



City of Venice

401 West Venice Avenue
Venice, FL 34285
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Meeting Minutes Planning Commission

Tuesday, April 5, 2016

1:30 PM

Council Chambers

07-07RZ.1

REZONE - S&J PROPERTIES

Owner: S&J Properties of SW FL, LLC

Agent: Jeffery Boone, Esq.

Staff: Scott Pickett, AICP, Senior Planner

Mr. Snyder stated this is a quasi-judicial hearing; read a memorandum dated March 19, 2016 and stated that two written communications have been received regarding this petition; and opened the public hearing.

Mr. Persson queried commission members on ex-parte communications and conflicts of interest. All members stated site visits with no communications.

Mr. Snyder stated that this quasi-judicial proceeding is regarding a request for affected third party status for Sorrento Ranches Homeowner's Association, Inc. and Robert Burrus.

Mr. Persson gave criteria for affected third party status and elaborated on the rules and procedures.

Mr. Boone, being duly sworn, made reference that the hearing was not necessary, but that Dan Lobeck and his clients had the right to be recognized.

Dan Lobeck, being duly sworn, requested that affected party determination not be made until after the presentation.

Mr. Boone and Mr. Lobeck continued discussing affected party status.

Discussion took place regarding the true meaning of affected person status, with Mr. Persson providing an explanation, upstanding rights, decision of the planning commission not having any merit when this item goes before city council, rights of the residents to pursue, and city council's decision.

Mr. Lobeck requested clarification on affected party status to make sure that there was not a specific right that could be overlooked by council.

Discussion continued on complying with the procedure of the planning commission and the recommendation to city council.

Mr. Lobeck spoke regarding planning commission rules and standards, and that he does not intend to participate in intense cross examination or abuse the rights granted.

Robert Burrus, 300 Sorrento Ranches Drive, Nokomis, being duly sworn, responded to questions by Mr. Lobeck regarding affected party status, proximity to the subject property, the elimination of stipulations and its effect, responded with credentials and evidence of impact if the stipulations were eliminated, incompatibility, landscaping, and buffers.

Mr. Boone reserved the right to cross examine, commented on the inconsistency with the testimony and will do so at city council.

Mr. Lobeck questioned witness Jean Skinner, 340 Sorrento Ranches Drive, Nokomis, being duly sworn, regarding the ownership of her home, proximity of the home to the property in question, whether there was receipt of notice of public hearing, which Ms. Skinner stated that she had however there was confusion on the exact location of the property in question.

Mr. Boone reserved the right to cross examine the witness and will do so at city council.

Mr. Lobeck questioned witness Jody Skinner, 340 Sorrento Ranches Dr., Nokomis, being duly sworn, regarding the accuracy of Ms. Jean Skinner's testimony, and marital status.

Mr. Boone reserved the right to cross examine.

Mr. Lobeck provided the commission with examples of other similar cases that were granted standing in similar situations, affected status of Sorrento Ranches residents being within one mile of subject property, and the request of standing of affected person status regarding this matter.

Mr. Boone stated he is reserving his objection to standing for the city council public hearing should the witnesses decide to testify, clarified that similar cases of standing are of their own individual determination and have no real bearing on future cases, and stated that he reserves the right to object at the council meeting, and that the commission's decision would be a recommendation to city council only.

Discussion took place regarding inaccuracies of witness testimony and of Mr. Boone's intentions.

Mr. Boone responded that determination of cross examination would

depend on testimony of witnesses at the city council public hearing.

A motion was made by Mr. Murphy, seconded by Mr. Towery, to approve affected party status of Jean Skinner, Jody Skinner, Robert Burrus, and Sorrento Ranches Homeowners Association, Inc. for the purpose of this hearing. The motion carried by the following vote:

Yes: 7 - Chair Snyder, Ms. Moore, Mr. Towery, Mr. Graser, Mr. Murphy, Mr. Newsom and Ms. Fawn

Mr. Snyder stated that he would like staff to proceed with the presentation followed by the petitioner and the rebuttal or presentation by Mr. Lobeck.

Mr. Pickett, being duly sworn, provided a presentation on the rezone of S&J properties summarizing the rezone amendment, the proposal to retain the same zoning, elimination of the five stipulations, summary of rezone petition, aerial map, provided photos of on-site and off-site conditions, future land use map, existing and proposed zoning map, staff planning analysis, consistencies with the comprehensive plan and future land use map, land use compatibility and review evaluation, mitigation techniques, definition of the comprehensive plan compatibility, policy, stipulations, density, future land use designations, setbacks, boundaries, considerations, elimination of stipulations, connectivity, and staff summary which included the findings of fact.

Discussion followed regarding the presentation, maps, residential density, conversion factor, surrounding properties, building height, history of zoning speculations, stipulations on buffer width, Sarasota County comprehensive plan, and the rights of the current owner.

Discussion continued on the differences between the city and county comprehensive plans, vehicular connectivity, insurance, golf carts, speed limits, capacity, buffering, boundaries, Florida Power and Light (FPL) easement, gateways, and signage.

Recess was taken from 2:50 p.m. until 2:55 p.m.

Mr. Boone spoke on requirement of property title, owner of property at the time of the annexation, presentation, RMF-3 with stipulations, reasoning for changes, development of property, definitions of stipulations, issues, economic environment, purchase of property, rental apartments, affordable housing, acreage, units, site and development plan, wetlands, increase in density, annexation, future land use, density cap, compatibility analysis, rezone request, and buffers.

Discussion took place regarding the rezone, proposed changes, Joint Planning Area (JPA), transition area, units per acre, right-of-way, intensity, purchase contract, building height and density cap, parking, building being beneficial, and contract to build the apartments without

the removal of stipulations not being approved.

Mr. Boone stated that 13 units per acre was not possible and that eight units per acre was not enough.

Discussion ensued on the stipulations, connectivity creating a security issue, sidewalk fencing, golf carts, site and development plan application, noise issue, additional buffering, setbacks, boundary and easement, gateway standards, rental housing, special exceptions, aesthetic issues, reasons for stipulations, height, apartments versus condominiums, approval of site and development plan, compatibility, density areas, variety housing, validity of neighbor's concerns, changes, and the approval of 13 units per acre.

Mr. Boone commented on the need for affordable housing and the removal of stipulations making development of the property easier.

Discussion followed on the removal of stipulations and approval of site and development plan, rental apartments, Venetian Gateway standards, transition, connectivity, and lot acreage.

Mr. Murphy mentioned that a site and development plan would be more beneficial to discuss rather than the removal of stipulations in the current rezone amendment.

Mr. Murphy left the meeting at 4:00 p.m. and did not return.

Recess was taken from 4:00 p.m. until 4:05 p.m.

Mr. Boone spoke on the confirmation of the buffer on the site and development plan, leaving the stipulations in place, and the removal of the buffer.

Mr. Lobeck cross examined Mr. Pickett regarding the rezoning petition, designation of the zoning class, staff memorandum, current zoning, staff findings, various findings and facts, established compatibility at the time of the rezoning, comprehensive plan differences used in 1999 of the original rezoning, additional language being provided in the current comprehensive plan, compatibilities of stipulations and adjoining properties, density appropriateness, process of applicant, the FPL easement already in existence, mitigation, the multiple policies available on land use and compatibility, density cap, criteria, maximum of rezoning, determination of the exact density, property currently being a constrained parcel, and stated that stipulations are a tool used for implementing litigation measures of density where gross acreage is calculated.

Mr. Boone objected to the line of improper questioning with objection being withdrawn.

Mr. Pickett spoke in regards to policy 8.2 for what the mitigations measures are, lower density/intensity uses to transition between uses, removal of the stipulations, with Mr. Lobeck speaking on the entitlement of maximum, determination of timing of zoning, and exact density.

Mr. Boone objected to the questioning of process and stated the question being asked mischaracterizes the process and it has been established that the comprehensive plan outlines when a determination would be made.

Discussion continued on units per acre, what is allowed, acreage that is not buildable and gross buildable acreage.

Mr. Lobeck continued cross examination of Mr. Pickett regarding buffers, easement, adjacent properties for additional buffers, additional requirements of buffers and powerlines.

Mr. Boone objected, stating Mr. Lobeck was assuming facts and evidence, testimony or evidence to support that there will be buildings on the property line, the questioning being improper, and hypothetical questions being asked.

Cross examination of Mr. Pickett followed regarding requesting a different line of inquiry covering concurrency, service availability to the property, staff analysis, review of comments, and the possible increased demand on city services.

Mr. Snyder directed Mr. Lobeck to be more specific in his line of questioning of the witness with Mr. Boone objecting and stated that the staff member asked and answered the questions.

Mr. Lobeck asked about the adequacy of city services, necessity of analysis, and stated that no comments were provided in the staff analysis. Mr. Boone objected stating the staff member was asked and answered the question.

Mr. Pickett acknowledged that a review of the file needed to take place and discussed that there are two types of applications, capacity and concurrency and stated that Mr. Boone's application was of capacity.

Mr. Boone questioned Mr. Pickett and spoke in regards to clarification of Sarasota County site and development plan process, input from the board, and county procedures regarding rezoning petitions. Mr. Lobeck objected stating Mr. Boone was making an argument without a question.

Mr. Boone continued regarding the transportation analysis, the analysis at the time of the site and development plan, the school board performing concurrency and analysis, determination and valuation, plat filing, city/county compatibility policies, land and existing uses, surrounding properties, and land uses. Mr. Lobeck objected stating that Mr. Boone is making an argument without asking a question.

Mr. Lobeck discussed the boundary of the property, techniques, policy 1.2.1, menu of options, city compatibility, objective eight, site and development stage, access consideration, property line, and buffering.

Mr. Pickett continued to answer questions from Mr. Boone regarding stipulations on potential mitigation measures, stating that without a site and development plan specifics at this stage were unknown, therefore preventing review, and that it is best to apply as much of the policy as possible at the rezone stage but that some aspects are not applicable, with Mr. Lobeck objecting to the testimony.

Mr. Pickett reiterated that some of the policy is applicable at the rezone stage and at the site and development stage.

Mr. Lobeck called the witness Gene Hines, 221 Sorrento Ranches Drive, being duly sworn, who spoke in regards to the rezone of S&J Properties, the strong opposition to the proposed removal of the stipulations with a discussion taking place regarding the FPL easement, adjoining northern border, incompatibilities, and stated that upon approval the rezoning would not be opposed and requested an ordinance that limited density to no more than eight units per acre, re-wording of the stipulation, increase in opacity of the vegetative buffer, stormwater drainage concerns, surrounding properties, and change in economy.

Ms. Jody Skinner spoke in regards to the rezone, site inspection, future investment, safety issues, easement, stipulations, privacy, mitigation, aesthetic value, financial issues, home value, and the ongoing stormwater drainage issues.

Mr. Burrus spoke in regards to the rezone, aerial view maps, residential support of the Publix property, and comparisons of the Windwood property.

Mr. Boone questioned Mr. Burrus about distance and his property line, width of buffer, with Mr. Burrus stating that it is 25 feet with opacity of 80%.

Mr. Lobeck concluded his presentation in regards to Mr. Boone's questions, stipulations on the site and development plan, compatibility

requirements, criteria in the comprehensive plan, bare basic of compatibility, the adoption of rezoning, negotiations, market for apartments, subject property being a constrained parcel, buffers, setbacks, modest building height, site and development plan stage, comprehensive plan requirements, units per acre, density, findings of fact, adequate school capacity, and rezoning petition.

Mr. Boone spoke on the opportunity for developers, property line, residents concerns regarding live stock, rental properties, density, height, setback limitations, open space requirement, buffering, landscaping, parking, findings of fact, applicable zoning map amendment consideration, comprehensive plan criteria, compatibility, witness and staff testimony, land use patterns, isolated district, plat stage, rezoning application, concurrency study and consideration, county rezoning policy, future land use criteria, residential future land use, and the need for rental units and affordable housing.

Mr. Boone provided a summary of the rezone petition, site and development plan, willingness to work with neighbors, agreement, request for the approval to remove stipulations from the present zoning ordinance, and the recommendation to city council from the planning commission.

Mr. Snyder closed the public hearing.

Discussion took place regarding deterioration of property and lifestyle, responsibility to review objectives and consider a workforce housing development, violation of the comprehensive plan not being envisioned, site and development plan determination, city/county property transition compatibility issues, current rezoning application, regulations, item G in the comprehensive plan and its effect on current residents, analysis of concurrency aspects, process of rezoning and annexation, characteristics of property, lack of information for a decision, future protection of property and surrounding property value, residents quality of life, need for affordable housing, access for pedestrians and golf carts, vegetative buffering and fencing separations, gated community and security concerns, FPL easement, compatibility between residential/non residential and commercial land use, density differences identifying mixed land use, future development of property and existing zoning stipulations.

Discussion continued on the past and current economy, approvals in the past, and the analysis in the site and development plan stage.

A motion was made by Ms. Moore, seconded by Ms. Fawn, 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 contingent on retaining the stipulation now in place regarding the buffer moves to approve Zoning Map Amendment Petition 07-7RZ. The motion failed by the following vote:

Yes: 2 - Ms. Moore and Ms. Fawn

No: 4 - Chair Snyder, Mr. Towery, Mr. Graser and Mr. Newsom

Absent: 1 - Mr. Murphy

Mr. Snyder recommended that Mr. Boone and Mr. Lobeck get together prior to the city council public hearing and see if a decision can be made regarding the rezone.

Mr. Persson directed commissioners to make a recommendation to city council.

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, finds this request inconsistent with the Land Development Code specifically Sec. 86-47 (f) (1)g., k., and n. and, therefore, moves to deny Zoning Map Amendment Petition No. 07-7RZ.1. The motion carried by the following vote:

Yes: 5 - Chair Snyder, Mr. Towery, Mr. Graser, Mr. Newsom and Ms. Fawn

No: 1 - Ms. Moore

Absent: 1 - Mr. Murphy