

City of Bonita Springs
Board for Land Use Hearings & Adjustments
and Zoning Board of Appeals
Tuesday, February 14, 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 9:00 AM.

II. INVOCATION

Board Member Robert Incerpi 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.

V. PUBLIC HEARINGS

A. CASE NAME: PD16-32666-BOS, Red Hibiscus Planned Development Amendment

REQUEST: To amend the zoning development regulations pursuant to City of Bonita Springs Zoning Ordinance NO. 05-17, Condition 2b, to reduce the front (street) setback on Lots 10-11 from 20' to 15', a rear setback reduction on Lots 10-11 from 8' to 5', and a rear setback reduction on Lots 16-17 from 20' to 5', in addition to amending the maximum lot coverage percentage from 40% to 66% for Lot 10, 63% for Lot 11 and 48% for Lot 17.

LOCATION: 26890 Red Blossom Ct.; 26900 Red Blossom Ct.; 26901 Red Blossom Ct.; 26891 Red Blossom Ct., Bonita Springs, FL 34135

STRAP NO's.: 25-47-25-B3-01700.0100; 25-47-25-B3-01700.0110; 25-47-25-B3-01700.0160; 25-47-25-B3-01700.0170

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

9:02:41 AM City Attorney Audrey Vance read the title block of the amendment and swore in expert witnesses.

9:05:28 AM Mike Fiigon, Community Development, discussed the background of the case. He stated that there were several layers to the amendment and provided the standard lot size. He stated that the property was a Habitat for Humanity lot and provided the driveway dimensions.

9:11:21 AM He stated that there was a platted utility easement near the property that would not be affected. He discussed the drainage and stated that it would not be affected by the setback. He also discussed the criteria staff used in order to determine their recommendation.

9:15:47 AM He referenced Condition 2B and accessory structures. He stated that there was a built in allowance in the conventional code for a 5 foot rear yard setback.

9:17:18 AM Mr. Fiigon stated that there was a lot coverage request and that 40% was the standard. He stated that it had an effect on the overall open space.

9:19:36 AM He stated that staff recommended approval with 5 Conditions associated. A few conditions that were mentioned included not having an encroachment in the rear, additional deviations or amendments needed to go back to the Zoning Board to be heard and all other constraints would still be in effect.

9:22:11 AM Chairman Brunswick referenced lot 10 and asked about a dotted line that was displayed in attachment A of the zoning packet. Mr. Fiigon stated that it represented a setback line. He also asked whether the size of the house was compatible with the neighborhood.

9:23:15 AM Board Member Larry Kurlander asked whether Habitat for Humanity was involved with the original zoning designation, City Attorney Vance stated that the Bonita Springs Housing Authority was initially involved with the zoning designation. He also asked whether the noise generated from an HVAC system on the side of the house would impact the neighboring property.

9:28:17 AM Ahmad Kareh, applicant, stated that the property would provide the proper setback and the HVAC unit would not cause disruption to the adjacent lot.

9:31:11 AM Board Member Wurster referenced the application and asked whether there were any deed restrictions or covenants on the lot that may affect the request. Mr. Fiigon clarified that Zoning Regulations and regulations found in Deed Restrictions were two separate classifications. He stated that the Zoning Development Regulations would be altered.

9:33:55 AM Board Member Wurster asked why the applicant did not consider reducing the size of the house.

9:35:42 AM Board Member Wurster suggested that the applicant withdraw his application and reconfigure the lots to accommodate the size that was requested.

9:38:34 AM Board Member Richard Donnelly asked about parking on the property and suggested for the applicant to combine the lots to allow for adequate parking.

9:40:15 AM Board Member Incerpi stated that he did not want to have cars parked on the property grounds and agreed with Board Members Wurster and Donnelly in combining the lots. Mr. Kareh stated that the applicant was not increasing intensity to the area and there was adequate parking on the lot.

PUBLIC COMMENTS:

9:42:19 AM Deborah Maclean, resident of Bonita Springs, supported the applicant's request. She stated that there needed to be affordable housing in Bonita Springs.

9:43:05 AM Guenter Ginsberg, resident of Bonita Springs, opposed the applicant's request.

9:45:31 AM Mr. Kareh stated that there would be a 17 foot setback to the back of the property in total; a 12 foot drainage easement and the additional 5 foot requested.

9:48:29 AM Alexander Grantt, resident of Bonita Springs, commented on the platting of his property. Mr. Kareh stated that on the east side of the property line there was a 40 foot drainage easement.

9:53:43 AM City Attorney Vance stated that density was different than subdivisions. The lots were created within the bonus density provisions in the Land Development Code for affordable housing, and has different requirements.

Board Member James Wurster entered a motion for denial because 1) he felt the requested setback changes were deviations and needed to show a benefit for the interest of the public and referenced several sections within the staff report that he felt that the request was not in continuity with the surrounding area 2) he felt that the setbacks requested would reduce the yard space too much 3) he felt that dramatically changing platting conditions should not be allowed.

10:04:51 AM Board Member Kurlander asked whether any of the reasons presented by Board Member Wurster went against the fair housing laws. City Attorney Vance stated that some of the testimony there may have some disparate impact issues.

Board Member Donnelly seconded the motion.

10:06:33 AM Mr. Fiigon clarified that what was being requested was not a deviation but to amend a certain section of a deviation. He also stated that the 3-1 slope was not in violation of any of the codes.

10:08:01 AM Board Member Wurster referenced page 11 and 13 in the staff recommendation related to the deviation that was discussed. He also discussed the slope.

10:10:36 AM Mr. Kareh wanted to clarify and address concerns that the Board presented.

10:12:21 AM City Attorney Vance clarified the preliminary grounds for the motion to deny related to insufficient parking, lack of setback continuity, 3-1 slope, and flooding issues.

Motion carried 6-1 to deny the request (Russ Winn opposed).

B. CASE NAME: PD16-32779-BOS, Wildwood Residential Planned Development (RPD)

REQUEST: A request to rezone Residential Single-family (RSA) and the Wildwood Residential Planned Development (RPD) Zoning Ordinance 03-05 to an RPD for a maximum of 46 single-family dwelling units on approximately 12 +/-acres.

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: Kylvnne Way, Bonita Springs, FL 34135

STRAP NO.: Multiple STRAPs

10:18:23 AM City Attorney Vance read the title block and swore in expert witnesses.

[10:22:41 AM](#) Jacqueline Genson, Community Development, discussed errors within the staff report. She further discussed background information for the property and the existing use. She provided the zoning designations for the surrounding property and stated that the area was comprised of mostly single use family residents.

[10:28:49 AM](#) She discussed the northern portion of the property and the previous zoning designations. She stated that because of the previous downturn in the economy, the land was not developed, and the entitlements and development orders expired.

[10:39:00 AM](#) Ms. Genson stated that the solution was a controlled access agreement between the City and the County. Staff felt it would make sense to have two connections to the community. She provided the issues that staff were presented with regarding connectivity between communities.

[10:46:06 AM](#) She discussed the Environmental Review in the PowerPoint presentation and stated that the applicant filed their local development order plans regarding the types of conveyances that would be used. She stated that staff also conceptually evaluated the plan.

[10:49:41 AM](#) She also discussed the conditions of approval. She referenced Condition 3 and the submission of a traffic impact statement as a requirement for the application.

[10:56:14 AM](#) Board Member Barbara Barnes-Buchanan asked what happened to the gopher tortoises in the area. Mike Kirby, Community Development, stated that the area had become invaded with exotic plants and had encroached on the gopher tortoise's habitat. She also asked about the amount of Heritage Trees that were on the site. Mr. Kirby stated that the applicant had the option of surveying the trees at the time of Local Development Order or during the Zoning Phase and the applicant chose the latter.

[10:58:05 AM](#) Board Member Barnes-Buchanan asked about the use of pedestrians crossing to the north of the property. Ms. Genson responded that the property development standards were normal for those type of plan developments. She explained that there were other benefits that a conventionally zoned subdivision that did not have to provide open space.

[11:05:16 AM](#) Board Member Barnes-Buchanan asked about the access point. Ms. Genson stated that at staff level (they) would not support an access point at the Imperial Parkway location.

[11:06:23 AM](#) City Attorney Vance stated referenced the term ancient rights.

[11:06:51 AM](#) Board Member Incerpi asked about transportation issues. He referenced Terry Street and where the exit would be located. He also referenced when the traffic impact study was conducted and provided an example of construction trucks. City Attorney Vance stated that she believed the burden of proof was on the applicant.

[11:08:28 AM](#) Stuart Smith, Community Development, stated that the way the Master Concept Plan was proposed, it was in a strikeout area. It would not impact oncoming traffic.

[11:09:26 AM](#) Board Member Incerpi asked about operation at Stage D.

[11:10:05 AM](#) Board Member Donnelly asked about the proposed lake. Mr. Smith stated that it was proposed through the South Florida Water Management System. He stated that the control elevation would need to be discussed during the development order review.

[11:11:58 AM](#) Board Member Kurlander referenced the 1st amendment to the conditions. Ms. Genson further clarified the condition.

[11:15:55 AM](#) Ms. Genson stated that the Board of County Commissioners would need to agree with staff's recommendation for the request to be approved.

[11:17:16 AM](#) Chairman Brunswick asked about the location of the entrance road of the subject property related to Imperial and Terry. Mr. Smith stated that the entrance was just outside the right turning lane.

[11:18:14 AM](#) Board Member Wurster suggested that the developer agree to donate 10 feet of additional right-of-way on Terry Street.

[11:21:02 AM](#) City Attorney Vance referenced attachment A in the staff report.

[11:25:39 AM](#) Board Member Donnelly asked about the lot coverage in the existing plan.

[11:27:28 AM](#) Dan DeLisi, applicant, discussed the size of the property and the proposal. He stated that he wanted to propose dropping the amount of units and that he was not in favor of condition 4B. He provided the difference between a planned development and a conventional zoning district.

[11:36:02 AM](#) Wayne Everett, DR Horton, stated that the swale was at his request. He suggested to have a split drainage from the center of the lot; half to the street and half to the lot.

[11:37:39 AM](#) Reid Fellows, TR Transportation, discussed the turning lanes and access points

[11:40:47 AM](#) Board Member Incerpi asked when the traffic impact study was conducted. Mr. Fellows stated that the study was conducted in September of 2016. He also stated that since it was not conducted during peak season, they applied certain parameters that took into account the amount of cars that would be in the area during peak season.

[11:42:12 AM](#) Board Member Incerpi asked about construction vehicles and where they would be coming from. Mr. Fellows stated that he expected some construction traffic to come from Imperial Parkway.

[11:42:39 AM](#) Board Member Wurster suggested for staff to keep language regarding the North entrance in the recommendation because of safety reasons.

[11:44:47 AM](#) Board Member Barnes-Buchanan suggested reserving the northern right of way to accommodate a pedestrian or bicycle path.

[11:46:52 AM](#) Mr. DeLisi stated that the applicant agreed to provide a wall to prevent headlight glare to the neighboring community. The wall would be extended across the length of the hammerhead. The applicant did not want to have an east to west road that extended to Imperial Parkway. He stated that this would create a second access that would increase unwanted traffic through the community.

[11:50:28 AM](#) Ms. Genson stated that the Public Works Department was a party on the application review and did not provide any concerns to staff.

PUBLIC COMMENT:

[11:52:06 AM](#) Jim Schmidt, resident of Forest Mere, stated that there was a dirt path on the southwest corner of the community that was utilized by residents of the community. He wanted to know whether it would be impacted by the development.

11:53:39 AM Chairman Brunswick asked what would happen to the sound barrier wall in the proposed development. Mr. Everett stated that they did not intent to develop a sound barrier wall because of the preserve that was located adjacent to the property.

11:56:15 AM Board Member Incerpi presented his concerns regarding construction traffic. City Attorney Vance stated that the construction would be permitted Monday – Saturday with limited time during the day.

Board Member Wurster entered a motion to approve the request including the conditions that were presented by staff.

11:58:25 AM Chairman Brunswick read the conditions of approval for the record.

11:58:46 AM Ms. Genson wanted to clarify the motion and referenced conditions that were referenced earlier in her presentation related to condition 2B.

11:59:12 AM City Attorney Vance clarified condition 2B and the change in the language.

11:59:41 AM Board Member Barnes-Buchanan wanted to have the Board revisit the idea of reserving the right of way access that connected to Imperial Parkway in case of emergencies. She requested to have the Public Works Department to make a determination of what was needed.

12:00:41 PM City Attorney Vance stated that if her request was not site related to the approval then impact fee credits would need to be given to the applicant by law.

12:01:14 PM Board Member Incerpi asked if the request were approved, when the applicant expected to break ground.

12:01:36 PM Mr. Everett stated that if Council were to approve the application then the developer would break ground and the development completion would be less than a year. Board Member Incerpi suggested to amend the motion so if the development lasted longer than one year he requested to change the construction hours of operation from 7:00 AM to 6:00 PM to accommodate daylight savings time.

Board Member Wurster amended his motion to include Board Member Incerpi's suggestion; Board Member Incerpi seconded the motion.

12:03:46 PM Board Member Donnelly requested to a review of the deviations that were proposed. Ms. Genson explained Deviation 2. Board Member Donnelly also asked about the buffering wall. Ms. Genson also stated that the deviations were related and dependent on how they were approved. She stated that Deviation 1 needed to be approved, Deviation 2 could be approved as is, and Deviation 3 was subject to Condition 4.

Motion carried unanimously.

VI. APPROVAL OF MINUTES: JANUARY 17, 2017


Board Member Barnes-Buchanan entered a motion to approve the minutes as presented; Board Member Winn seconded; motion carried unanimously.

VII. NEXT MEETING, MARCH 14, 2017

VIII. ADJOURNMENT

There being no further items to discuss, the meeting adjourned at 12:07 PM


Respectfully submitted,



Charlen Wade, Deputy City Clerk

APPROVED:
ZONING BOARD

Date: April 18, 2017

AUTHENTICATED:


Roger Brunswick, Chairman


Debra Filipek, City Clerk