small jobs.

Mr. Voigt further clarified the intent of the rezoning and described the surrounding area. He advised that the few residents living in the area had indicated that they had no problem with the project and actually preferred it to the current use.

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

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

4. OLD BUSINESS

Mr. Busey asked Mr. Cherof if more than one Boardmember was allowed to express their concerns on previous items at the open public meeting segment of the scheduled Town Council meetings as long as they did not discuss that item amongst themselves and that item was not on Council's agenda. Mr. Cherof advised that there was nothing in the Sunshine Law that prohibited any Boardmembers from going to the Council meeting in order to speak to the Council at that open setting.

5. NEW BUSINESS

There was no new business discussed.

6. COMMENTS AND/OR SUGGESTIONS

There were no comments and/or suggestions made.

7. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 8:55 p.m.

Date Approved: _____

Chair/Board Member