



TOWN OF DAVIE
PLANNING & ZONING DIVISION
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MEMORANDUM

TO: Planning and Zoning Board

FROM: David Quigley, Planning and Zoning Manager 

DATE: November 6, 2015

SUBJECT: Ordinance to require a super-majority vote for use of “flex units” (ZBTXT15-324)

BACKGROUND

Section 7(H) of the Town Charter and Section 12-304(E) of the Town Code require that any action in support of a change to the Land Use Plan requires a super-majority vote of the Town Council. The Broward County Land Use Plan allocates a certain amount of “flex” units to each municipality to allow relatively minor changes to the municipal land use pattern without requiring County Commission approval. The municipalities are allocated residential flex units as well as non-residential acreage that can be applied within the established “flex zones”. Within certain limitations, a municipality is free to allocate “flex” units within its boundaries without need of an amendment to the Broward County Land Use Plan. Municipalities are periodically required to provide tracking reports to the County as to how “flex” units have been allocated.

Since the inception of the “flex” program, the Town has allocated “flex” units by way of a resolution approved by simple majority vote, usually in combination with a rezoning. At a regular meeting on October 21, 2015, in recognition of the current standard for approving amendments to the Town’s Land Use Plan, the Town Council directed the Town Administrator to prepare an ordinance to modify Section 12-304 of the Town Code so as to require a supermajority vote of Council for any allocation of “flex” units.

RECOMMENDATION

Find the proposed ordinance consistent with the Town of Davie Comprehensive Plan and recommend approval to Town Council.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 12, LAND DEVELOPMENT CODE; SECTION 12-304, PROCESSING (RELATING TO THE APPROVAL PROCESS FOR USE OF “FLEX UNITS” PURSUANT TO THE BROWARD COUNTY LAND USE PLAN); PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes, the Town of Davie is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the Town Council finds it periodically necessary to amend its Land Development Code in order to update regulations and procedures to implement planning goals and objectives; and

WHEREAS, at a public hearing on November 10, 2015, the Planning and Zoning Board reviewed this ordinance and made a recommendation to Town Council; and

WHEREAS, following proper notice to the public and after having received input and participation from interested members of the public and staff, and having considered the recommendation of the Planning and Zoning Board, the Town Council finds this proposed ordinance consistent with its Comprehensive Plan, as amended, as well as Florida and Federal law; and

WHEREAS, the Town Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Town’s residents; and

WHEREAS, the Town Council has held two advertised public hearings in accordance with Florida Statutes; and

WHEREAS, the Town Council deems it to be in the best interest of the citizens and residents of the Town of Davie to adopt the proposed amendments to the Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. The Town of Davie Code of Ordinances, Chapter 12, Land Development Code, is hereby amended as set forth in Exhibit “A” (new language is underlined, deleted language is struck through).

SECTION 3. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

SECTION 5. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2015

PASSED ON SECOND READING THIS ____ DAY OF _____, 2015

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2015

EXHIBIT "A"

ARTICLE X. – PLANNING AND DEVELOPMENT

DIVISION 1. – COMPREHENSIVE PLANNING

Sec. 12-304. - Processing.

- (A) The planning and zoning board shall hold its public hearing and make recommendation upon the application to the town council based upon its consideration of, where applicable, whether or not:
- (1) The proposed change is contrary to the adopted comprehensive plan as amended, or any element or portion thereof;
 - (2) The proposed change would create an isolated district unrelated and incompatible with adjacent and nearby districts;
 - (3) Existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;
 - (4) The proposed change will adversely affect living conditions in the neighborhood or the Town of Davie;
 - (5) The proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety;
 - (6) The proposed change will adversely affect other property values;
 - (7) The proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations;
 - (8) The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;
 - (9) There are substantial reasons the property cannot be used in accord with existing regulations;
 - (10) The proposed land use designation is the most appropriate designation to enhance the town's tax base, given the site location relative to the pattern of land use designations established on the Future Land Use Plan Map, appropriate land use planning practice, and comprehensive plan policies directing the location and distribution of land uses.
- (B) An applicant may withdraw an application at any time upon written notification.
- (C) The report and recommendation of the planning and zoning board required by this chapter shall be advisory only and shall not be binding upon the council.
- (D) The council shall establish a public hearing to consider the plan amendment review criteria in subsection (A), above, public testimony, and the recommendation of the planning and zoning board, and:
- (1) For local land use amendments, council shall approve, deny or approve with modifications the recommendations of the planning and zoning board. No amendment

to the Town of Davie Land Use Plan shall become effective until and unless the Broward County Planning Council recertifies the land use plan as being in substantial conformity with the Broward County Land Use Plan.

(2) For amendments to the county land use plan, council shall adopt a resolution in support of or in opposition to the proposed amendment. After county commission action on an amendment to the county land use plan, the town may, at a regularly scheduled council meeting, adopt a local land use amendment which complies with the county amendment, the Broward County Land Use Plan, as amended, and the Town of Davie Land Use Plan as recertified by the Broward County Planning Council.

(E) All actions of the town council for approval of or support for a land use amendment pursuant to subparagraph (d) above, or the assignment of “flex units” to a parcel of pursuant to Article 2 of the Administrative Rules Document of the Broward County Land Use Plan, shall require an affirmative vote of no less than four (4) members of the town council.

(Ord. No. 90-4, § 7, 2-21-90; Ord. No. 97-40, § 1, 7-16-97; Ord. No. 2000-13, § 1, 4-18-00; Ord. No. 2011-16, § 2(Exh. A), 4-20-11)