

City of Bonita Springs
Board for Land Use Hearings & Adjustments
and Zoning Board of Appeals
Tuesday, April 18, 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 Russ Winn furnished the Invocation.

III. PLEDGE OF ALLEGIANCE

Board Member Richard Donnelly led in the Pledge of Allegiance.

IV. ROLL CALL

Chairman Brunswick and all board members were present.

V. PUBLIC HEARINGS

A. CASE NAME: PD16-31956-BOS, Horizon Park Commercial Planned Development (CPD)

REQUEST: A request to rezone 16.57 acres from the Commercial Planned Development (CPD) and Tourist Commercial (CT) to Commercial Planned Development (CPD) for a maximum of 150,000 square feet of commercial floor area (with retail and office development each limited to a maximum of 100,000 square feet) and a 150 room hotel or 145 bed assisted living facility.

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: ACCESS UNDETERMINED. Two parcels of land located at the southwest intersection of Bonita Beach Road and Hunter's Ridge Boulevard (Southeast quadrant of Interstate 75).

STRAP NO.: 06-48-26-B1-00002.0030 and 06-48-26-B1-00002.0000

9:02:11 AM City Attorney Audrey Vance read the request into the record.

9:03:40 AM Board Member Larry Kurlander discussed points of contention with the way the applications were presented to the Zoning Board. He suggested that special counsel and staff have a written opinion on the order of proceeding in the current format. He stated that he wanted a full picture of what the developer wanted to do with the property as opposed to what was currently presented to him and the board.

Board Member Kurlander entered a motion to adjourn the meeting; Board Member James Wurster seconded the motion.

9:08:20 AM City Attorney Vance addressed the concerns Board Member Kurlander raised. She stated that Jacqueline Genson, Community Development, spoke with outside counsel regarding the case and wanted Board Member Kurlander to provide more clarification on what he would like the outside counsel to advise.

9:10:19 AM Board Member Kurlander stated that he felt the sequencing of the cases were incorrect and that the Zoning Board should not recommend something that they did not have all of the information on. He felt that the Zoning Board's decision would be based on an incomplete picture.

9:12:34 AM City Attorney Vance stated that if outside counsel were to provide a recommendation, then there would be an issue with sequencing because City Council made the ultimate decision.

9:15:34 AM Board Member Kurlander stated that he wanted the complete picture of what the applicant wanted to do with the property and not the possibilities of what the development would turn into.

9:16:16 AM City Attorney Vance stated that staff met the applicant to verify sufficiency and provide the Board with their professional opinions. She further explained the function of what staff needed to do and the board's responsibilities.

9:19:51 AM Neale Montgomery, Pavese Law Firm, explained the process of developing the Comprehensive Plan, Land Development Code (LDC), etc. She explained that what was presented to the Board was the worst case scenario where certain criteria had to be met in order to ensure the safety of the public.

9:24:33 AM City Attorney Vance referenced section 3-80 of the LDC. Ms. Genson continued to discuss the process and substantive review.

Board Member Kurlander amended his motion to proceed with the current zoning case but would like to hear from outside counsel and staff moving forward; Board Member James Wurster seconded the motion; and the motion carried unanimously.

9:39:48 AM City Attorney Vance next asked the Board Members to disclose ex-parte communication they have had regarding this case. She further tendered expert witnesses.

9:42:43 AM Ms. Montgomery discussed the purpose of the request and provided an aerial view of the property.

9:45:30 AM Dan DeLisi, DeLisi Inc., next provided his background experience and discussed the Master Concept Plan and compatibility. He clarified that the idea of the travelling public encapsulates vehicles. He further explained that at the current stage, the developers would not know what the end result would be.

9:54:16 AM Mr. DeLisi discussed the surrounding area. He explained that a line of sight drawing incorporated Photoshop which was used to render what the property line would look like from a certain view. He showed what the line of sight looked like.

10:04:10 AM Board Member Robert Incerpi wanted to clarify the distance between neighboring properties.

10:05:31 AM Ted Treesh, TR Transportation, discussed the traffic study and the conditions used to determine trip generation.

10:11:59 AM Board Member Wurster asked about the intersection on Bonita Beach Road and referenced page 22 item B. Ms. Genson stated that the recommendation was made by Ian Lockwood, Toole Design Group, which provided a protected crosswalk that gave bicyclists and pedestrians with safer paths. Mr. Treesh referenced Condition 6.

10:16:11 AM Board Member Kurlander referenced Mr. Lockwood's recommendation regarding the last-in concept and further explained that as developers come in, each subsequent developer would have a higher burden until the last one, who would pay a significant penalty. Mr. Treesh stated that his traffic study incorporated future developments.

10:18:38 AM Board Member Barnes-Buchanan asked whether Bonita National traffic was incorporated into the study. Mr. Treesh stated that the growth in background traffic was included.

10:21:07 AM City Attorney Vance stated that the City was obtaining a donation agreement from Villagewalk for a portion of Logan Boulevard.

10:22:41 AM Board Member Incerpi asked when the study was conducted. Mr. Treesh stated that some of the data that was obtained was from 2015 and January 2017. The intersection analysis was based on traffic counts conducted in January of 2017. He stated that peak season condition were also taken into consideration and that he felt the current traffic flow was acceptable.

10:25:24 AM Mr. DeLisi stated acceptability was based on a level of service defined by the City on the capacity a roadway would be able to handle and stated that Mr. Treesh was testifying based on what a level of service standard was. He provided details on the interchange and referenced Corkscrew Road and the Coconut Point Mall.

10:41:53 AM Board Member Barnes-Buchanan asked about widening plans for the Florida Department of Transportation study.

10:46:43 AM Stuart Smith, Community Development, discussed the Commercial Interchange.

10:48:35 AM Board Member Wurster stated that there were long range plans for additional lanes on I-75.

10:51:05 AM Board Member Barnes-Buchanan asked about the timeline for Trade Center Drive. Ms. Montgomery stated that the timeline would start at time of development.

10:56:28 AM Board Member Incerpi asked whether there were any plans of putting a gas station in the area.

THERE WAS A 10 MINUTE BREAK AT 11:00 AM

11:09:48 AM Ms. Genson explained that outside counsel reviewed the application that was presented. She further discussed the future land use map designation, current zoning and use of subject property.

11:21:28 AM Board Member Wurster asked about a 15' foot Bonita Springs Utilities easement.

11:24:18 AM City Attorney Vance explained that Hunter's Ridge Court was an access road during construction of I-75.

[11:26:42 AM](#) Jay Sweet, Community Development, discussed portions of the access.

[11:29:49 AM](#) Ms. Genson discussed the history of entitlements and property development regulations.

[11:32:52 AM](#) Board Member Wurster referenced Parcel 6 and the access.

[11:37:36 AM](#) Mr. Sweet stated that part of the deviation request was that the buffer would be 7' feet instead of 15'.

[11:38:06 AM](#) Mike Kirby, Community Development, stated that as long as half of the required buffer area were reserved for plantings, then the buffer would be allowed to be shared with another easement.

[11:47:31 AM](#) Drew Fitzgerald, Applicant Agent, stated that there was no water management connection from the north side of Bonita Beach Road to the subject property.

[11:51:05 AM](#) Ms. Genson discussed the line of sight exhibit.

[11:55:57 AM](#) Board Member Wurster asked whether the height could be limited from 30 feet to 25 feet.

[11:59:45 AM](#) Ms. Genson referenced Chapter 3 and stated that there were certain standards in place to limit the gas station canopy height.

[12:05:03 PM](#) Ms. Genson answered Board Member Kurlander's question and stated that there was a potential for overlap related to the Bonita Beach Road visioning amendments that would be in effect and may cause issues with site permitting.

[12:09:33 PM](#) Ms. Genson stated that there were long range plans for multiple modes. She also discussed access points and concerns that staff had with direct access.

[12:17:36 PM](#) Board Member Wurster asked the applicant how they would access Parcel 6.

[12:20:09 PM](#) Mr. Kirby discussed the environmental review of the property.

[12:23:55 PM](#) Board Member Richard Donnelly asked if certain plants were removed and what they would be replaced with.

[12:25:16 PM](#) Ms. Genson discussed surface water management and the conditions of approval.

[12:38:45 PM](#) Chairman Brunswick asked about Condition 3A and height restriction on certain parcels. Ms. Genson referred to condition 2B and stated that this section referenced the property development regulations.

[12:39:34 PM](#) Mr. DeLisi stated that 35 feet was the standard height for residential zoning districts for a single family 2-story home.

[12:41:38 PM](#) City Attorney Vance reviewed the recommendation to have parcels 2 and 3 to be limited to 35' feet with 2 habitable floors.

[12:42:11 PM](#) Mr. DeLisi discussed the parcels.

[12:44:17 PM](#) Ms. Montgomery stated that there were established communities that had heights greater than 30 feet.

PUBLIC COMMENT:

There were no members of the public that commented.

Board Member Wurster entered a motion of approval with inclusion of the conditions discussed by staff and three additional conditions: 1) the height of the parcel be limited to 35 feet, 2) the 50 foot setback on the southern property line be maintained and not reduced to 41 feet, and 3) to remove the access point as a condition of zoning as opposed to later in the development order process; Board Member Donnelly seconded the motion.

[12:51:45 PM](#) City Attorney Vance reviewed the conditions presented by Board Member Wurster.

[12:53:06 PM](#) Board Member Incerpi asked about the automotive repair shop and service station.

Board Member Incerpi entered a motion for automotive repair and service stations to be removed from consideration as there were others in the area that he believed caused issues with traffic.

[12:54:30 PM](#) Ms. Montgomery stated that she felt that an additional gas station may cause an increase in competition.

The motion failed for lack of a second.

[12:58:26 PM](#) Board Member Richard Donnelly stated that he could not vote based on condition 2B item iii, but could vote on the remainder of them if it was removed.

Board Member Wurster withdrew his initial motion to enter all his conditions at once and entered a motion to approve item 2B iii to limit the height to 35' feet; Board Member Kurlander seconded; and the motion carried 6-1 (Board Member Donnelly opposed).

Board Member Wurster entered a second motion not to modify the 50' foot setback on the southern property line; Board Member Kurlander seconded the motion; and the motion carried unanimously.

Board member Wurster entered a third motion to remove the access point as a condition of zoning as opposed to later in the development order process; Board Member Kurlander seconded the motion; and the motion carried unanimously.

Board Member Wurster entered a motion to approve the application as modified and presented by staff with the 3 conditions that were approved by the zoning board; Chairman Brunswick seconded; motion carried unanimously.

VI. APPROVAL OF MINUTES

Board Member Wurster entered a motion to have Board Member Robert Incerpi continue as Vice-Chair; Board Member Barnes-Buchanan seconded; the motion carried unanimously.

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

VII. NEXT MEETING, May 16, 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: June 20, 2017

AUTHENTICATED:



Roger Brunswick, Chairman



Debra Filipek, City Clerk