

**DRAFT**  
**MEETING MINUTES**  
**CITY OF OPA-LOCKA**  
**PLANNING AND ZONING BOARD**  
**MARCH 19, 2024, 7:00 P.M.**

**CALL TO ORDER**

Chair Elio Guerrero called the Planning and Zoning Board meeting to order at 7:05 p.m. on March 19, 2024.

An opportunity was given to the public to email the Planning and Zoning Clerk prior to the Board meeting with any questions, comments, or concerns on items to be heard on the Agenda.

**ROLL CALL**

The following members of the Planning and Zoning Board were present: Chair Elio Guerrero, Board Member Audrey Dominguez, Board Member Dawn Mangham, Board Member Aldo Mata, and Board Member Claudienne Hibbert Smith.

Absent Board Members: Board Member Germane Barnes

Also in attendance were Planning and Community Development Director Gregory Gay, Zoning Official Gerald Lee, Planning and Zoning Board Clerk Diana Cheng, Board Attorney Pam Booker, and City Manager Darvin Williams.

**INVOCATION**

Chair Guerrero gave the Invocation.

**PLEDGE OF ALLEGIANCE**

All present stood for the Pledge of Allegiance.

**APPROVAL OF MINUTES**

None.

**PUBLIC HEARING:**

- 1. AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, PROVIDING FOR THE APPROVAL OR DENIAL OF A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT TO THE FUTURE LAND USE**

**MAP FOR A 7.58 ACRE PARCEL, LOCATED AT 1700 SERVICE ROAD AND IDENTIFIED BY FOLIOS 08-2122-005-2170; AMENDING THE LAND USE DESIGNATION FOR THE PROPERTY FROM LOW MODERATE DENSITY RESIDENTIAL TO AN INDUSTRIAL LAND USE DESIGNATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

Planning and Community Development Director Gregory Gay stated that this Item proposes a change in land use for the subject site, which is located on the City's eastern edge. The property is currently zoned for residential use with a mixed-use overlay. The property owners hope to change its zoning at a future meeting.

City Manager Darvin Williams advised that the City Commission had recommended he attend Planning and Zoning Board meetings when available in order to provide the City's perspective on some items before they come to the Commission. He explained that the Item addresses one of the only waterfront properties in Opa-locka, which is surrounded by a town home housing development, single-family residential homes, and the Sailboat Cove community. The proposed zoning change is to industrial use for a warehouse.

City Manager Williams noted that the proposed warehouse mixed-use development would be surrounded by residential homes. In addition, some of the properties adjacent to the subject site are owned by the City, which hopes to develop those parcels for residential use.

Robert Holland, 3250 NE 1<sup>st</sup> Avenue, Miami, representing the Applicant, stated that the Application was filed in October 2023 and initially scheduled to be heard by the Planning and Zoning Board in November.

The Application proposes a land use change for the purpose of constructing a warehouse development, although Mr. Holland advised that this would not be a traditional warehouse district. The Applicant is a nationally recognized furniture store which hopes to relocate its headquarters to Opa-locka for retail and distribution. The request before the Board today is for a Comprehensive Plan amendment, to be followed by a zoning amendment, Site Plan review, and development agreement in the future.

Mr. Holland described the subject site as a "dumping ground" for several years, resulting in significant environmental issues. The current owner purchased the site and has attempted to remediate it for several years. Soil damage on the property extends to a depth of 40 ft., which means it could not be used for residential development.

A number of environmental studies have been conducted on the site and an Environmental Site Assessment Plan has been prepared on behalf of the City. The scope of work for this Plan included ground-penetrating radar, testing and observation of the soil excavation pit, advanced soil borings, and brownwater monitoring. The report identifies

the extent to which the site would need to be remediated for either residential or commercial/industrial development.

Mr. Holland recalled that the City Manager had indicated the City hoped to bring mixed-use commercial and residential development to the site; however, the contamination on the site would make it unusable for residential development.

Board Member Hibbert Smith arrived at 7:17 p.m.

Mr. Holland continued that in 2019, development of the subject property for affordable housing was considered; however, the environmental assessment of the site determined that this was not suitable. Other past proposals included development of a hotel, affordable housing by a different developer, residential homes, and a water park. In each case, environmental assessments showed the site was not appropriate for those developments.

Mr. Holland stated that the Applicant, Modani Furniture, is considering moving its headquarters from the city of Aventura to Opa-locka. They would provide commercial/retail mixed-use with a showroom and distribution centers.

Mr. Holland showed a rendering of the proposed site, stating that the front building on the site would be Modani retail and distribution facing State Road (SR) 9. The only entry point into the development is located away from the surrounding residential portions, with a required buffer and wall on the western side. He also pointed out that the City hopes to develop a waterfront parcel for residential use, which would not be inhibited by the proposed mixed-use development.

Mr. Holland also showed views of the rear of the site, which he described as recreational, possibly with indoor sports facilities or playgrounds. The Applicant would rent these spaces to the community. Modani Furniture also proposes to offer a 10% discount to all Opa-locka residents on furniture purchases, and to hire employees from the Opa-locka community.

Mr. Holland continued that another proposal would be gateway signage on SR 9 to welcome the public to Opa-locka. The Applicant has already spoken with the Florida Department of Transportation (FDOT) regarding an access point to the site from SR 9. He emphasized the Applicant's dedication to bringing jobs to the City. He concluded that the Applicant would work on the site's design with City Staff.

Chair Guerrero asked if the entrance would be from SR 9 only and would not include a service road. Director Gay clarified that the service road will continue to end at its current location. Mr. Holland noted that a residential area is buffered from any road or vehicular access. The Applicant can also create bays of varying sizes for recreational uses.

Board Member Dominguez requested clarification of the difference between environmental requirements for residential and commercial development. Mr. Holland noted that non-residential development is more likely to be capped by asphalt and would not have areas in which individuals are exposed directly to contaminated soil or grass. Buildings would be constructed of concrete with solid floors, and most activities would occur in those buildings. The Applicant would still be required to remediate environmental concerns for commercial/industrial use.

Board Member Dominguez also noted that the proposed use could create drainage issues and result in more concrete and asphalt than permitted under current zoning. It could cause more rainwater to drain into the wastewater system built to serve nearby residential uses. Mr. Holland stated that all developments of the proposed site must be approved by the Florida Department of Environmental Resources Management (DERM); in addition, all rainwater must be captured on the site. No runoff is anticipated into the wastewater system or the lake, as the site must connect to the sewer system.

Board Member Dominguez also asked a question regarding excessive traffic to and from the site near the residential areas. Mr. Holland reiterated that the site will be buffered by heavy landscaping, and pointed out that the roadway already sees significant traffic. He again emphasized that the Applicant would bring jobs to the community, resulting in increased traffic. He asserted there would be no level of service issues on the roadway.

Board Member Dominguez expressed concern regarding spot zoning, as the area is labeled for residential use. Mr. Holland replied that the site was originally zoned commercial/industrial before its zoning was changed to residential, and the commercial/industrial use had contributed to the toxic contamination on the site.

City Manager Williams stated that he wished to provide rebuttal on behalf of the City to the Applicant's presentation, including the concerns raised by Board Member Dominguez. While there are serious environmental concerns with the site, he pointed out that the property's environmental condition was first abated with the use of grant funds to clean up the site. He felt the site would not be cleaned up appropriately without the use of brownfield grant funds.

City Manager Williams continued that the subject property, while valued at \$4.5 million, was purchased for \$500,000 due to its contamination. While residential development of the site might be prohibitively expensive for a private owner, he asserted this was not the case for a city. He also noted that contaminants will still exist under the ground whether the site is zoned for residential or industrial use; the difference is that an industrial use would place a cap on top of the contaminants.

City Manager Williams also observed that the Applicant would still be required to go through DERM procedures to address the underground contaminants and ensure they

do not enter the County's stormwater system. He advised that this has not yet been addressed by the Applicant.

City Manager Williams emphasized that the proposals presented by Mr. Holland's presentation have not been provided in writing: there is no development agreement for the site, or a Site Plan, at this point.

City Manager Williams stated that he did not believe the question in this case was one of jobs, but of whether the residents in the nearby single-family homes would want to live near the proposed project.

Mr. Holland asserted that while in most cases all applications related to the subject property, including Site Plan and development agreement approval, would normally appear on the same agenda, only a single application is before the Board today, as three other applications were "left off." He stated that this was due to the City's process.

With regard to the environmental concerns on the site, Mr. Holland continued that whether plans are for residential, commercial, or industrial development, any type of development requires that these concerns be addressed before it can proceed. He continued that the Application represents the highest and best use of the property, reiterating that it has been under contract many times before now. He also noted that the jobs to be created on the site will be part of the development agreement when it comes before the Board.

Mr. Holland concluded by emphasizing again that the subject property could not be developed for residential use due to the contaminants on the site.

A question was asked regarding whether or not a wall could be constructed on the western side of the site. Mr. Holland confirmed that a wall could be added as well as landscaping, and noted that the lighting could be directional to prevent it from shining on the nearby residential properties.

It was also asked if all other possibilities of the site's highest and best use have been fully explored. City Manager Williams stated that the City offered to purchase the subject property from its owners at nine times its value; however, the agreement was rescinded and the owners chose to go in a different direction. He asserted that the City's goal is to clean up the land rather than to cap its contaminants.

Mr. Holland stated that this was not accurate, noting that the City had reached out to the property owner to explore the possibility of purchasing it. The City had not, however, provided the owner with a letter of intent.

It was asked what the City would have done if it had purchased the land. City Manager Williams replied that the City would have applied for brownfield grants to address the

contamination on the site. This process could also be undertaken by the current property owner.

Elliot Stone, 11900 Biscayne Boulevard, property owner, advised that the City and County have been aware of the environmental contamination on the site for the past 30 years, but have not taken steps to address it. The owner's business plan included cleaning the site so it could be developed. He advised that in 2016, he had spent over a year negotiating settlements with the City and County to close on the site, but had been unable to settle on fines to be paid for Code Enforcement violations.

Mr. Stone continued that an agreement was settled with the County to clean the subject property, and the City had received federal grant funds for environmental work on the site. All work on the site has been done according to federal guidelines, including fencing the site, cleanup of toxic materials, and posting that the site included contaminants. He asserted that cleaning has been underway on the site for five years and the site is now developable; however, due to the environmental concerns, no residential development has been done.

Mr. Stone continued that the drainage issue on the site has been addressed, although it has not been approved by the County because no Site Plan has been reviewed for the site thus far. He concluded that it is a misrepresentation that the City has ever had an agreement with him for the subject site, reiterating that no letter of intent has been provided by the City.

It was asked what the owner's initial intent had been for the site. Mr. Stone replied that he had wanted to clean up the site and sell it for development. He felt the proposed use would be positive for the City of Opa-locka, as the site is located on the City's boundary.

City Manager Williams stated that the owner had entered into a verbal agreement with the City to sell the property for \$4 million, but had later changed the asking price to \$4.5 million. He continued that he had informed the property owner that the purchase would have to go before the City Commission for approval, but the owner was not willing to wait until the agreement could go to the Commission. It was clarified that the current offer on the site is for \$4.7 million.

Clarification was also requested regarding the cost of cleanup of the site. Mr. Stone stated that even if the site is cleaned to a level that will permit development, contaminants will still remain in the soil. City Manager Williams characterized the amount of \$20 million for cleanup as a "guesstimate," as no such cost estimate has been presented to the City. He explained that the owner has indicated that \$2 million has already been spent on cleanup.

City Manager Williams continued that the City offered the \$4 million market rate value for the site, but declined to match the offer for \$4.7 million.

Director Gay advised that the subject property is located within the City's Community Redevelopment Agency (CRA) area, which provides additional opportunities for its cleanup. The City has been aware of the property's status as a brownfield site, and of the challenges related to its redevelopment. He pointed out that a mixed-use overlay district was applied to the site to allow for a variety of potential uses.

Director Gay continued that the City had responded positively to the idea of this type of development at the City's gateway. He added that many brownfield sites throughout the United States have residential and mixed-use development on them, citing Dania Point and Midtown Miami as nearby examples. He concluded that Staff would like to make a presentation at this time in order to move the Item forward.

Zoning Official Gerald Lee of the Planning and Community Development Department advised that the owner of the subject property has complied with DERM requirements for cleanup and has worked with the City. The City's view of the site is that although it is on the eastern edge of the City, it is proximal to residential uses on all sides, including the waterway side. The City wishes to protect the property and ensure it is compatible with existing development.

Zoning Official Lee continued that the Applicant proposes to construct a commercial and an industrial building on the site. The City's intent is not to proceed with industrial development next to residential development. He described the proposal as spot zoning, stating that the City would prefer residential/commercial development at the site.

Zoning Official Lee addressed the requested land use change, showing a rendering of the land uses proximal to the subject property, which include low-density residential, a park, and townhouses. Even if access to the proposed development would be limited to SR 9, the site's use would still be commercial mixed-use next to existing low-density residential.

Zoning Official Lee continued that the proposed development is not harmonious with the general character of the surrounding neighborhood and its uses. According to the City's Comprehensive Plan, the proposed project should be located within the City's industrial land use area. The City does not agree with changing the site's land use to industrial when it is surrounded by residential development.

Zoning Official Lee also addressed stormwater management on the site, noting that there are contaminants which have not been removed from the site and would instead be capped. The City requests complete remediation and removal of contaminants from the site. The stormwater pollution protection plan for the site must include a narrative evaluation of the appropriateness of the site's stormwater management processes, and required measures must be site-specific due to the condition of the site's swales. Even on the property's edges, waters cannot flow away from the property site. There is also a

danger of leaching of underground contaminants which have been capped rather than removed.

Zoning Official Lee explained that the City's motivation for opposing the change in use from residential to industrial is because they would like to see the Applicant deal with the underground contaminants rather than only capping them. He continued that the change in use would also be in conflict with the Opa-locka CRA Plan for the site. The CRA Plan seeks to explore other opportunities for how the subject property should be dealt with. The CRA also provides opportunities for partnerships to improve the property.

Zoning Official Lee advised that the City's Public Works Department has also reviewed plans for the site and determined that the proposed development would require resolution of the contaminants on the site. The proposed drainage plan for the site does not include any pre-treatment structures to contain the contamination. After redevelopment, the site would require ongoing treatment of the stormwater runoff.

Zoning Official Lee concluded that Staff recommends denial of the requested Comprehensive Plan change, as the City would like the contamination on the site to be addressed rather than capped.

It was asked if the Applicant would have had to go through the same processes, including Planning and Zoning Board and DERM approvals, if residential development was proposed for the site. It was also asked why the City would have been satisfied with development of a hotel on the site, but not the proposed use. City Manager Williams clarified that no hotel has been contemplated by the current City administration, recalling that it had been proposed in 2017-2018. He further clarified that the issue is compliance with the City's laws and regulations.

Mr. Holland asserted that the site differs from the other Florida brownfields mentioned above, as it would require total remediation of contamination before development could occur. He reiterated that the land cannot be residentially developed, and that commercial/industrial redevelopment is the highest and best use for the property.

It was asked if a condition could be attached to approval which would hold the Applicant responsible for clearing the contamination from the site. City Manager Williams explained that the purpose of requesting a zoning change is to bypass the requirements to clean the contamination to an extent that would allow residential development.

City Manager Williams also stated again that he did not believe any private developer alone would be able to clean the site to the extent the City would like to see. He added that his stance as a City Manager is business-friendly.

It was asked if the City would be able to address the contamination on the subject property. City Manager Williams advised that there are ways to clean contaminated properties, including brownfield grants.

At this time Chair Guerrero opened the public hearing. As there were no individuals wishing to speak on this Item, Chair Guerrero closed the public hearing and brought the discussion back to the Board.

Board Attorney Pam Booker clarified that the request before the Board is not rezoning of the property, but a land use change. If this Application goes forward to the City Commission for approval, other related applications, including rezoning, Site Plan approval, and a development agreement, would come before the Planning and Zoning Board at a later date.

Attorney Booker further explained that the Board is tasked with making a recommendation to the City Commission regarding the requested land use change. The Board's charge includes determining when it is appropriate for the Opa-locka community to make a land use change.

**Motion** made by Board Member Dominguez, and duly seconded, to deny the request for the land use change. In a roll call vote, the **motion** passed 3-2 (Board Members Hibbert Smith and Mata dissenting).

**2. AN ORDINANCE OF THE PLANNING AND ZONING BOARD OF THE CITY OF OPA-LOCKA, FLORIDA, RECOMMENDING THE APPROVAL OR DENIAL OF A REQUEST TO CLOSE, VACATE AND ABANDON THE ALLEYWAY BETWEEN THE TWO PROPERTIES TO THE NORTH IDENTIFIED BY FOLIOS 08-2121-005-0320 AND 08-2121-016-0060 AND THE TWO PROPERTIES TO THE SOUTH IDENTIFIED BY FOLIOS 08-2121-004-1300 AND 08-2121-004-1290, FOR THE CONSTRUCTION OF A SEVEN STORY, 89 UNIT, MULTI-FAMILY MIXED-USE APARTMENT BUILDING ON THE FOUR VACANT PARCEL SITE AT 125 PERVIZ AVENUE, 111 PERVIZ AVENUE, 103 PERVIZ AVENUE, 100 PERVIZ AVENUE IN THE B-2 ZONING DISTRICT AND WITHIN THE HISTORIC DOWNTOWN OPA-LOCKA DISTRICT; PROVIDING FOR APPROVAL; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR AN EFFECTIVE DATE.**

Director Gay explained that the Applicant in this case is Florida Residential Solutions LLC, which possesses three properties that share an alleyway which bifurcates two of the properties. The Application requests vacation of the alleyway in order to allow the Applicant to develop their properties.

Oscar Robayna, 5723 NW 158<sup>th</sup> Street, Miami Lakes, civil engineer and land surveyor for the Applicant, stated that this Item was “skipped over” when the subject properties came before the Planning and Zoning Board. There are no utilities within the alleyway.

It was clarified that the alley is a public right-of-way which is owned by the City. Mr. Robayna advised that the closure of alleyways is not uncommon, and there are no costs or purchases associated with the request.

Zoning Official Lee explained that the proposed development includes four properties, one of which is owned by the City. The alley is located between properties on the eastern edge of the parcels. The alley must be vacated in order for the proposed development to be constructed over it.

Zoning Official Lee further clarified that there may or may not be a small charge for the vacation of the alleyway. The proposed development on the site will be 60,300 sq. ft. The Site Plan includes 193 parking spaces. He recalled that the Board has already recommended approval of the project’s Site Plan. Staff recommends approval of the Application.

City Manager Williams also stated that the City is supportive of the Application.

At this time Chair Guerrero opened the public hearing. As there were no individuals wishing to speak on this Item, Chair Guerrero closed the public hearing and brought the discussion back to the Board.

Attorney Booker advised that the City’s Code requires an appraisal of the fee for abandonment of a right-of-way.

Zoning Official Lee stated that there has not yet been appraisal of the subject property, as the vacation of the alleyway represents the first step in that process. He recalled that in the past, the assessment of the value of the vacated property has been determined and was a part of the final sale of the property.

Attorney Booker suggested that if the Board wished to include direction regarding the fee and appraisal of the property, they could make it a condition of any motion they may make.

**Motion** made, and duly seconded, to approve with the condition as stated by the Attorney. In a roll call vote, the **motion** passed unanimously (5-0).

## **ADJOURNMENT**

The meeting was adjourned at 8:47 p.m.