

Public Hearing and Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, Nov. 15, 2004 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	James Bonfiglio
Ward Northrup	Mauro Walker
Chairman Bruce Gimmy	

III. APPROVAL OF MINUTES

A. August 9, 2004

Mr. Bonfiglio moved to adopt the August 9, 2004 minutes. Mr. Goray seconded the motion.

Motion carried – Yea (5).

IV. MODIFICATION APPLICATION SUBMITTED BY SPANISH BAY DEVELOPMENT, LLC, TO REDUCE THE PROPOSED 14 UNIT TOWNHOME DEVELOPMENT TO 12 UNITS WHICH WOULD INCLUDE A MODIFIED REPLAT AND MODIFIED SITE PLAN APPROVAL

Town Clerk Hancsak read the application title and advised that all fees have been paid and no additional correspondence has been received.

Mr. Bonfiglio disclosed that he had seen the attorney representing the applicant at a social event but they did not discuss the request. The other members advised that they had no contact with the applicant.

At this point all members of the public planning on providing testimony were sworn in.

Mark Marsh, of Digby Bridges & Marsh, architect representing the applicant, summarized the prior approval. He stated that due to the time constraints to obtain the environmental permitting in the wetland areas they are requesting to reduce the units from 14 to 12 and locate all the units eastward of the environmental areas. He stated that the unit sizes will remain the same. He commented that his client still plans on proceeding with the proposed channel, boat ramp area, individual docks, and bulkhead. He added that the entrance has been refined slightly, the layout is similar, the intent is to still preserve future boat access to the Town, negotiations are ongoing for the channel, and no variances should be necessary for the project.

Mr. Walker questioned if the capacity for the sanitary treatment plant has changed to which he was advised that the size has not changed and there was still adequate capacity for shared use with the Town Hall.

Mr. Bonfiglio stated that the proposed channel was an integral part of his original recommendation for approval and questioned the position of the Town if the permits are not approved and the project is not completed. Atty Young, representing the applicant, advised that even with the original approval Units 11-14 would have been completed as Phase III because of the jurisdictional permitting required. Mr. Walker again questioned the incentive to finish the channel if the 12 units are completed and sold.

Atty Spillias stated that the project was always subject to permitting and a possibility existed that the environmental permitting may not be approved. He added that the Town can subject the building permit approval to proof that permitting is being pursued with the various environmental agencies or possibly retain any issuance of the Certificate of Occupancies unless good faith effort is provided. He added that if the project is left incomplete it could become a code enforcement issue.

Mr. Vavarikos advised that they really do want the docks because they are extremely valuable to the project and the intent is to apply for the environmental permitting the day after the building permits are approved. He added that the environmental process may take approximately 2 years.

Mr. Northrup questioned if the applicant had already been in contact with the environmentally agencies when they sought original site plan approval. Mr. Vavarikos advised that they had discussed the project with the DEP who was very favorable to the idea; however, he was not aware that the process could take 2 years. He added that construction of the units will take approximately 1 year and the request is strictly a timing issue. Mr. Marsh stated that his client has engaged the services of 2 environmental consultants and they have met several times and all parties involved realize that a lot of background work will be required. He added that the waterfront amenity is one of the biggest assets and they are taking a tremendous risk because non-approval would cut into the profitability. Mr. Vavarikos stated that most likely the contracts with the individual buyers would have a refund clause if the docks are not built. He also stated that since the Town would be gaining access for a boat it may be more acceptable to the various agencies if a joint application was filed which would assist them.

Mr. Bonfiglio questioned the liability if the Town joined in the application process. Atty Spillias stated that he was not concerned with the liability, however, it was more of a private project and he was unsure how it could work. He suggested not making this a part of the conditions at this point.

Mr. Northrup asked if the applicant knew the estimated cost for dredging Spanish Creek, knowing it will be extreme. Mr. Vavarikos stated that they have not studied

the physical cost yet but they have been investigating companies that could perform the work.

Mr. Goray questioned the plans to screen the on-site treatment facility and safeguards for odor problems. Atty Young commented that the Town Commission approved the facility after they were shown a short video relating to the proposed system which would be located underground and odor free. Town Clerk Hancsak distributed a pamphlet concerning the on-site treatment facility. Atty Young stated that his client was also still receptive to relocating the facility further south.

Mr. Bonfiglio inquired where the fire hydrants were located to which he was advised that there was a hydrant on the north and south end of the property.

Speaking from the public, Ellen Bierlin, 26 Hudson Ave., also an alternate member of the P & Z Commission, stated that this Commission should be in favor of this request because they are reducing the units from 14 to 12.

Atty Spillias reiterated that the recommendation could be conditional on receiving confirmation that the environmental permitting process is being pursued to a conclusion for the docks and channel with periodic reporting to the Town Manager on the progress.

Mr. Bonfiglio moved to recommend approval of the amendment to the plan as submitted (and replat) conditional on good faith efforts being demonstrated by the applicant to vigorously pursue the environmental permitting for the docks and channel, with quarterly reports submitted to the Town Manager, and a recommendation that the Town Attorney examine the effects of the Town joining in on the application process. Mr. Walker seconded the motion.

Motion carried – Yea 5.

V. ADJOURNMENT

The meeting was adjourned at approximately 8:45 AM

Chairman Gimmy

Attest:

Town Clerk