



City of Venice

401 West Venice Avenue
Venice, FL 34285
www.venicegov.com

Meeting Minutes Planning Commission

Tuesday, October 1, 2013

1:30 PM

Council Chambers

I. Call To Order

A Regular Meeting of the Planning Commission was held this date in Council Chambers at City Hall. Chair Barry Snyder called the meeting to order at 1:30 p.m.

II. Roll Call

Present: 6 - Chair Barry Snyder, Helen Moore, John Williams, Jerry Towery, Shaun Graser and Tom Murphy

Also Present

Ex-Officio Councilmember Kit McKeon, City Attorney Dave Persson, Sarasota County School Board Director of Long Range Planning Ken Marsh, Stormwater Engineer James Clinch, Senior Planner Scott Pickett, Planner Roger Clark and Recording Secretary Susan Schult.

III. Public Hearings

13-3MI

MAJOR STRUCTURE OVER WATER PERMIT - FISHERMAN'S WHARF

Owners: Stephen A. Witzer TTEE, David C. Freund TTEE, Paecia S. Weinstein TTEE

Agents: Peter Dailey-Dailey Design Group and William Dooley, Esquire

Staff: Scott Pickett, Senior Planner

(1:32) Chair Snyder stated this is a quasi-judicial hearing; read a memorandum dated October 1, 2013, stated no written communications have been received regarding this petition; and opened the public hearing.

Mr. Persson queried board members on conflicts of interest, and ex parte communications. Mr. Snyder, Mr. Towery, Mr. Murphy, Mr. Williams, Ms. Moore and Mr. Graser stated they conducted site visits with no communications.

Staff Presentation

Mr. Pickett, being duly sworn, stated this is the first major structures over water permit since the city took over jurisdiction for structures over water permits from the county, gave a brief history on the property, reviewed the permitting violations from the county on the previous owner, summarized the petition, reported the new owners wish to open the dock, the scope does exceed the county regulations, and city staff determined there are no negative impacts on having an additional 18 feet of dockage. He displayed an aerial photo of the property, reviewed the existing uses of the property, and the proposed use for a 34 slip floating dock structure that was constructed but is not permitted. He explained this is an after the fact request to use the structure that currently exists, displayed site photos, outlined the county's concern, and reviewed the

future land use policy in the comprehensive plan and zoning regulations that allow for marinas, and active and passive waterway uses.

He reported staff analysis of infrastructure needs have been confirmed, transportation analysis has been performed and approved for concurrency, staff recommends 44 stipulations with the first 24 being code required, stated he met with Harbor Lights Homeowners Association, and some of the conditions were revised. He reviewed pertinent stipulations including No. 30 pertaining to no expansion of the major structure over water, the definition of expansion, and No. 37 regarding no moored vessels extending beyond the outer-most mooring piling. He referenced the survey and site plan contained in the agenda packet, noted the maximum length of boat per slip, reviewed stipulation No. 42 concerning safety and having lights and reflective material on the western most portion of the dock, talked about stipulation No.44 regarding the possible removal of mooring pilings should navigational problems arise, noted the applicant was originally requesting permission for live aboards, the request requires a special exception, and the special exception has been delayed due to advertising requirements.

Mr. Pickett reviewed determination criteria, answered questions on whether a consultant was involved in the presentation, adding language to the location of the pilings in stipulation No. 37, installation of a piling, whether there will be Coast Guard approval for lighting requirements stipulated in Nos. 42 and 44, navigation room pertaining to the size of the vessel, all the conditions and changes being part of the record, and the previous owner not complying with the permit issued by the county.

Presentation

Peter Dailey and William Dooley, being duly sworn, introduced themselves. Mr. Dooley commended staff on their work on this petition, stated they have no problem with the intent of the stipulation language, they will comply with the intent of stipulation No. 42 to address safety issues, noted a permit was issued by the county after a thorough review, and the Army Corp of Engineers (ACOE) and Florida Department of Environmental Protection approved the additional dockage.

Mr. Dailey commented the special exception being sought is for live aboards located on the outer portion of the marina on the south side away from Harbor Lights.

In response to questions, Mr. Dooley stated they are in agreement with the change to No. 42 and the addition of No. 44, stated there would be a pump out facility for live aboards, explained how the waste is pumped out, how the facility is protected against fire, reported they are working with Florida Department of Transportation on fire access and parking under the bridge, there will be permanent fire access, noted they are not dealing with the site plan today, and pointed to the location of the outermost piling.

Audience Participation

Carolyn Welton, 617 Tamiami Trail, being duly sworn, welcomed the new owners, queried the commission on whether there will a dockmaster, commented on the ability of pilings to move, and pointed to a small L shaped section on the west end of the dock diagram that is not currently there.

Robert Welton, 617 Tamiami Trail, being duly sworn, stated his concern with Harbor Lights residents being able to continue to use the 40 foot submerged land previously leased to Harbor Lights by the state.

Kaye Richey, 2650 Santa Maria Street, being duly sworn, gave the background on the previous owner's land claims and the approved permit from the county, stated his

support for the permit with the condition that the new owner gives up the right to the underwater land, and noted the permit from ACOE does not authorize any harm to the properties or rights of others.

Carissa Dressel, owner of Waves Boat and Social Club, being duly sworn, noted they opened right before the foreclosure, talked about the need for floating docks for the handicapped, and how the approval of the permit will generate business for the community.

Rebuttal

Mr. Dooley commented the dockmaster issue has been discussed and will be addressed when fuel is available for sale and the docks are rented. He noted the docks cannot be extended past the current point, and confirmed he will be presenting a site plan at a later date.

Mr. Pickett answered questions on the change to No. 42, whether the commission would deal with the dockmaster issue, noted the existence of pump out and fuel stations would require a dockmaster, stipulation enforcement, confirmed the L shaped dock at the end shown on the dock diagram is not on the survey, and displayed the revisions to stipulation Nos. 37, 42 and 44.

(2:29) Chair Snyder closed the public hearing.

A motion was made by Mr. Towery, seconded by Mr. Williams, that based on the staff report and the presentation, the Planning Commission, sitting as the local planning agency, finds this request consistent with the Comprehensive Plan, City development standards and with the affirmative Findings of Fact in the record and, therefore, moves to approve Petition No. 13-3MI with the inclusion of the 44 stipulations set forth in the staff report, specifically with Nos. 30, 37, 42 and 44 as amended. The motion carried by the following vote:

Yes: 6 - Chair Snyder, Ms. Moore, Mr. Williams, Mr. Towery, Mr. Graser and Mr. Murphy

13-4VZ

VARIANCE PETITION - DENHOLM RESIDENCE

Owner: David Denholm

Agent: Greg Roberts, Esquire

Staff: Scott Pickett, Senior Planner

(2:31) Chair Snyder stated this is a quasi-judicial hearing; read a memorandum dated October 1, 2013, stated one written communication has been received regarding this petition; and opened the public hearing.

Mr. Persson queried commissioners on conflicts of interest and ex parte communications; Mr. Snyder, Mr. Towery, Mr. Graser, Ms. Moore and Mr. Murphy stated they conducted site visits with no communications. Mr. Williams stated he saw staff on his site visit and had a general discussion on the agenda for this meeting. Mr. Persson queried the commission and presenters on comments or questions, seeing none, the presentation began.

Staff Presentation

Mr. Pickett, being duly sworn, summarized the variance, stated the applicant is requesting an additional 5% lot coverage, displayed an aerial view and survey of the property, pointed to the zoning district boundary behind the property, noted the property is significantly below the average lot size of the neighborhood, and reviewed the considerations in granting a variance and determination criteria.

He pointed to the area in the neighborhood where water collects after storms, read from the staff report regarding the variance being in harmony and not injurious to the neighborhood, reported staff met with the applicant and there is a solution to the drainage problem, there was a prior drainage system involving a pipe running through the subject property, reviewed the elevation of the surrounding properties, stated a swale will be provided along the property line to drain on Alhambra Road, the plan shall confirm the drainage conveyance is sufficient to accommodate off site drainage, and displayed photos of the current drainage conditions. He answered questions on the elevation of the property stating it is 13.7 feet on all four corners.

Mr. Clinch noted the elevation gets higher as it approaches the road, stormwater runoff does not drain to Alhambra Road unless there is a major rain event, and explained how the swale will be installed to divert stormwater to Alhambra Road that drains into the city stormwater system.

Discussion followed on the slope of the property, the original drainage system, drainage on Alhambra Road, the previous drainage system not being permitted, the lot being nonconforming, lot coverage being defined by the roofed area, possible drainage options, and stormwater regulations.

Presentation

Greg Roberts, attorney representing the petitioner, being duly sworn, introduced contractor Jeff Gates, displayed the survey of the property showing the finished elevation will be 12.7 feet, deferred drainage concerns to the end of the presentation, summarized the petition, and noted the lot is 9,763 square feet when the minimum lot in a Residential Single Family (RSF) district is 10,000 square feet. He stated they are not requesting a variance for setbacks or pervious surfaces, special circumstances exist on this property, pointed to a map showing the lot sizes of neighboring lots on Alhambra Road, noted the average size lot, displayed the front and right elevations of the proposed two story home, noted there will be an apartment over the garage for the owner's mother, and the first floor of the home will be built to accommodate accessibility and living in place.

Mr. Roberts stated the issue with stormwater deals with the impervious coverage, the applicant has to address his drainage issue but is not responsible for existing neighboring drainage issues, noted the swale cuts into the usable area of the lot, and they have agreed to the stipulation which will help the neighboring property.

Discussion took place on whether a variance was sought for the three story house to the right, first floor coverage, total square footage of the property, and the applicant not needing a variance if the lot was of average size.

Mr. Roberts answered questions on running a drainage pipe through the property, whether the swale would drain the property to the right, and the current drainage system being on the neighboring property.

Mr. Gates, being duly sworn, stated the benefits of using the swale system is the water filtration of the system improving the water quality going into the city system, explained how the water drains into the gutter on Alhambra Road, and the location of the swale.

Audience Participation

James Theriault, 415 Hunter Drive, being duly sworn, talked about the drainage problems since the drain line on the subject property was removed, stated the pipe was

installed 29 years ago and worked fairly well to drain his and neighboring properties, the extended lot coverage would cause more drainage problems, noted the house on the corner was built within code but causes drainage problems, the city promised him the drain line would not be taken away, and commented on the swale construction. He testified he would have no objection if the pipe were replaced, noted all the houses on Gulf Manor Drive drain onto the subject property, the proposed variance is impacting his house negatively, and requested the variance not be granted.

Angela Haynes, 625 Alhambra Road, being duly sworn, displayed photos of her property after the heavy rain last week and the pipe was removed, stated she has no objection to the house but the pipe needs to be reinstalled, showed where the pipe was, and that she thought a new pipe was going to be installed.

Nancy Woodley, 8 Gulf Manor Drive, being duly sworn, stated the additional coverage is more impervious, the lot is slightly smaller than 10,000 square feet, most of the houses in the neighborhood are under 3,000 square feet and the proposed house would be larger, gave a brief history of the property, suggested the owner could build a 2,900 square foot house and would not be denied reasonable use, stated the area has historically had drainage problems, the drain pipe did work, and suggested denying the variance.

Rebuttal

Mr. Roberts stated the neighbors have had drainage problems regardless of whether there was a house on the lot, contended it is not Mr. Denholm's responsibility to address drainage issues on neighboring lots, the neighbors should address their own drainage issues, the applicant is not asking for an increase in the impervious surface, stated the swale is required whether the variance is granted or not, everyone is responsible for their own drainage, and requested the variance be granted.

Responding to questions, Mr. Gates described how the swale will be installed, the swale will provide 5% more drainage, noted the drain pipe was removed so the property could be developed, explained the neighboring properties can be helped by the swale, and confirmed neighboring water drainage will be permitted through the swale system.

Responding to questions, Mr. Clinch stated the swale system will be adequate, and will work if properly designed.

Mr. Persson clarified the applicant has no obligation to correct the current drainage problems in the area.

Discussion followed on whether adjacent properties would drain in the swale, whether ditches could be installed to flow into the swale, staff not reviewing all neighboring elevations, stormwater review with respect to the subject property, taking neighboring properties into account, whether the city can implement a system to accommodate the existing offsite drainage, there not being an impervious coverage standard, the lot being exempt from Southwest Florida Water Management District permitting, the required yard, and code provisions dealing with surrounding property drainage.

Mr. Persson interjected if the commission grants the variance they have the ability to ask for stormwater help for neighboring properties.

(3:39) Chair Snyder closed the public hearing.

A motion was made by Mr. Graser, seconded by Ms. Moore, that based on the staff report and the presentation, the Planning Commission, sitting as the local planning

agency, finds this request consistent with the comprehensive Plan, City development standards and with the affirmative Findings of Fact in the record and, therefore, moves to approve Petition No. 13-4VZ with the stipulation that the applicant attempt to address neighbors storm drainage issues. Seconded by Ms. Moore.

Discussion followed on the stipulation verbiage. Mr. Persson suggested a recess to obtain the correct verbiage for the stipulation.

Recess was taken from 3:41 until 3:50 p.m.

Mr. Pickett presented the stipulation verbiage, which was acceptable to the applicant.

Discussion took place on the removal of the pipe having nothing to do with the variance, the relevance of the drainage issue to the variance, the other property owners having to address their own drainage problems, the drainage problems existing today, the applicant being willing to help alleviate the drainage problems, and the review of the stormwater process.

A motion was made by Mr. Graser, seconded by Ms. Moore, that based on the staff report and the presentation, the Planning Commission, sitting as the local planning agency, finds this request consistent with the Comprehensive Plan, City development standards and with the affirmative Findings of Fact in the record and, therefore, moves to approve Petition No. 13-4VZ, with the stipulation that the applicant shall provide at the time of building permit application, a drainage swale confirmed through a signed and sealed site drainage plan by a licensed engineer, and the plan shall confirm that the drainage conveyance is sufficient to accommodate offsite drainage to maintain historic drainage patterns. The motion carried by the following vote:

Yes: 5 - Ms. Moore, Mr. Williams, Mr. Towery, Mr. Graser and Mr. Murphy

No: 1 - Chair Snyder

IV. Public Session

13-4PP

PRELIMINARY PLAT - LAUREL ROAD PROPERTY

Owner: OB Waterford, LLC

Agent: Jeffery A. Boone, Esq. and Shawn Leins, P.E. AM Engineering

Staff: Roger Clark, Planner

(3:55) Chair Snyder read a memorandum dated October 1, 2013, stated no written communications have been received regarding this petition, and opened the public session.

Mr. Clark gave a brief background on the property including the rezoning and site and development plans for the property, stated today's presentation centers on lot two, explained why the preliminary plat is being heard, displayed an aerial map and site photos of the property, summarized the petition, displayed land use and zoning maps, stated the staff analysis shows the petition is compliant with the comprehensive plan, land development and subdivision regulations, and reviewed alternatives for determination recommendation.

Presentation

Jeff Boone stated the plat is 62 acres, concurred with the staff report, noted this is a housekeeping matter to convey the property to subdivide the property into two plats,

stated they are complying with state law and city's land development regulations, and requested approval.

Shawn Leins stated the petition is compliant with the city zoning code and comprehensive plan.

Discussion followed on the owner of the property.

A motion was made by Mr. Murphy, seconded by Mr. Williams, that based on the staff report and the presentation, the Planning Commission, sitting as the local planning agency, finds this request consistent with the Comprehensive Plan and subdivision regulations and, therefore, recommends to City Council approval of Order No. 13-4PP. The motion carried by the following vote:

Yes: 6 - Chair Snyder, Ms. Moore, Mr. Williams, Mr. Towery, Mr. Graser and Mr. Murphy

13-3PP

PRELIMINARY PLAT - TOSCANA ISLES UNIT 1 PH. 1-4

Agent: Jeffrey Boone, Esq. and Shawn Leins, P.E. AM Engineering

Staff: Roger Clark, Planner

(4:04) Chair Snyder read a memorandum dated October 1, 2013, stated no written communications have been received regarding this petition, and opened the public session.

Staff Presentation

Mr. Clark summarized the preliminary plat petition, gave a brief background of the property, noted the subdivision is consistent with the initial plat and the approved Planned Unit Development (PUD). He displayed an aerial map of the property, reviewed the stipulation applied to the PUD rezone, reported the canopy trees will be planted with the first plat, all plans are consistent with the PUD, displayed site photos, land use and zoning maps, stated staff analysis included a technical review, and the petition is compliant with the comprehensive plan, land development and subdivision regulations. He reviewed the determination alternatives, stated Ken Marsh was present earlier and reported the applicant has submitted an application for school concurrency and were found compliant.

Presentation

Mr. Boone thanked staff for their assistance in scheduling these petitions together, pointed to the landscape plans along Knights Trail Road, stated staff is in agreement that the landscaping plans for the buffer along Gene Green Road and the northeast corner can be withdrawn at this time, and when the preliminary plat is reheard in the future, the buffer will be addressed at that time. He confirmed the canopy trees will be planted but not the remaining buffer, and commented this is the last petition to go through before development can start.

Responding to questions from Mr. Boone, Mr. Leins stated the preliminary plat is consistent with the PUD, land development regulations and the zoning code. Mr. Boone stated the petition is consistent with the comprehensive plan and respectfully requested approval.

Discussion followed on lot 107 being in the lake, the buffering along lot 174, the 35 foot buffer along the southern border, whether lots that back up to lake one could have a dock, whether buyers will be notified of future development of the Laurel Road property, and revitalizing the existing lake banks.

Mr. Leins explained how the banks will be built up to support the development, answered questions on sidewalks and FEMA flood maps, stated they will be filing modifications to the maps, and reviewed the density and types of dwellings on the southeastern 21 acres.

(4:23) Chair Snyder closed the public session.

A motion was made by Ms. Moore, seconded by Mr. Towery, that based on the staff report and the presentation, the Planning Commission, sitting as the local planning agency, finds this request consistent with the Comprehensive Plan and subdivision regulations and, therefore, recommends to City Council approval of Order No. 13-3PP. The motion carried by the following vote:

Yes: 6 - Chair Snyder, Ms. Moore, Mr. Williams, Mr. Towery, Mr. Graser and Mr. Murphy

V. Project and Petition Updates

Mr. Pickett reported the vested rights ordinance will be heard by council on October 8, reviewed the items for the October 15 commission agenda, stated the public hearing for the sign code ordinance will take place on November 5, and suggested having a workshop on some items such as art as signage, statues, tube dudes, and sign spinners. He reported the Higerville preliminary plat was approved at the last council meeting, and answered questions on agenda items for the November 5 meeting, the land development code update, and the expiration of the current comprehensive plan in 2017.

Mr. Pickett reported the consultant contract presented to council to evaluate the comprehensive plan was denied by council. Mr. Persson noted the purpose of his questioning witnesses, and explained his role in advising the board.

Mr. Snyder advised the commission on the memorandum from the city clerk regarding the sunshine and public records law refresher class, and urged commissioners to attend.

VI. Audience Participation

(4:37) Jeff Boone, Venice resident, noted he has received several phone calls regarding the sign code update, urged the commission to have patience and to thoroughly vet the ordinance, noted how important signage is to the business owner, and that business owners do not realize how sign code changes will affect them until after the new regulations are in place.

VII. Adjournment

There being no further business to come before this Commission, the meeting was adjourned at 4:42 p.m.

Recording Secretary

Chair