



Meeting Minutes Planning Commission

Tuesday, May 16, 2017

1:30 PM

Council Chambers

[16-03RZ](#)

ZONING MAP AMENDMENT - THE PRESERVES OF VENICE

Owner: SSD Land Holdings, LLC

Applicant: Windham Development, Inc. (contract purchaser)

Agent: Charles D. (Dan) Bailey, Jr. Esq., Williams Parker Law Firm

Staff: Roger Clark, Senior Planner

Mr. Snyder announced this is a quasi-judicial hearing, read memorandum regarding advertisement and written communication, and re-opened the public hearing.

Ms. Fernandez queried board members on ex-parte communications and conflicts of interest. Mr. Murphy and Mr. Newsom disclosed site visits with no communication.

Mr. Clark, being duly sworn, spoke to additional communication received.

Dan Bailey, Williams Parker Harrison Dietz and Getzen, being duly sworn, addressed ground water to include affidavit provided by Michael Alfieri, and buffering.

Bernard Kinney Jr., BKA Inc., being duly sworn, responded to board questions regarding concerns with noise impact on the Preserves of Venice, Florida Department of Transportation (FDOT) noise policy, and process of conducting the study.

Jeff Boone, Boone Law Firm, representing Fox Lea Farm, being duly sworn, questioned Mr. Kinney regarding his background.

Kurt Crist, Landscape Architect, Inc., being duly sworn, reviewed his background, spoke to buffer along Fox Lea Drive to include number of existing and proposed trees and vegetation.

Discussion took place regarding the suggested wall and sound buffer along the southern boundary.

Mr. Crist continued to discuss the buffer along N. Auburn Road, Sarasota County buffer module, and responded to board questions regarding allowable species, speed of growth, distance between trees, and opacity of Fox Lea Drive Roadway Cross Section. He responded to

Mr. Boone's questions regarding opacity of Fox Lea Drive, changes in the originally submitted landscaping plan, maintenance of landscaping in swale, and Sarasota County buffer module.

Discussion continued regarding opacity height thresholds.

Mr. Bailey stated he was in agreement with the first eight stipulations, reviewed stipulations nine through 16 presented to Mr. Boone, and noted the addition to number nine to add noise stipulation for I-75.

Mr. Boone and Mr. Bailey reviewed stipulation 9 to include Fox Lea Farm's request and notes parties can work out verbiage before final hearing to city council, no objection with adding I-75 buffer.

Ms. Fernandez stated that all stipulation verbiage should be finalized today and modifications can be presented to city council during the meeting.

Discussion took place regarding the verbiage of stipulation ten to remove "lot 32 through 46" and add "along entire southern boundary", stipulation 12 regarding fire hazards and restricting use to only gas burning for backyard barbecues, and stipulation 13 regarding safety alarms.

Mr. Clark spoke to planning department recommended stipulations for the preliminary plat and rezone. Discussion took place regarding the stipulations being attached to the rezone and linking the preliminary plat to the rezone.

Mr. Bailey and Mr. Boone continued to discuss stipulation 13 regarding the lots on the southern boundary to include lots 32 to 57, stipulation 14 regarding Fox Lea Farm drainage that discharges into the ditch, storm water system of Preserves of Venice, and review of the slopes impact on drainage.

John Cavoli, Cavoli Engineering, being duly sworn, spoke to water flow, swale water flow, and slope requirements to meet existing grade.

Mr. Bailey and Mr. Boone reviewed stipulation one regarding buffer density of the southern boundary, stipulation two regarding maintaining density of current vegetation, stipulation three regarding 12 foot high wall, presenting different height to council, applicant not in agreement with wall, the applicant's objection to stipulation seven regarding construction during months of heavy use at Fox Lea Farm, Fox Lea Farm's suggested stipulations regarding installation of pools on lots 32 through 57, use of drones, and lake depth.

Mr. Bailey spoke to meeting stormwater requirements.

Discussion continued regarding water levels during construction and lake depth.

Mr. Boone spoke to Fox Lea Farm well permits and well information.

Jim Collins, Boone Law Firm, being duly sworn, spoke to the search he conducted on Fox Lea Farm well permits.

Mr. Bailey summarized his client's petitions and requested the board recommend approval to city council.

Mr. Boone spoke to Fox Lea Farm generated tourism revenue, programs offered and safety concerns, and justification of proposed stipulations and requested the revised landscape plan be reviewed by staff.

Dick Longo, Sawgrass Community Association, being duly sworn, spoke to buffers along N. Auburn Road, concerns with noise, city water and utility plan, and traffic concerns.

Robert Cournoyer, 685 Egret Walk Lane, being duly sworn, expressed concern with environmental noise and the impact on the health of future residents, and requested implementing noise abatement regulations and initiating a risk assessment.

Dr. W.B. Lyons, 521 Marsh Creek Road, being duly sworn, expressed concern with previous developers that agreed to stipulations and did not follow through, and spoke to drainage into Curry Creek.

Joyce Lyons, 521 Marsh Creek Road, being duly sworn, spoke to property rights, zoning regulations, setting precedence with variances, and expressed concern with proposed density.

Discussion took place regarding concerns with buffering on N. Auburn Road and the need for up to seven or eight foot 90 percent opacity of landscaping within two years. Mr. Bailey informed the board that his client would agree to the additional stipulation.

Mr. Clark spoke to the stipulations included in the staff report.

Mr. Shrum, being duly sworn, spoke to the stipulations presented by staff and whether it would be appropriate to include them in the rezone, difficulties with including stipulations in the rezone, and responded to board questions regarding zoning requirements.

Ms. Fernandez suggested not merging the stipulations with the rezone.

Discussion took place regarding the petitioner and the affected party's disagreement with including stipulations in the rezone ordinance.

Mr. Boone spoke to ensuring the protections of the stipulations for Fox Lea Farm and the applicant's agreement.

Mr. Shrum spoke to staff review of the changes to the landscape plan and the required affirmative four votes.

Discussion resumed regarding the landscaping plan changes, contingency upon staff review, number of stipulations that are not finalized verbiage, and enforcement of stipulations.

Mr. Bailey spoke to the angle of the slope in regard to buffer height along N. Auburn Road and providing a hedge.

Mr. Snyder closed the public hearing.

A motion was made by Mr. Murphy, seconded by Ms. Moore, that based on review of the application materials, the staff report and testimony provided during the public hearing, the Planning Commission, sitting as the local planning agency and land development regulation commission, finds this petition consistent with the Comprehensive Plan, in compliance with the Land Development Code and with the affirmative Findings of Fact in the record, and recommends approval with the stipulations provided by staff and the applicant for City Council Zoning Map Amendment Petition No. 16-03RZ.

Discussion took place regarding the proposed stipulations and staff's recommendation to not include all stipulations on the rezone.

The motion failed by the following vote:

Yes: 2 - Ms. Moore and Mr. Murphy

No: 3 - Chair Snyder, Mr. Graser and Mr. Newsom

Excused: 2 - Mr. Towery and Ms. Fawn

A motion was made by Mr. Graser, seconded by Mr. Newsom, that based on review of the application materials, the staff report and testimony provided during the public hearing, the Planning Commission, sitting as the local planning agency and land development regulation commission, finds this petition consistent with the Comprehensive Plan, in compliance with the Land Development Code and with the affirmative Findings of Fact in the record, and recommends approval to City Council of Zoning Map Amendment Petition No. 16-03RZ with the following stipulation provided by staff: Residential density on the subject property is limited to a maximum of three units per acre.

Discussion took place regarding stipulations being included in the rezone.

The motion carried by the following vote:

Yes: 4 - Ms. Moore, Mr. Graser, Mr. Murphy and Mr. Newsom

No: 1 - Chair Snyder

Excused: 2 - Mr. Towery and Ms. Fawn