



City of Venice

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

Meeting Minutes City Council

Wednesday, May 9, 2018

8:00 AM

Council Chambers

Continuation of May 8, 2018 Regular Meeting

ORD. NO. 2018-13

An Ordinance of the City of Venice, Florida, Granting Rezoning Petition No. 16-04RZ Amending the Pinebrook South Planned Unit Development (PUD) and Resolution 518-74, as Amended, to Add Residential as a Permitted use up to 18 Dwelling Units Per Acre on Property Located at 1220 Pinebrook Road, Owned by Pinebrook Park, LLC; Providing that all Future Amendments to Resolution 518-74 Shall be Adopted by Ordinance; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability; and Providing for an Effective Date (Quasi-Judicial)

Mr. Shrum, being duly sworn, spoke to subject property zoning, resolutions, allowable uses, density on a gross acreage basis, binding master plan, Pinebrook South planned unit development (PUD), and Curry Creek.

Discussion took place regarding the comprehensive plan, mixed use residential (MUR), and rental apartments in the PUD.

Mr. Shrum commented on the intent of the comprehensive plan and PUD approvals, and responded to council questions regarding Policy 8.2.

Dan Lobeck, representing Pinebrook South Homeowners Association (HOA), being duly sworn, cross-examined Mr. Shrum regarding master plan, residential densities within each neighborhood of the PUD, permitted uses in the subject property, and Mr. Shrum's response letter dated May 2, 2018 to Jeffery Boone.

Jeffery Boone, representing applicant, being duly sworn, objected to Mr. Lobeck's questioning of the response letter.

Mayor Holic stated objection is noted.

Mr. Lobeck cross-examined Mr. Shrum regarding master plan, Pinebrook South Unit 1 density, residential use on the subject property, and master plan's direction for the same density within the surrounding homes.

Mr. Boone objected to the form of Mr. Lobeck's question regarding the master plan's direction for the same density within the surrounding homes and noted question appears to provide direction.

Mr. Lobeck cross-examined Mr. Shrum regarding application being in compliance with the transition criteria in Policy 8.2, determining density, permitted uses in the subject property, and assisted living facility (ALF) and home for the aged.

Mr. Lobeck read the definition and provisions for housing for the aged from the comprehensive plan.

Mr. Lobeck cross-examined Mr. Shrum regarding amending the zoning designation for something compatible with the neighborhood.

Mr. Boone objected to Mr. Lobeck's form of the question noting anything is possible.

Mr. Lobeck read the definition of nursing homes from the comprehensive plan.

Mr. Shrum provided a second qualifying definition for nursing homes.

Mr. Boone cross-examined Mr. Shrum regarding his testimony regarding allowable uses on the property, making a zoning determination, staff report, Pinebrook South PUD, amended resolution, maximum densities within the PUD, and the Milano PUD.

Mr. Lobeck objected and noted Mr. Boone is testifying instead of asking a proper question.

Mayor Holic stated all objections are noted.

Mr. Boone withdrew his question.

Mr. Boone cross-examined Mr. Shrum regarding the original and expanded Milano PUD, identifying areas with maximum PUDs, existing condominium development within the Pinebrook South PUD, housing types as defined in the city, comprehensive plan or land development regulations (LDRs) distinguishing between rental and individual ownership, rental of single and multi-family homes within the PUD, short-term rentals, housing for the aged development, Mr. Shrum's May 2, 2018 letter to Mr. Boone and 1986 future land use map (FLUM) exhibit included in the letter, previous comprehensive plans allowing residential in institutional professional zoning, comprehensive plan updates, and city council amending the Pinebrook South PUD to allow any use.

Mr. Lobeck cross examined Mr. Shrum regarding the 1986 FLUM,

Pinebrook South PUD approval date, prior comprehensive plan, and zoning consistency.

Mr. Boone cross-examined Mr. Shrum regarding the 1986 Growth Management Act, FLUM, and multi-family potential use for the subject property.

Mr. Lobeck cross-examined Mr. Shrum regarding his planning experience, and 1986 Growth Management Act and FLUM.

Mr. Boone objected and noted Mr. Lobeck stated fact and is not asking a question.

Mr. Lobeck continued cross-examining Mr. Shrum regarding the Growth Management Act.

Mr. Boone objected and noted question calls for speculation.

Ms. Fernandez responded to council questions on the definition of an expert witness and whether the attorneys or a home owner can qualify as one.

Mr. Lobeck spoke to Mr. Boone's presentation and testimony, planning commission's recommendation, Pinebrook South Homeowners Association (HOA), applicant's request for 18 units per acre, school capacity, arbitration, Pinebrook South PUD, comprehensive plan, Mr. Boone's cause of action, property rights, Bert Harris Act, density cap, changing the subject property zoning designation, current property permitted uses, and neighborhood compatibility.

Mr. Boone objected and noted Mr. Lobeck is providing legal argument.

Mr. Lobeck spoke regarding property constraints.

Recess was taken from 9:31 a.m. until 9:47 a.m.

Mr. Boone called Jim Collins, Planner with the Boone Law Firm, as his rebuttal witness.

Mr. Collins, being duly sworn, responded to Mr. Boone's question regarding his position and work experience, Pinebrook Park rezoning application, nursing home floor area ratio (FAR), proposed FAR for homes for the aged, maximum FAR allowed in the current comprehensive plan, and increasing the FAR in the comprehensive plan.

Mr. Lobeck cross-examined Mr. Collins regarding his relationship with the Boone Law Firm, nursing home FAR, home for the aged, amount the property owner paid for the subject parcel, economic constraints, and property owner's return on investment.

Mr. Collins responded to Mr. Boone's question regarding the nursing home's FAR constructed on the subject property.

Mr. Boone spoke to residents emails included in the record, proposed apartment development, John Nolen's plan, Grove Terrace, subsidized housing, Capri Isles apartments, and property values.

Ms. Fernandez returned to the meeting at 10:13 a.m.

Mr. Boone spoke regarding certificate of need and May 8, 2018 letter from attorney Stephen Boone to Mayor Holic.

Mr. Lobeck objected to the letter and noted Stephen Boone is not present for cross-examining.

Mayor Holic stated objection is noted and evidence is in the record.

Ms. Fernandez stated the hearsay objection is noted.

Mr. Boone spoke to Stephen Boone's letter, maximum FAR in the comprehensive plan, home for the aged, current nursing home exceeding FAR cap, client's option for the property, HOA reimbursing city taxpayer, school district compliance, interpretation of the comprehensive plan, staff report, compatibility, Capri Isles' PUD, transition, changes and amendments to PUDs, multi and single-family considered areas within the PUD, testimony or evidence of incompatibility within the PUD.

Mr. Boone consented to be cross examined.

Mr. Lobeck cross-examined Mr Boone regarding residents emails, landlord experience to include representing landlords with problem tenants, tenant versus homeowner conduct, project rental rates, market rate versus work force housing, contents of the ordinance on market rate rentals.

Mr. Lobeck objected to subject changes outside of today's public hearing advertisement and notice.

Mr. Lobeck cross-examined Mr. Boone regarding proposed ordinance, market rate rentals, David Greenberg's testimony, applicant selling the property to another developer, surrounding property densities, Pinebrook

South resident concerns regarding compatibility and use of amenities, and testimony on Pinebrook South being a diverse community.

Recess was taken from 10:59 a.m. until 11:11 a.m.

Mayor Holic commented on council revisiting process for quasi-judicial hearings.

Mr. Lobeck cross-examined Mr. Boone regarding property values of single-family homes next to apartments, Mr. Collins' testimony on FAR, and opportunity to rebut testimony.

Mr. Lobeck moved to strike all of Mr. Boone's testimony after answering question regarding rebuttal.

Mayor Holic noted request is on the record.

Mr. Lobeck cross-examined Mr. Boone on Stephen Boone's letter and availability to cross-examine, double hearsay, and school district capacity.

Discussion followed regarding Mr. Boone's cross-examination and redirect.

Mr. Lobeck objected to allowing Mr. Boone more time to present his case.

Mr. Lobeck cross-examined Mr. Boone regarding transition, affected neighbors, recreational park across the street, Pinebrook Road traffic, and multi-family development and density within the Pinebrook South PUD.

Mr. Boone objected to references made on not answering questions.

Mr. Lobeck cross-examined Mr. Boone regarding transition of densities, and PUD contract and changes.

Mr. Lobeck objected to allowing Mr. Boone the opportunity to direct more testimony for his case.

Ms. Fernandez clarified the rebuttal process.

Mr. Boone commented on rebuttal time and cross-examination, adding stipulations to the ordinance, and compliance with the school district and city's interlocal agreement.

Mr. Lobeck spoke to the proposed 18 units per acre, incompatibility, comprehensive plan, MUR and PUD district, planning commission's

decision, and requested council to deny petition.

Mr. Boone spoke to the need for apartments in the community, comprehensive plan policies, affected parties' position for use of the property, client's capability to develop on the property, developments in PUDs, multi-family next to single-family developments, John Nolen's plan, and apartments in northeast Venice.

Mayor Holic closed the public hearing.

A motion was made by Council Member Gates, seconded by Vice Mayor Daniels, to approve Ordinance No. 2018-13 on first reading and schedule for final reading with the stipulation of changing the proposed current density to 9.5.

Ms. Fernandez spoke to the motion.

Discussion took place regarding 1983 and 1985 resolution and subject property changes, motion, Pinebrook residents' request to keep the current zoning, Lucaya housing history, and comprehensive plan addressing rental versus individual ownership.

An amendment was made by Vice Mayor Daniels, seconded by Council Member Gates, to include a stipulation that rental rates will be no less than \$1200 per month.

Discussion followed regarding amendment and Bert Harris Act.

Ms. Fernandez provided council with direction on the motion.

Discussion continued regarding setting a rental rate, addressing ordinance as is, and council approving or denying ordinance.

Mr. Daniels withdrew amendment and his second to the motion.

The motion failed due to lack of a second.

A motion was made by Council Member Fiedler, seconded by Council Member Cautero, to deny Ordinance No. 2018-13.

Discussion followed regarding ordinance being consistent with the comprehensive plan, parties compromising, adding stipulations, permitted uses for the PUD, Pinebrook residents expectation for use of the property, proposed density, support for apartment developments, findings for rezoning elements, rental properties within PUDs, approving a new use within a PUD, HOA consent on changing rules within a PUD, master plan, 1983 and 1985 resolution, compatibility, and workforce housing.

The motion carried by the following vote:

Yes: 6 - Mayor Holic, Ms. Gates, Vice Mayor Daniels, Mr. Cautero, Mr. Newsom and Ms. Fiedler

Absent: 1 - Mr. Fraize