



CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **Council Zoning Hearing** on **Wednesday, March 22, 2017, beginning at 6:00 PM**, to consider the following amendment to the City Land Development Code. The City Council will consider this item for **SECOND READING**. This meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166**.

The City of Doral proposes to adopt the following Ordinance:

ORDINANCE No. 2017-04

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING AMENDMENTS TO THE CITY OF DORAL LAND DEVELOPMENT CODE INCLUDING: CHAPTER 53, "ADMINISTRATION," BY MODIFYING THE USE COMPATIBILITY TABLE; CHAPTER 68, "LAND USES AND ZONING DISTRICTS," BY MODIFYING STANDARDS ASSOCIATED WITH DOWNTOWN MIXED USE (DMU) AND INDUSTRIAL (I) ZONING DISTRICT; CHAPTER 77 "ROADS AND VEHICULAR USE AREAS" BY CORRECTING THE STANDARD ASSOCIATED WITH SOLAR REFLECTIVE INDEX (SRI); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

HEARING NO.: 17-03-DOR-01

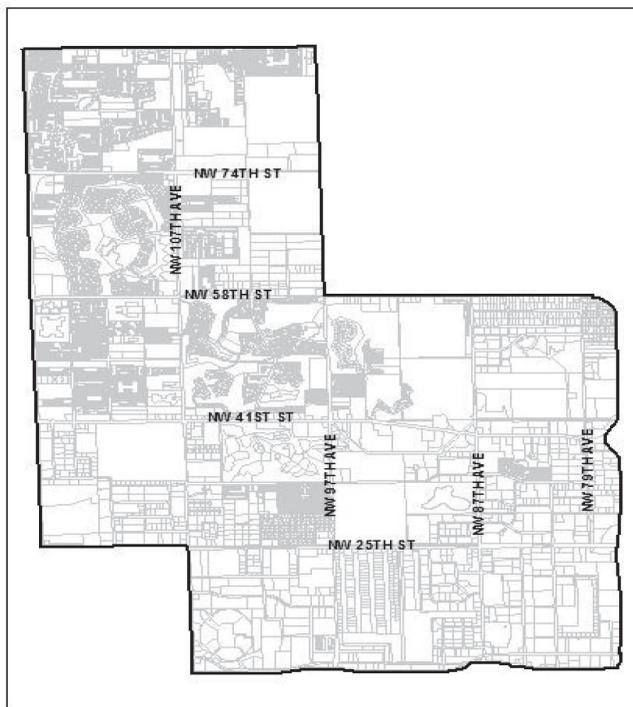
APPLICANT: City of Doral

PROJECT NAME: Amendment to the City's Land Development Code.

LOCATION: This is a citywide amendment.

REQUEST: The City is requesting several amendments to the Land Development Code to reflect the adopted modifications to the 2016 Updated Comprehensive Plan.

Location Map



Information relating to the subject application is on file and may be examined in the City of Doral, Planning and Zoning Department located at **8401 NW 53rd Terrace, Doral, FL 33166**. All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Clerk, **8401 NW 53rd Terrace, Doral, FL 33166**. Maps and other data pertaining to these applications are available for public inspection during normal business hours in City Hall. Any persons wishing to speak at a public hearing should register with the City Clerk prior to that item being heard. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

Pursuant to Section 286.0105, Florida Statutes if a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

NOTE: If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during the zoning application process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide translation services during the zoning application process or during any quasi-judicial proceeding.

NOTA: Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante el proceso de solicitudes de zonificación, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción durante ningún procedimiento o durante el proceso de solicitudes de zonificación.

Connie Diaz, CMC
City Clerk
City of Doral
3/7

17-85/0000202862M

PRACTICE FOCUS / APPELLATE LAW

Standard for Expert Opinions Uncertain After Decision

Commentary by
Gina Rhodes

On Feb. 16, the Florida Supreme Court declined to adopt the 2013 amendments to the Florida Evidence Code which replaced Frye standard for expert witness-ess with the Daubert standard.

In its opinion, the court stated, "We decline to adopt the Daubert Amendment to the extent that it is procedural, due to the constitutional concerns raised, which must be left for a proper case or controversy." The ruling shows the interplay between the Florida Supreme Court and the Florida Legislature may create confusion and uncertainty about the standard attorneys and judges should apply for expert witness opinions going forward.

In 2013, the Florida Legislature amended the Florida Evidence Code Sections 90.702 and 90.704 regarding expert opinions. The purpose of the amendments was for Florida to shift from the Frye standard to the Daubert standard for expert witness opinions in order to put Florida in line with the federal courts and most states. Under the Frye standard, an expert opinion based on a scientific technique was admissible only if such technique was "generally accepted" as reliable in the relevant scientific community. Under Daubert, the standard is arguably broader.

The amended version of Section 90.702 adds that an expert witness can testify if: "The testimony is based upon sufficient facts or data; the testimony is the product of reliable principles and methods; and the witness has applied the principles and methods reliably to the facts of the case." Section 90.704 was also amended to prevent inadmissible evidence from being disclosed to the jury through an expert opinion unless the probative value "in assisting the jury to evaluate the expert's opinion substantially outweighs their prejudicial effect." The Daubert standard has governed the admissibility of expert witness testimony since the statutes were amended.

THE RULING

In declining to adopt the 2013 versions of the amended sections, the court explained that even though it is the policy to adopt provisions of the Florida Evidence Code "as they are enacted and amended by the Legislature," "on occasion the court has declined to adopt legislative changes ... because of significant concerns about the amendments, including concerns about the constitutionality of an amendment."

The court noted the committee recommended by a 16-14 majority not to adopt the amendments and "in support of its recommendation, both the committee and commenters ... raised what we consider 'grave constitutional concerns.'" The concerns were not discussed in detail in the opinion but touched upon the constitutional right to a jury trial and denying access to the courts.



Justice Ricky Polston noted federal courts and 36 states already follow the Daubert standard.

Justice Ricky Polston, concurring in part and dissenting in part, disagreed with the majority for failing to replace the Frye standard with the Daubert standard, honing in on the fact that the Daubert standard is followed not only in federal courts but also in "36 states." Polston continued, stating he knew of "no reported decisions that have held that the Daubert standard violates the constitutional guarantees of a jury trial and access to courts" and in fact cited to case law across the nation stating the opposite.

Overall, unless and until the Daubert standard is challenged in a "proper case or controversy" where the Florida Supreme Court has an opportunity to review the constitutional issues it referenced, the ruling could have a substantial impact in the trial courts.

For example, when a party objects to the admissibility of an expert witness opinion based upon the Daubert standard, the opposing party may argue that, based on the court's ruling, the Daubert amendments are unconstitutional. A party seeking to admit expert testimony could also argue that the amendments are procedural in nature, and because they were not adopted by the Florida Supreme Court, the court should use the Frye standard in ruling on the motion.

Appeals of trial and appellate court rulings on these issues could lead to a determination by the Florida Supreme Court regarding the constitutionality of the Daubert amendments. However, until then, it appears this ruling is likely to cause confusion in courts across the state in applying the standard for admitting, challenging or excluding expert opinions under the Florida Evidence Code.

Gina Rhodes is an associate at Kluger, Kaplan, Silverman, Katzen & Levine in Miami. She focuses her practice on commercial litigation disputes in both state and federal court.

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