



City of Venice

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

Tuesday, April 3, 2018

1:30 PM

Council Chambers

16-04RZ

Pinebrook Park (1220 Pinebrook Road) - Amendment to the Pinebrook South Planned Unit Development (PUD)

Staff: Scott Pickett, AICP, Senior Planner

Agent: Jeffery Boone, Esq.

Owner: Pinebrook Park, LLC

Chair Snyder announced this was a quasi-judicial hearing, read a memorandum regarding advertisement and written communications, discussed the process for any handouts being given to commission members and opened the public hearing.

Ms. Fernandez questioned commission members regarding ex parte communications and conflicts of interest. Ms. Fawn, Ms. Moore, Mr. Murphy and Mr. McKeon had site visits with no communication. Mr. Snyder announced he had numerous site visits over the course of two days and had a discussion with Mr. Boone of an administrative nature and not having anything to do with the project. There were no conflicts of interest.

Chair Snyder confirmed speaker cards completed by all those who will offer testimony, or speak under audience participation.

Ms. Fernandez spoke regarding affected party status applicant process.

Daniel Lobeck, Lobeck and Hanson Law Firm, being duly sworn, spoke regarding the Pinebrook Homeowners Association (HOA) oversight and reasons for affected party status. .

Jeff Boone, Boone Law Firm, being duly sworn, spoke regarding his objection to the affected party status requests based on Mr. Lobeck's failure to make proper notification, consequences for not following rules, representatives can speak with no cross examination or rebuttal and time restraints should be enforced.

Mr. Lobeck continued to speak regarding rules of notifications, professional courtesy, entitled to affected party status, plans to appeal if denied and discussed a prior circuit court case.

Mr. Boone continued to speak regarding the possibility of this matter going

to court.

Discussion took place regarding rules relative to notifications and revising procedures.

Ms. Fernandez provided the commission members guidance on determining affected party status and procedure to follow.

Discussion continued regarding cross examinations and private representation by Mr. Lobeck.

Mr. Lobeck clarified who he was representing and discussed time given for presentation.

A motion was made by Mr. McKeon, seconded by Ms. Fawn, to grant the Pinebrook South Homeowners Association affected party status represented by Attorney Dan Lobeck. The motion carried by the following vote:

Yes: 5 - Chair Snyder, Ms. Moore, Mr. Murphy, Ms. Fawn and McKeon

Excused: 2 - Mr. Towery and Mr. Graser

Elaine Lawson, 1350 Lucaya Avenue, being duly sworn, answered board questions regarding her affected party status request, clarification, given proxy by Jackie Rouff's request for affected party and reasons why they are an affected party.

Mr. Boone questioned Ms. Lawson regarding her membership to the home owners association, why Ms. Rouff is unable to be present during the hearing and indicated he had no objection to Ms. Lawson's request and objected to Ms. Rouff's request based on her absence.

A motion was made by Mr. Murphy, seconded by Ms. Fawn, to grant Elaine Lawson's request for affected party status. The motion carried by the following vote:

Yes: 5 - Chair Snyder, Ms. Moore, Mr. Murphy, Ms. Fawn and McKeon

Excused: 2 - Mr. Towery and Mr. Graser

A motion was made by Mr. McKeon, seconded by Ms. Moore, that the request for affected party status for Jackie Rouff be denied. The motion carried by the following vote:

Yes: 4 - Chair Snyder, Ms. Moore, Ms. Fawn and McKeon

No: 1 - Mr. Murphy

Excused: 2 - Mr. Towery and Mr. Graser

Roger Lawson, 1350 Lucaya Avenue, being duly sworn, confirmed his request for affected party status.

A motion was made by Ms. Moore, seconded by Ms. Fawn, to grant Roger

Lawson's request for affected party status. The motion carried by the following vote:

Yes: 5 - Chair Snyder, Ms. Moore, Mr. Murphy, Ms. Fawn and McKeon

Excused: 2 - Mr. Towery and Mr. Graser

Lowell Beatty, 1328 Lucaya Avenue, being duly sworn, spoke regarding why he is an affected party.

Mr. Boone questioned Mr. Beatty regarding his membership to the Pinebrook Homeowners Association.

A motion was made by Ms. Fawn, seconded by Mr. Murphy to grant Lowell Beatty's request for affected party status. The motion carried by the following vote:

Yes: 5 - Chair Snyder, Ms. Moore, Mr. Murphy, Ms. Fawn and McKeon

Excused: 2 - Mr. Towery and Mr. Graser

Mr. Boone spoke regarding his concern with members applying for affected party status who are part of the Pinebrook Homeowners Association as well as the association's separate request and discussed possible court proceedings.

Discussion took place regarding the amount of speaker cards submitted and order of procedure moving forward.

Scott Pickett, Senior Planner, being duly sworn, spoke regarding petition summary, property history, Planned Unit Development (PUD), photographs of surrounding area, future land use map (FLUM), existing zoning map, comprehensive plan consistency, mixed use residential (MUR), maximum density, land use compatibility, nonconforming uses, compliance with Pinebrook South PUD, compliance with the land development code (LDC), findings for rezoning amendments, concurrency, summary findings, planning commission report, recommendation to city council and answered board questions regarding density, missing project files, master plan, open space and land use compatibility.

Mr. Lobeck questioned Mr. Pickett regarding the absence of a draft text amendment in the application, existing uses and more clarification on the text amendment. Mr. Boone objected to Mr. Lobeck's questioning of the text amendment based on repeated questioning. Mr. Lobeck continued to question Mr. Pickett regarding permissible use and limitations of the 2.4 acres. Mr. Boone objected to Mr. Lobeck's questioning of the 2.4 acres citing there should be no confusion. Mr. Lobeck continued by asking Mr. Pickett about mixed use residential, maximum density for any parcel within the MUR and dwelling units per acre. Mr. Boone objected indicating Mr. Lobeck was repeatedly asking Mr. Pickett the same question in an effort to

receive the desired answer.

Mr. Lobeck continued his questioning with Mr. Pickett regarding units per acre, PUD density, overall limit on a particular parcel, previous PUD developments exceeding the standards, density and intensity, non residential use, Pinebrook PUD, nursing home category, compatibility policy, examination of a site plan, rezoning, surrounding area of the subject parcel density, evaluating compatibility, incompatible densities and lowering maximum density.

Mr. Boone questioned Mr. Pickett regarding Policy 8.2, land use compatibility review procedures, building heights and setbacks, character of use proposed, density and intensity, architectural mitigation design techniques, considerations for determining compatibility and compliance with the comprehensive plan.

Mr. Pickett asked the commission if they wanted calculations on the density of the adjacent property and was informed it was not necessary.

The meeting went into recess from 3:06 p.m. through 3:16 p.m.

Mr. Murphy entered the meeting at 3:19 p.m.

Mr. Boone spoke regarding amendment to PUD, not adding or increasing density within the PUD, mixed use proposal, market rate rental apartments, future land use designation, consistency with the comprehensive plan, land use pattern, reviewing undeveloped areas, overview of Pinebrook, compliance with city standards, zoning code and requesting approval of application.

Mr. Boone questioned Mr. Shrum regarding whether Pinebrook HOA ever objected to policy 8.2.

Mr. Boone answered board questions regarding subsidized housing development, compatibility, multi-family clarification, comprehensive plan amendment, heights and setbacks, potential of having two story buildings, variances of code relating to parking and buffers, character of the use proposed, existing land uses, density limit and floor area ratio.

Mr. Lawson questioned Mr. Boone regarding the homeowners association not being allowed in the meetings to ask about the petition.

Discussion took place regarding setting a time limit and agreed to continue to another day if the meeting goes past 6:00 p.m.

Mr. Lobeck requested to make his presentation after the affected parties speak.

Ms. Fernandez spoke regarding the process for affected parties and members of the association.

Ms. Lawson spoke regarding gross incompatibility, increase in parking spaces, shifting population, no setbacks or protections, surrounding properties, emergency vehicles, current zoning, noise control, decrease in property value, high density rental units and request for denial.

Mr. Lawson spoke regarding his reason for living in his current neighborhood, shared neighborhood photographs, neighboring nursing home, zoning, change of character, high density residential and site plan. Mr. Boone objected during Mr. Lawson's presentation citing misstatement made by Mr. Lawson that there was a site plan and wants the records to be clear. Mr. Lobeck objected to Mr. Boone's objection and requested the chair not allow anyone to interrupt the witnesses moving forward and Mr. Boone indicated they were not witnesses and should be categorized as affected parties.

Mr. Lawson continued to speak regarding boundary line, incurable defect, intrusion of incompatible uses, poorly managed growth and quality of life, buffering, workforce housing, adequate space to meet range of economic needs, traffic, lot is not being used for its intended purpose, not compatible with the comprehensive plan, demand for more nursing home space as senior population increases, expansion of Pinebrook Road and answered board questions regarding property values and prior sales signs on the property.

Mr. Beatty spoke regarding the reasons he moved to the neighborhood, high density consideration, mixed use and request for denial.

Thane Ostroth, 1216 Waterside Lane, being duly sworn, spoke regarding negative impact, change in density, maintain character of neighborhood, isolated high density district, increased traffic and objects to the rezoning application.

James Economides, 1322 Whispering Lane, being duly sworn, spoke regarding increase in density, special privilege, can the project be consistent with the comprehensive plan, can an affirmative finding be made on each of the 16 rezone considerations, why does the staff report assert that the Pinebrook Planned Unit Development was approved without a master plan and rezone petition should be denied.

Kathleen Economides, 1322 Whispering Lane, spoke regarding concern for rezoning request, current neighborhood is low density, green space, low walkability score, heavy traffic, quiet zone, violation of resident privacy, impact on property values, other areas in the city that are more suitable for apartments and the comprehensive plan.

Linda Strange, 1247 Lucaya Avenue, being duly sworn, spoke regarding current proposal, petition, support of staff, density, aerial map, residential use, shared an aerial map, surrounding properties, violation of the stipulated use and request for non residential instead of a high density dwelling.

Fran Nelson, 1245 Waterside Lane, being duly sworn, spoke regarding John Nolen compatibility, surrounding neighborhoods, zoning, increase in traffic, unable to monitor amenities being used by non residents and current vacant lots.

Mr. Lobeck spoke regarding density, Pinebrook South is built out, non residential designation, comprehensive plan, school capacity to accommodate, increase in density, mixed use in planning, residential density ranges, comprehensive plan revision, enforce the comprehensive plan, recommended denial of the proposal, market rate rental apartments, land use change, absence of a site plan, compatibility, policy 8.2, open for discussion on other non residential uses that would be compatible for the neighborhood and affected parties.

Richard Harshman, 1248 Lucaya Avenue, being duly sworn, spoke regarding his concerns of potential renters.

Dean Calamaras, 13 Gulf Manor Drive, being duly sworn, spoke regarding prior residency at Pinebrook, planned unit development, conservation area and requesting denial.

The meeting went into recess from 5:30 p.m. through 5:36 p.m.

Dorothy Moore, 1258 Lucaya Avenue, being duly sworn, spoke regarding cars parked on property, lack of playground for potential children from the apartments, high traffic area, stop signs and high density location.

Jim Martin, 1278 Lakeside Woods Drive, being duly sworn, spoke regarding the request to change zoning, green space and set backs.

Mr. Shrum, being duly sworn, spoke regarding date correction on the meeting advertisement, staff role in the process and spoke on the inappropriate comment made by one of the attorneys to staff.

Mr. Boone spoke regarding request for documentation, requirements in the zoning code, nursing home, parking, property size, non residential use, density, John Nolen plan, compatibility, site and development plan, comprehensive plan, mixed use residential district, traffic, shifting focus tactics, disagree with homeowners association, market rate, resolution from 1974, comments made regarding lawsuits, amendment and site and development plan that is compatible.

Chair Snyder closed the public hearing.

A motion was made by Mr. McKeon, 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, finds this petition is not consistent with Comprehensive Plan and is not in compliance with the Land Development Code and, therefore, Recommends Denial to City Council Pinebrook South PUD Amendment Petition No. 16-04RZ based on support of the previously approved Planned Unit Development. The motion carried by the following vote:

Yes: 5 - Chair Snyder, Ms. Moore, Mr. Murphy, Ms. Fawn and McKeon

Excused: 2 - Mr. Towery and Mr. Graser

Discussion took place regarding having more information, comparable apartment complex, reviewing the site plan, possible compromise, lack of interest in a compromise, density, site and development plan, height disparity, density and intensity, market conditions, mixed use residential, rezone and requiring more details.