TOWN OF DAVIE
PLANNING AND ZONING BOARD
SEPTEMBER 10, 2014

1. ROLL CALL

The meeting was called to order at 6:30 p.m. Board members present were Chair Ken DeArmas, Vice Chair Todd Evans, Tom Jacob, Jodi Davidson, and Christopher Cory. Also present were Danny Stallone, Attorney; Planning and Zoning Manager David Quigley; Deputy Planning and Zoning Manager David Abramson; David Stallworth, Planner II; and Lisa Edmondson/Prototype Inc. recording the meeting.

2. MOTION TO EXCUSE BOARD MEMBERS (none)

3. APPROVAL OF MINUTES

3.1 August 13, 2014 Meeting Minutes

Motion made by Ms. Davidson, seconded by Mr. Jacob, to approve the minutes of the August 13, 2014, meeting. In a voice vote, the motion passed unanimously. (5-0)

3.2 August 27, 2014 Meeting Minutes

Motion made by Mr. Jacob, seconded by Vice Chair Evans, to approve the minutes of the August 27, 2014, meeting. In a voice vote, the motion passed unanimously. (5-0)

4. PUBLIC HEARING (QUASI-JUDICIAL)

4.1 Vacation (VA) 14-087 Danisi

4490 Southwest 74th Avenue

Applicant Rosa Danisi stated she did not wish to waive the quasi-judicial aspect of the hearing.

Mr. Stallone performed the swearing in of witnesses.

Mr. Stallworth presented the case, a request to vacate approximately 1.5 acres of Southwest 45 Street, also known as Orange Drive Right-of-Way. Staff recommends denial of the request as outlined in the staff report, pg. 2, and submitted an alternative recommendation.

Mr. Cory wondered what the main objection was. Mr. Stallworth replied it would leave no opportunity for the Town to maintain that portion of Orange Drive as standard if it were a full vacation. The local road master plan designates it as a minor collector. Mr. Cory described the properties to the east and west of the site, which do not have encumbrances. He provided a history of Orange Drive.

Mr. Quigley referred to a cross-section provided in the staff report for the roadway type, which includes bike lanes, drainage, and sidewalks. He said the right-of-way is the full 80 feet in many areas, but not in all because the right-of-way was acquired at different times. More right-of-way provides the Town with more flexibility in planning for east/west traffic in the long term. Whether the Town implements eminent domain in the future is not now known. Mr. Quigley said that the right-of-way information is available but that a map was not provided in the staff report.

In response to a question, Mr. Stallworth commented that 12 properties have the equivalent of an 8-foot encumbrance, while 10 do not.

Mr. Stallworth explained that the alternate recommendation would bring the potential standard width up to 60 feet, and would cede the remaining portion back to the petitioner.

Mr. Quigley stated there are sidewalks to the east and west of the property but there is just a hiatus in the immediate vicinity of the subject property.

Ms. Danisi, 4490 Southwest 74 Avenue, Davie, said she was seeking fairness. In order for her father to get a building permit for a house on the property, he had to satisfy the Broward County right-of-way (dedicate about one third of the property). She mentioned that Orange Drive was deleted from the Broward County Trafficways plan and signed over to the Town of Davie. She said her father was paid $10 for a quit claim deed to the land, and she is asking that her private property be returned to its rightful property line.

Ms. Danisi recalled the difficulties she encountered getting information and materials related to the right-of-way. She also pointed out that there is no room for a five-foot bike trail, as required for a minor collector.

Ms. Danisi felt she had been singled out amongst her neighbors; her father paid for the sidewalk and she has been maintaining it since 1990, including lawn service and tree trimming.

Ms. Danisi said the value of the portion now is $3,500.

Mr. Quigley said they offered an alternate recommendation because the roadway plan has changed from the Broward County Trafficways Plan to the Town's Local Road Master Plan, which provides for a minimum of 60-foot right-of-way. Mr. Stallworth stated that the width of the right-of-way on Ms. Danisi's property varies from 20 to 23 feet. He added the neighboring properties (to the immediate east and west) do not have that type of encumbrance, but extend to the edge of the pavement.

In response to a question, Ms. Danisi explained that fairness means having her original property line, as her neighbors do. Chair DeArmas conjectured that her father's property was established earlier than the neighbors so they would not have been subject to the trigger point of improvement.

Ms. Danisi stated she had driven around her neighborhood and did see improvements that had been made, with no restrictions applied.

Mr. Cory verified that Ms. Danisi maintains the entire property up to edge of the roadway. Mr. Quigley said dedicated land, such as the right-of-way, is held in trust by the public; the landowners are required to maintain the swale portion up to the pavement, but are not required to maintain the sidewalk or be responsible for falls on the sidewalk.

Mr. Jacob was curious about the setback; Mr. Quigley stated that the setback would be from the property line. A discussion ensued about the location of the setback line.

Chair DeArmas then opened and closed the meeting to public comment as there was no one wishing to speak on this item.

Mr. Jacob, Mr. Cory, and Vice Chair Evans all agreed they needed more information, perhaps including a map of the current right-of-ways along the area.

Ms. Davidson wondered what the risk would be in letting Ms. Danisi have the right-of-way, but deed-restricting it. Mr. Quigley reiterated that the current plan calls for a 60-foot right-of-way minimum - anything less might preclude a bike lane, sidewalk, etc., in the future. He also pointed out that the property along the canal bank is not Town property, but belongs to South Florida Water Management District. There is a path there, but that is not guaranteed to be long term.

Ms. Davidson pointed out the Town would have to deal with the neighbors if they decided to put in a bike path. Mr. Quigley said it would be harder to get the right-of-way back if they give it up now. He added that they could dedicate just past the sidewalk toward the Danisi property and still achieve a 60-foot right-of-way just past the sidewalk (dedicate 20 feet of the existing right-of-way).

Regarding deed restriction, Mr. Quigley explained that right now the property portion is dedicated to the Town for future roadway purposes. If any part of that is vacated, it makes it that much harder to complete improvements in the future. The Town would either have to do eminent domain on the adjacent properties or seek to purchase those portions of the properties. Chair DeArmas said that 80 feet of right-of-way would go right into the roof line of the house to the west.

Ms. Danisi discussed the difficulties brought about by the situation.

Motion made by Mr. Jacob, seconded by Mr. Cory, to table the matter to October 8, 2014, until they get further information that they had requested regarding the right-of-ways between University and Davie Road. In a vote by roll call, the motion passed unanimously **(5-0)**.

4.2 Land Use (LA) 14-091 Divina Villas of Davie
5800 Davie Road

Mr. Abramson presented the case, noting it is to amend the land use designation from "Residential/Office and Special Classification Residential 2 DU/Acre" to "Residential 10 DU/Acre" on both the Town and County Comprehensive Plans.

Applicant Gus Khavanin, 13420 Southwest 36 Court, Davie, waived the quasi-judicial process. Mr. Khavanin stated that under the current designation, he can build up to 11,000 square feet of office space with residential at the top of it. He wants to change to all residential. He stated the change would help the traffic: traffic based on residential would be less than one-half of traffic generated by commercial/residential. Mr. Khavanin said there would be more open space and said it would enhance the neighborhood and the corridor.

Mr. Jacob wondered if it is in the Transit Oriented Corridor, and Mr. Abramson there is transit on Davie Road but this property is not within the Regional Activity Center, where there is a transit-oriented street. The subject corridor's land use is for both residential and office and a combination of both. The Regional Activity Center goes about a quarter mile south of River Road.

Mr. Cory asked what was to the east of the parcel, and Mr. Khavanin replied it is R-2; they would have access from Southwest 61 Avenue. The small area immediately to the east is part of the drainage retention area for the gated community.

Chair DeArmas then opened the meeting to public comment.

Robert DiAntonio, 6130 58 Court, Davie, commented that the office buildings on Southwest 64 Avenue (4780, 4800, and 4175) are nice, and he does not see any traffic generated from them. However, his major concern is that these two acres will have a domino effect on the adjacent acres (the 10 acres down Southwest 64 Avenue).

Hale Camerman, 6220 Southwest 47 Place, Davie, expressed concern that people living in the townhomes would walk through the area he lives in. He would prefer to see single-family homes on ½ acre or ¼ acre plots.

Michael Paesani, 6410 Southwest 57 Street, Davie, stated he represents the people living on 57 Street and noted they are all opposed to the development. He cited the existing zoning in the area, and thought the increased density on this project would cause a domino effect since surrounding acreage is owned by the same family. He did not want to see the rural ambience of Davie disappear.

Judy Paesani, 6410 Southwest 57 Street, Davie, also spoke in opposition to the project, citing her desire to keep Davie the way it is.

Chair DeArmas then closed the meeting to public comment.

Chair DeArmas spoke about the growth in Davie, its consequences, and the role of the public in the process.

Mr. Khavanin commented that traffic on Davie Road, according to Broward County Metropolitan is rated "B," next to the best. He predicted it would stay "B." Regarding the property on the north side, Mr. Khavanin mentioned that three acres of that property is R2, not RO.

Mr. Cory thought the project was "excessive" and leaned toward keeping it like it is.

Mr. Jacob liked the project considering its convenient location for residents (close to Stirling Road) and thought it would have a minimal impact.

Ms. Davidson said she would not support it, because she lives in the area and does not want any development over an acre coming in.

Vice Chair Evans echoed Ms. Davidson's opinion, saying he would like to see "10 horses per acre" in the area.

Motion made by Vice Chair Evans, seconded by Mr. Cory, to deny. In a roll call vote, the vote was as follows: Chair DeArmas - yes; Vice Chair Evans - yes; Mr. Jacob - no; Mr. Cory - yes; Ms. Davidson - yes. **(Motion carried 4-1)**

4.3 Special Permit (SE) 14-181 Zachry Industrial
Generally located on the east side of David Road, north of Oakes Road

Mr. Stallone verified that the applicant waived the quasi-judicial aspect.

Mr. Abramson announced that he handed out a revised site plan, which he had just received. Mr. Abramson presented the case, stating it is for a Special Use Permit, which is scheduled for Town Council on October 1, 2014. The applicant requests a continuation of a construction yard related to the new Florida Power and Light Energy Center at Port Everglades. No objections were noted by the Town's Development and Review Committee.

Mr. Abramson explained that the Fire Department asked that the tents be removed and containers be added to store the equipment – that is the difference between the site plan just distributed and the one in the backup material. The applicant has agreed to do that.

Billy Rothson, 1900 Bush Boulevard, Pompano Beach, with Zachry Industrial, stated that this particular piece of property was the only one they could find that had the needed amount of acreage.

Mr. Quigley said they worked carefully with the applicant to stave off problems, such as screening off certain areas, operating hours, etc. Another requirement was to put a sign up with a phone number to call if there is an issue. No crossing guard is needed.

Chair DeArmas then opened and closed the meeting to public comment as there was no one wishing to speak on this item.

Motion made by Ms. Davidson, seconded by Vice Chair Evans, to approve. In a roll call vote, the vote was as follows: Chair DeArmas - yes; Vice Chair Evans - yes; Mr. Jacob - yes; Mr. Cory - yes; Ms. Davidson - yes. **(Motion carried 5-0)**

4.4 Special Permit (SE) 14-190 Teen Challenge
13601 Southwest 26 Street

Mr. Stallone verified that the applicant waived the quasi-judicial aspect.

Mr. Abramson presented the staff report. He stated it is a Special Use request scheduled for Town Council consideration on October 1, 2014. The applicant wishes to allow additions to

existing ancillary structures, thus exceeding the size of the principal structure on the property. Mr. Abramson provided background and history of the property.

Mr. Cory asked about a 1999 lawsuit against the Town. Mr. Abramson explained the lawsuit was regarding the use of the property as a special residential facility, and said particulars are in the backup material.

Mr. Abramson clarified that the current request is not necessarily to increase what they are entitled to, based on the 1999 judgment (the number of residents at that location). It is for the expansion of the ancillary structures. He said they would meet the permeable area for that zoning district; what they are exceeding is the square footage of the ancillary structures.

Tom Truex, representing Teen Challenge, introduced Executive Director Rick Fernandez, Donna Fernandez (wife), and Christin Gonzalez, senior staff member. Mr. Truex said the property is two acres, not one. He provided a background of Teen Challenge – an interdenominational organization serving women only (typically older than teenagers) at this location. The residents are there voluntarily and typically have substance abuse issues or other serious problems. The residents become involved in community outreach. He said there have been no adverse police reports for the last three years.

Mr. Truex emphasized the things the group is not asking for:

- any change in use
- any change for number of residents
- any change in the intensity of the use

Mr. Truex detailed the request, noting they want to add recreational space, a building overhang, and a building expansion.

Mr. Truex presented four petitions to Mr. Stallone regarding support for the project.

Mr. Truex reviewed the solutions (included in the backup) to problems raised at the public participation meetings, including leaf blowers, exterior lighting, parking, visitors, and counseling. He mentioned that the counseling onsite is for residents. On occasion, someone will call and request counseling, which is usually accommodated on a one-time basis, and the person is then referred elsewhere.

Mr. Truex continued that they want the expansion because they need additional space for counseling, a study hall, office space, and a classroom.

Mr. Cory wondered if the aerial view of the pavilion would change except for the 30x17 foot addition on the side. Mr. Truex said the major part of the project would be enclosing what is already there, but there is also an extension. Mr. Cory asked about the building on the southwest corner of the property, and Mr. Truex responded that was built five years ago.

Chair DeArmas opened the meeting to public comment on the item.

Marilyn Steele, 14450 Southwest 21 Street, spoke in opposition to the project, citing the expansion as a problem to her. She felt it was “big enough.”

Charlie Capps, 13570 Southwest 26 Street, opposed the expansion, even though he supports Teen Challenge. He stated that they originally had promised “no dormitory,” but now there is a dormitory; it no longer resembles a residential feel.

Karen Tucker, 13400 Southwest 26 Street, objected to the expansion, citing the project would not reflect the open space of Davie/Oak Hill. She asked about the exact acreage, and was informed that the tax rolls reflect 1.57 acres.

Elizabeth Prior, 13651 Southwest 26 Street, opposed the expansion, stating she does not wish any further expansion due to the rural lifestyle she enjoys, added presence of parked cars,

and workers on her property with no advance notice. She said that Teen Challenge has changed their plans too many times, and she did not trust their stated intent.

Rick Fernandez, Executive Director of Teen Challenge of South Florida, spoke in favor of the special permit. He stated they have followed every directive the Town has given them, and thought the issue boils down to "NIMBY" (Not in My Backyard). He said all they want to do is continue what they are doing to help people.

Henry Prior, resident of the area, was opposed to the permit because he thought it was unrelated to the neighborhood, although he was in favor of helping people. He also stated it has adverse effects on the living conditions of the neighborhood and an adverse effect on property values, citing the numbers of people living and working there. Finally, he cited the loss of rural, quaint charm to the area.

Tammy Futiell, 3100 Southwest 139 Avenue, spoke in opposition to the project, citing future expansion.

Christin Gonzalez, 6560 Southwest 49 Street, employee of Teen Challenge, spoke in favor of the project. She said that they need more space for counseling students, as they currently have multiple interruptions. Ms. Gonzalez also described the need for classroom and study hall space, and said they have a lot of green space.

Chair DeArmas then closed the meeting to public comment on the item.

Chair DeArmas spoke about the ongoing growth of Teen Challenge, and said that the property values directly surrounding the property would be grossly affected by the enclosure of the pavilion, predicting it would look like a large warehouse. Even though most residents acknowledge the success of the program, they wonder when the expansion will stop. Based on what he has heard from about a dozen neighbors, and what he has heard at this meeting, Chair DeArmas said he would not be able to support the permit.

Mr. Cory agreed with the residents and Chair DeArmas.

Mr. Jacob asked staff why they need a special permit. Mr. Quigley replied that the use was originally established lawfully through court action, and the code was different at that time. That section of the code dealing with special residential facilities was completely revised in 2012 and provided new locational requirements. The site does not therefore meet the current Town code requirements even though it exists lawfully. A special permit is required then to deal with the physical expansion.

Mr. Abramson explained that by code a person cannot exceed a principal structure with an ancillary structure. That is one reason they need the special permit; the other is that it is a non-conforming use at this point. He directed the Board's attention to the site plan on page 10 of the staff report; they are two accessory buildings behind a single-family structure (Building B and Building C). He said they are adding square footage to both buildings, both of which are facing the rear. Mr. Abramson remarked they are under the requirement as far as square footage of building allowed for the plot.

Ms. Davidson had no comment; and Vice Chair Evans said he was opposed, wondering where the expansion would stop. He suggested they move to a different location.

Motion made by Ms. Davidson, seconded by Vice Chair Evans, to deny. In a roll call vote, the vote was as follows: Chair DeArmas - yes; Vice Chair Evans - yes; Mr. Jacob - no; Mr. Cory - yes; Ms. Davidson - yes. **(Motion carried 4-1)**

4.5 Variance (V) 14-193 Chabad Menachem Center
10601 Stirling Road

4.6 Rezoning (ZB) 14-194 Chabad Menachem Center
10601 Stirling Road

The applicant waived the quasi-judicial hearing for both items.

Mr. Abramson presented the staff report, noting there are two separate two-story buildings, one which will be a sanctuary and other a social hall. The variance request includes four separate requests: reduce front and street-side (east) setbacks; reduce the minimum number of parking spaces; reduce the minimum landscaped island area; and increase the maximum building height. The second request is to rezone from Agricultural Estates to Community Facility District.

Ms. Davidson and Mr. Jacob disclosed they had spoken with the applicant.

Rabbi Aryeh Schwartz, 11255 Quiet Waterway, Cooper City, provided some background on the property, noting it was annexed into Davie in 2006 after being in Broward County. He pointed out that they are like an island in Cooper City.

Rabbi Schwartz began a PowerPoint presentation on behalf of the applicant, showing the proposed synagogue. He discussed the first variance request for the setbacks, pointing out the lot is wide and shallow; without the variance, they would be limited to building a "hallway."

The second variance request is asking for a reduction in parking spaces. Rabbi Schwartz explained that the entire facility will not be used at the same time, and the need for parking is minimal due to the types and times of activities taking place (non-concurrent use). Rabbi Schwartz continued that the sanctuary requires the most parking (126 spots) per code. However, the site is an Orthodox Jewish Synagogue, which means they follow a strict application of traditional Jewish law, which prohibits driving on Sabbath (which is the heaviest day of the site's use). There are only a few who drive. Rabbi Schwartz explained how they drop from 126 spots to 111spots due to the non-concurrent use. In addition, they do not feel they have the need for 111 parking places, and Rabbi Schwartz explained the numbers of people utilizing any particular room. Due to that, he asserted they only need 78 parking spaces versus 237.

Furthermore, Rabbi Schwartz stated they have an overflow parking area in the property directly north of them, at the Islamic mosque. They have a 2011 recorded cross-parking agreement with them for the purpose of overflow parking. The mosque's heaviest use day is Friday, and they have at least 80-90 marked parking spots. Rabbi Schwartz emphasized that the Chabad never schedules events on Friday. Rabbi Schwartz described seven other Chabads/schools that have similar parking arrangements in nearby municipalities.

Regarding the intermediate landscape island variance request, Rabbi Schwartz said a wider island would negatively impact the driveway circulation.

The fourth request is for an increase in maximum building height by one foot, eleven inches, to accommodate an architectural feature, a cupola. Rabbi Schwartz stated there are large buildings to the east and west of them.

Rabbi Schwartz addressed a recent objection from Cooper City's City Manager regarding the parking variance. He said that since then, they have met with Cooper City Commissioners, who denied any objection to the variance. The City and the City Manager then sent a follow-up conciliatory letter.

Rabbi Schwarz then concluded his presentation.

Jerry Gavovich, 2901 Biscayne Boulevard, Miami, the architect for the project, clarified that one of the examples of reduced parking was a school downtown that actually had "zero parking."

Mr. Cory was curious what would happen with the parking agreement with the mosque if they left the property. While he acknowledged it was possible, Rabbi Schwartz thought it highly unlikely that they would vacate the property, given the amount of development they have done.

Chair DeArmas reviewed the staff report's comments on the parking, setback and landscape features.

Chair DeArmas opened the floor to public comment on this item.

David Damiton, 10744 Richland Place, Cooper City/Embassy Lakes, spoke in favor of the project, citing its proximity to his home, making it easier to walk to it, the increase in property values due to the synagogue, and the hope that the Chabad would buy the land the mosque is on if they move.

Joel Lukacher, 1833 Southwest 118 Avenue, resident of Cooper City/Flamingo Gardens West, spoke in favor of the variances. Regarding the parking, he said the parking lot is always mostly empty; many times they use a hotel for large functions. He also said having a "beautiful synagogue" next to the mosque would be a wonderful presentation of harmonious living.

Andrew Blitman, 11762 Southwest 51 Court, Cooper City, spoke in favor of the project, noting he attends the Chabad and said it has been a very good experience for him. He complimented the rabbis for their guidance, and did not see why the proposal should be denied.

Ken Jacobs, 11410 Northwest 23 Street, Pembroke Pines, spoke in favor of the item, noting that he is 65 years old and walks an hour back and forth to activities at the Chabad.

Lisa Verner and her son, Nathan, 5735 Southwest 88 Avenue, Cooper City, live slightly less than two miles from the synagogue, said they are anxious to walk to the new synagogue. Nathan believed that if other synagogues could have the (small amount of) parking, then this one could also have that.

Chair DeArmas closed the floor to public comment on this item.

Mr. Cory thought the requested setback was excessive, bringing the building almost up to the street.

Mr. Jacob had the same setback concerns, especially on the front. In addition, he had a problem with the parking, except on Saturdays.

Ms. Davidson commented it was time that the Chabad in Davie had a beautiful building. Regarding the setbacks, she said almost all the properties on Stirling Road are "on top of Stirling Road." She continued they have granted parking variances such as this before and believed they should do it now. Ms. Davidson said the properties around the Chabad are valuable because the Orthodox Jews want to live close enough to their synagogue to walk there. She said she would fully support it.

Vice Chair Evans stated he had an issue with the parking. He wondered if they could shorten the building to add more parking. Rabbi Schwartz replied that they want it to be beautiful and add to the neighborhood because it is a high visibility property; he thought any major alterations to the building that might create more parking would ultimately only provide several spaces and would have a detrimental effect to this aesthetic appeal of the building. Rabbi Schwartz assured the Board that their parking would not spill over into the right-of-ways, and their overflow parking plan is effective.

Rabbi Schwartz stated that during high use times, they employ a security guard who directs parking, among other duties. He commented on the long time this project has taken, noting that because of that, they have had the opportunity to address all concerns.

Mr. Abramson remarked that the item had previously been to the Site Plan Committee and United Ranches Preservation Committee (URPC). At both meetings, the site plan was passed; the variance was approved at URPC, except for the parking reduction. He explained that the URPC had just received the cross-parking agreement at the meeting and had not had a chance to review it.

Chair DeArmas remarked that the parking and setbacks fall far short of the requirements.

Ms. Davidson understood the parking concerns, but found them peculiar because there would not be a parking problem with the Orthodox community. She did not think the setback would be an eyesore, but would be consistent with many other properties. She felt the existing billboard and the portable were more of an issue.

Chair DeArmas mentioned they had tried to purchase the dog facility next door, but are locked into their property. Therefore, he said they have a hardship on their property, and the situation is not typical.

Ms. Davidson thought that vacating the property might have been a viable solution for Teen Challenge, but that solution would not work for this property because a community has built itself around this property in order to be near it.

Motion made by Ms. Davidson to approve the variance request (Agenda Item 4.5). Motion died for lack of second.

Motion made by Vice Chair Evans, seconded by Mr. Cory, to deny the variance request (Agenda Item 4.5). In a roll call vote, the vote was as follows: Chair DeArmas - yes; Vice Chair Evans - yes; Mr. Jacob - no; Mr. Cory - yes; Ms. Davidson - no. **(Motion carried 3-2)**

Motion made by Ms. Davidson, seconded by Mr. Jacob, to approve the rezoning request (Agenda Item 4.6). In a roll call vote, the vote was as follows: Chair DeArmas - yes; Vice Chair Evans - no; Mr. Jacob - yes; Mr. Cory - yes; Ms. Davidson - yes. **(Motion carried 4-1)**

5. OLD BUSINESS - none

6. NEW BUSINESS

Mr. Jacob brought up the matter of excused absences, wondering if the absentee is obliged to call in or email staff. Mr. Abramson commented that the notice that goes out to the members asks them to notify staff if they cannot attend. That procedure will confirm whether there is a quorum.

7. COMMENTS AND/OR SUGGESTIONS - none

8. ADJOURNMENT

Hearing no further business, Chair DeArmas adjourned the meeting at 9:50 p.m.

Date Approved: 10-8-14

Chair/Board Member