

Public Hearing and Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, November 10, 2003 in the Town Hall Meeting Chambers.

The meeting was called to order at 8:00 AM by Chair Bruce Gimmy and roll call was answered by the following:

Gerald Goray  
Ward Northrup

Jeff Lee  
Mauro Walker

Chairman Bruce Gimmy

A Town-Initiated Application for Development Approval/Special Exception to allow the use of Town Owned property at the northwest intersection of SR A1A and Woolbright Road on the east side of Midland Road, in the Preservation/Conservation Zoning District, as a Park area with accessory building to be operated by the Town.

The minutes herein are a summary and the total transcript will be attached.

Town Attorney Spillias stated that the Town of Ocean Ridge is proposing to use the property located at the northeast intersection of S.R. A1A and Woolbright Road, and on the east side of Midlane Road, for the purpose of a passive public park. Atty Spillias explained that the area would be developed in such a manner as to also serve as a detention area for the Town's improved stormwater drainage system. He advised that pursuant to the requirements of the Town's Comprehensive Plan Preservation/Conservation Land Use category, the Town park use and the building that will serve as an accessory use to house the necessary pumps require a Special Exception.

Atty Schoech, representing the P & Z Commission, explained that this Commission should be focused on the criteria in the application as it relates to the use as requested by the Town and also if it adversely impacts surrounding uses and facilities.

The Commission requested that Terrence Bailey, SFRN, address engineering questions from #13-17 of James Bonfiglio's letter (a copy was distributed to the Commission on Nov. 3, 2003). The replies included: #13 –the neighboring irrigation wells should not be affected because the size and scope were so small, #14 – there is always a possibility of minimal standing water, however, it is designed as a dry detention system and if it were to be considered as a retention area it would be wet and some sort of aeration system would be necessary and he added that there should be no increase in mosquito breeding (Ward Northrup felt that because of the proposed elevations of the area it would not stay dry and wanted proof that it would stay dry) (Mauro Walker was advised that an outfall would be installed flowing to the ICWW where there has never been one), #15 –fencing is not required and with a 4:1 slope it was designed that someone could walk up and down the area and there would be more of a natural vegetation buffer and therefore alleviates the second part of the question, #16 –the pump house is a closed lock/key structure and is screened from the road by vegetation, and #17 –the noise generated by the pumps will be mitigated by the building and mufflers and a factual study had not been

completed to measure the difference between the electric and diesel pumps. It is the opinion of the engineers that it is not a major difference, however, it saves approximately \$200,000 in capital costs and added it was the most cost effective method while still meeting SFWM requirements.

There were questions raised on whether more injection wells with ex-filtration could be done and all were advised that it is possible, however, the cost would be tremendous, there could be pipes located throughout Town, and the life span is approximately 10 years.

Atty John Randolph, representing several adjacent homeowners, gave reasons why the application should be denied. He commented that the area is zoned Preservation Conservation and simply not a park. He felt that the structure does not fall into the permitted accessories and the plans called the area a detention area not a park. He also stated that his clients believe the Special Exception would adversely impact the area. He stated that some of his clients concerns include noise levels, unknown visual appearance of the building, how often the pumps will run, the level and duration of standing water now compared to what is intended, the long term maintenance costs, and other alternatives not disclosed that may be considered.

Atty Randolph had three expert witnesses to speak on behalf of his clients' position. Charles Siemon, professional planner and planning law consultant, testified that he did not believe that the property fell into the category of a park definition because a large portion was devoted to stormwater management and he did not believe the application was a valid request for a special exception use. Rosa Durando, Audubon Society, and member of several past/present environmental agencies in Palm Beach County, testified that the proposed area is one of the few remaining coastal hammocks in the area and has several mangroves contained on it. She questioned why SFWM approved the permit because she did not believe that the property would meet the water quality standards in a 24 hour period before draining into the ICWW. She also questioned the effect diesel would have on the area and also that aquatic plants would probably not survive in the basin and would most likely become just grass thereby promoting a gathering picnic place. Ms. Durando stated that she is unsure if soil borings were completed to determine what is under the ground to see if extensive work would support what is currently there. She concluded by stating that she felt this application was actually a major land use change and could have lasting effects on the surrounding property owners such as mosquito breeding, flooding or a gathering area for individuals because it would most likely become just grass at the base of the detention area. Stuart Cunningham, Professional Engineer, testified that upon reviewing the proposed drainage plan he felt that the property would remain moist a majority of the time because of the proposed elevations. He stated that he was also concerned with salt water intrusion because of the proposal to dig the basin deeper and the effect this would have on the irrigation wells in the area. He believed that there were other viable alternatives such as a retention area where the water would naturally perk into the ground or deep wells with pretreatment and exfiltration systems. He concluded by stating that he felt this special exception would have an adverse impact to the zoning district. Atty Spillias questioned each presenter on points of their presentations.

Comments not in favor the application were received by Don and Jerry MaGruder, James Bonfiglio, Richard Lucibella, Lisa Allerton, and Ed Buxton. The main concerns were related to

the noise levels, possibly providing a more viable solution, proposed rice type plantings in the basin, the structure not meeting the setback requirements and no schematics being made available, their thought that the engineers did not provide complete and accurate information to the Commission and residents, wanting to preserve the area as much as possible and stating that this plan does not accomplish that goal, future security issues and a future liability for the Town. Mr. Lucibella commented that he felt this issue was brought before this board because it was just recently discovered that the area was zoned Preservation Conservation only after Mr. Randolph and Mr. Bonfiglio brought it to the attention of staff. He added that even the Commission was not made aware that this parcel would not stay in its natural state until two months ago when the type of structure was brought before them and the diesel/electric pumps came to light and asked why no studies were completed on the difference in cost and the noise level comparison. He questioned if this request meets the code for a park area.

David Collier, 5 Midlane Road, stated that he was not against the project; however, he reiterated his comments from the Sept. 30, 2003 meeting regarding utilizing an easement between his properties that he would grant to the Town to run the outfall pipe, thus saving the Town approximately \$200,000 in return for dredging the canal by his property.

George Bierlin, 26 Hudson Ave., commented that there was a petition in favor of the project that was turned over to the Town Clerk with 195 signatures.

Atty Spillias supplied the following responses to the concerns conveyed at this meeting: the passive park was always accessible and would become more accessible than currently exists; the property hasn't been opened up yet to be related to vagrancy, the statement that it could become a gathering area for picnics by Ms. Durando shows the property would be a park use, the salt water intrusion would need to be addressed by Lisa Tropepe however SFWM has already reviewed and approved the permits, exfiltration could be accomplished but at a tremendous cost with pipes throughout Town and a shorter lifespan, even if the property were raised the vegetation would still have to be removed and the Town is currently trying to retain all the native quality vegetation, and the project was designed for a 10 year storm event at the direction of the Commission unlike the 3 year storm event that the County approves because the Town wanted more protection.

Regarding comments by Atty Randolph, Atty Spillias offered the following: Prior submittals provided by SFRN advise the size of the electrical vs. diesel type and also address the maintenance issue diesel vs. electrical, a differing opinion by another engineer is common, the public can utilize this area now and there is no special exception, this area was always referred to as a park as shown the Flood Control Study prepared by SFRN in 2000, the April 27, 2001 document submitted into the record by Atty Randolph was also the date that it was determined that the Kelso property would not be used and the plan should be modified to use only the Woolbright/A1A area and he was unsure if it was discussed to move the pump but that is an engineering issue, and the Town always wanted to develop a passive park and now it could serve a dual benefit (he added that did not see any reason that the Town could not use the property for more than one reason). He concluded by stating that he felt the criteria was met.

PUBLIC HEARING & SPECIAL MEETING OF THE P&Z HELD MONDAY NOV 10, 2003

The P & Z attorney, Charles Schoech, reminded the Commission that typically there are three situations relating to zoning. They include permitted uses in zoning districts whereby permits are approved if they meet the code requirements, variances to the zoning code where an individual asks to deviate from the code, and provisions in the code that could allow certain other uses as a special exception if the criteria is met. He stated that this Commission heard the testimony and must weigh under the provisions of Section 63-54 if the conditions have been met to allow for a special exception.

All of the members unanimously voted to deny the application for a Development Approval/Special Exception because the adverse impacts need addressed such as completing soil tests to see how long the basin is currently wet or dry so as to compare with the future plan, no study has been completed for the noise or fume effects, no elevations were provided, and this is a last minute presentation of the project. They also felt more information was necessary to make an informed decision.

The meeting was adjourned at approximately 12:00 P.M.

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Chairman Gimmy

Attest:

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Town Clerk