

City of Bonita Springs
Board for Land Use Hearings & Adjustments
and Zoning Board of Appeals
Tuesday, January 17, 2017 at 9:00 AM
Bonita Springs City Hall
9101 Bonita Beach Road
Bonita Springs, FL 34135
MINUTES

I. CALL TO ORDER

Chairman Roger Brunswick called the meeting to order at 9:03 AM.

II. INVOCATION

Board Member Barbara Barnes-Buchanan furnished the Invocation.

III. PLEDGE OF ALLEGIANCE

Board Member Russ Winn led in the Pledge of Allegiance.

IV. ROLL CALL

Chairman Brunswick and all Board Members were present except for Board Member Robert Incerpi.

V. PUBLIC HEARINGS

A. CASE NAME: RZN16-33892-BOS, Nicola's Keg Rezone (Conventional)

REQUEST: To rezone five acres +/- from the Agricultural (AG-2) zoning district to the Community Commercial (CC) zoning district.

LOCATION: 26250/252 Old 41 Road; 26224 Old 41 Road; 26240 Old 41 Road; 10171 N. Bonita Lane, Bonita Springs, FL 34135

STRAP NO's.: 26-47-25-B1-00105.002A; 26-47-25-B1-00104-003A; 26-47-25-B1-00105.0010; 26-47-25-B1-00105.0020

STAFF REPORT: Direct inquiries to Mike Fiigon II, 239-444-6150, at the Bonita Springs Department of Community Development, 9220 Bonita Beach Road Suite 109, Bonita Springs, Florida 34135

9:05:33 AM City Attorney Audrey Vance read the title block of the Zoning request and swore in expert witnesses.

[9:06:49 AM](#) Mike Fiigon, Community Development, provided the background for the request. He discussed other properties in the area with the same designation but stated that the underlying future land use was general commercial. He explained that the agricultural zoning designation did not allow for a community commercial designation and that it would be in conflict with the Comprehensive Plan.

[9:11:47 AM](#) Board Member Richard Donnelly asked why Community Development hadn't given a broader rezoning category. Mr. Fiigon stated that it was the applicant's request to go to that specific zoning district.

[9:14:10 AM](#) Mark Ebelini, Applicant Agent, provided examples of zoning designations that allowed for the transition into residential use.

[9:17:20 AM](#) Mike Roaeder, Applicant Agent, explained why they chose the community commercial designation.

PUBLIC COMMENTS:

[9:18:12 AM](#) Rick Steinmeyer, resident of Bonita Springs, commented on the zoning designation.

Board Member Barbara Barnes-Buchanan entered a motion for approval; Board Member Russ Winn seconded; the motion carried unanimously.

B. CASE NAME: SPE16-33490-BOS, Lansdowne Special Exception for Outdoor Entertainment

REQUEST: To amend the conditions in City of Bonita Springs Zoning Ordinance No. 09-03, granting a Special Exception for consumption on premises for a COP-SRX Alcoholic Beverage License in conjunction with outdoor seating for the Group III restaurant areas, to consider conditioning live outdoor entertainment and modification of any conditions for the outdoor seating related to sound.

LOCATION: 24851 S. Tamiami Trail, Bonita Springs, FL 34134

STRAP NO.: 16-47-25-B3-00001.0050

STAFF REPORT: Direct inquiries to Mike Fiigon II, 239-444-6150, at the Bonita Springs Department of Community Development, 9220 Bonita Beach Road Suite 109, Bonita Springs, Florida 34135

[9:21:07 AM](#) City Attorney Vance read the title block and tendered expert witnesses.

[9:23:12 AM](#) Neal Montgomery, Paves Law Firm, discussed the background of the request.

9:28:05 AM Charles Maurer, Applicant, provided background information for Lansdowne Street and stated that he supported the staff recommendations except for the hours of live talent. He discussed noise level readings that were conducted. Mr. Maurer explained that he would attempt to buffer noise levels to prevent further problems.

9:47:41 AM City Attorney Vance asked if the audio technician provided any reports to the applicant and whether there were any written reports that could be provided.

9:49:34 AM Board Member Donnelly referenced the indoor/outdoor area and how it was relevant to the case. Ms. Montgomery stated that there was an original condition and it was being clarified.

9:50:21 AM Mr. Fiigon presented the background for the case. He discussed the conditions of approval and stated that the nature of the request was to consider the condition of live entertainment. He addressed concerns staff presented regarding the wording. There was a site visit by staff and an audiometric reading that was conducted. He stated that the purpose of reading the noise from the property line was to determine the amount of noise output that was generated. He discussed the purpose of condition (d) was to ensure the speakers were oriented in a specific way to avoid additional noise to the closest residential area.

10:01:21 AM Board Member Winn asked where the noise complaint was coming from. Mr. Fiigon stated that it was a resident from Pelican Landing.

10:01:48 AM Board Member Barnes-Buchanan asked whether there were any other complaints that were presented to staff. Mr. Fiigon stated that the reason that the Neighborhood Services Department being involved was because there was a violation of entertainment being outdoors and not the noise level. She also asked about who conducted the noise readings for the city.

10:04:44 AM City Attorney Vance stated that there needed to be a lot of modifications that had to be done and that led to the City adopting Lee County's noise Ordinance. She stated that previous Zoning Ordinances prohibited live entertainment.

10:06:17 AM John Dulmer, Community Development, stated that there had not been any violations found by Neighborhood Services and that the Sheriff's Department conducted the noise readings.

10:07:18 AM Board Member Barnes-Buchanan discussed her concerns over the noise levels during events.

10:10:10 AM Mr. Dulmer stated that he agreed with Board Member Barnes-Buchanan regarding the noise reading being consistent throughout.

10:12:33 AM Ms. Montgomery referenced a city visit Mr. Dulmer was present for.

10:14:34 AM City Attorney Vance asked what time of day the site visit was conducted; the atmospheric conditions, and traffic differences. She also read a condition where live entertainment was prohibited unless given a special event permit and advanced notice was given because of the proximity to residential dwellings. She also asked Mr. Fiigon about the conditions of approval.

10:17:48 AM Board Member Richard Donnelly asked about the applicant's request for changes on the recommendations related to hours of operation.

10:18:53 AM Mr. Dulmer stated that he did not see a reason to change staff's recommendation.

10:19:33 AM Chairman Brunswick asked about City Council not wanting a Noise Ordinance.

PUBLIC COMMENTS:

10:20:47 AM Rick Steinmeyer, resident of Bonita Springs, wanted clarification on the noise reading levels. Mr. Dulmer stated there were certain situations that provide different reading standards.

10:21:42 AM Bob Sammet, Chairman of Deacon Board for Gospel Baptist Church, stated that he opposed the request and presented his concerns on the noise that may occur. He stated that he had not heard any noise as far as he knew.

10:25:33 AM Kevin Barry, resident of San Carlos Estates, stated that he supported the request.

10:28:44 AM Caroline Crew, resident of Pelican Landing, stated that she could hear the music from her lanai and inside her house with the windows closed on occasion. She did not want the request to be granted.

10:34:47 AM John Crew, resident of Pelican Landing, expressed his concerns regarding the request.

10:38:09 AM Mike Maurer, minor partner in Lansdowne Street, stated that the violation occurred at the receiving party and that there was never a noise violation against Lansdowne Street.

10:41:43 AM Mr. Maurer responded to Mr. Sammet's comments. He stated that there was a large building that obstructed the noise between the Lansdowne property and the church he spoke about. He reiterated that the reason for the case was not for noise but for clarification of condition 4. He addressed Mr. and Mrs. Crew's testimony and stated that the speakers were reoriented to reduce their discomfort regarding the noise.

10:44:33 AM Board Member Winn asked about the occasional noise that may be emitted to the residents at Pelican Landing.

10:46:21 AM Board Member Barnes-Buchanan asked staff about the language, how the live entertainment would be limited to 3 performers, and the enforcement.

10:47:25 AM Mr. Fiigon addressed her concerns regarding the speaker system. He stated that since the noise emanated from the speaker system then they wanted to have it point a certain direction to be sensitive to the resident's requests.

10:49:32 AM Board Member Barnes-Buchanan asked about the monitoring of the noise.

10:50:00 AM Ms. Montgomery addressed the enforcement of the noise.

10:50:54 AM Mr. Dulmer addressed Board Member Barnes-Buchanan's question related to enforcement.

10:54:38 AM Frank Cassidy, Neighborhood Services, stated that the Sheriff's Department was equipped with noise meters. He explained the procedure of what would happen if a resident were to call in regarding a noise complaint.

Board Member Richard Donnelly entered a motion for approval of the request as recommended; Board Member Barbara Barnes-Buchanan seconded; the motion carried unanimous.

C. CASE NAME: PD16-33043-BOS, Bonita Sol, LLC (fka DCVD) Commercial Planned Development

REQUEST: To reinstate the Master Concept Plan of the DCVD Commercial Planned Development (CPD) as approved in ADD12-000921-BOS for five additional years or to a date certain.

STAFF REPORT: Direct inquiries to Jacqueline Genson, 239-444-6150, at the Bonita Springs Department of Community Development, 9220 Bonita Beach Road Suite 109, Bonita Springs, Florida 34135

LOCATION: 11380 Bonita Beach Road, Bonita Springs, FL 34135

STRAP NO.: 36-47-25-B4-00200.0570

11:16:20 AM City Attorney Vance read the title block and tendered expert witnesses.

11:20:35 AM Jacqueline Genson, Community Development, provided the background information of the request. She discussed the duration of rights for Master Concept Plans, the surrounding area's land use classification, and the history of entitlements. She also discussed recommendations Toole Design Group suggested and referenced the special access conditions.

11:46:25 AM Ms. Genson discussed alternative ways to get direct access to Bonita Beach Road. She stated that staff was trying to balance the interconnectivity with the surrounding neighborhood. She stated that staff would allow some of the uses to be maintained as long as they remained interior to a building. She discussed various types of buffers that were used on the property and stated that the applicant removed the allowable uses from their request. She provided a PowerPoint presentation for reinstatements of the Master Concept Plan. She discussed the criteria for staff entering a recommendation for denial of the reinstatement, the conditions of approval, and deviations within staff report.

12:04:26 PM Board Member James Wurster asked about the layout of the property.

12:07:03 PM Tim Fernandez, Bonita Springs Fire Marshall, addressed Board Member Wurster's question and requested for Lime Street to remain open. Board Member Wurster also asked whether there were enough parking spaces to accommodate the public.

12:10:31 PM Board Member Donnelly asked about directional signage. Ms. Genson stated that a 1 foot sign setback was allowed for signage.

12:15:56 PM Frederick Hood, Davidson Engineering, presented the applicants request and alternatives to having an access on Bonita Beach Road. He stated that the applicant did not agree with staff's recommendation regarding access. Mr. Fernandez responded to Board Member Barnes-Buchanan's question regarding response time and route.

12:24:54 PM Chairman Brunswick asked what the Fire Department's preference was for access onto the property. Mr. Fernandez responded either allowing the entrance off of Bonita Beach Rd. or keeping Lime St. open would benefit the Fire Department.

12:27:15 PM Board Member Wurster referenced slide 40 of staff's presentation regarding a shared access easement agreement.

12:29:27 PM Mr. Hood addressed the cross-access.

12:31:01 PM Steve McCann, applicant's attorney, referenced the Highlands Professional Center and access way.

12:35:47 PM Ms. Genson stated that the neighboring property was notified and would like to maintain the Lime St. access.

12:41:50 PM Dr. Marcelo Mattschei, dentist from Bonita Springs, referenced the access and stated that it was narrow.

12:44:49 PM Board Member Russ Winn asked about the purpose of having another access to Bonita Beach Rd. Ms. Genson responded that the Bonita Springs Corridor Report that Lee County provided recommended the consolidation of access points.

12:50:26 PM Board Member Wurster stated that he believed any additional curve-cuts would go against the Visioning Board.

12:52:39 PM Mr. Hood referenced the access easements granted on the East side of the property.

PUBLIC COMMENTS:

12:54:21 PM William Klohn, development consultant, referenced the site plan and stated that if access to the property was limited to the shared access then the value of the development would be reduced.

12:56:49 PM Chairman Brunswick asked about a turning lane proposal.

Board Member Wurster entered a motion for approval of the request with the condition of not having the curve-cut; Board Member Barnes-Buchanan seconded the motion.

12:59:36 PM Chairman Brunswick commented that he viewed the access as a necessity.

1:00:40 PM Board Member Wurster stated that he believed adding a curve-cut would exacerbate the traffic flow.

1:02:50 PM Mr. Hood commented that he did not agree with Board Member Wurster's assessment.

1:04:03 PM City Attorney Vance clarified that the motion was to recommend approval of the reinstatement of the Master Concept Plan but not to have the curve-cut on Bonita Beach Rd. and require cross-access easement with the other conditions in the staff report remaining intact.

The motion carried 4-2 (Chairman Brunswick and Board Member Frank Liles opposed).

VI. APPROVAL OF MINUTES: DECEMBER 19, 2016

Board Member Barnes-Buchanan entered a motion of approval; Board Member Donnelly seconded; the motion carried unanimously.

VII. NEXT MEETING, FEBRUARY 14, 2017

VIII. ADJOURNMENT

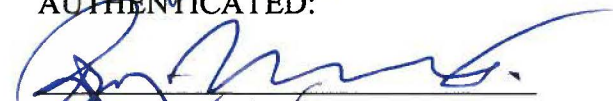

There being no further items to discuss, the meeting adjourned at 1:06 P.M.

Respectfully submitted,


Charlen Wade, Deputy City Clerk

APPROVED:
ZONING BOARD

Date: April 18, 2017
AUTHENTICATED:


Roger Brunswick, Chairman


Debra Filipek, City Clerk