

**Minutes of Planning Commission Meeting
Held Monday, February 12, 2018, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



CALL TO ORDER

The meeting was called to order at 7:00 P.M. by Board Member Greg Sutton.

ROLL CALL

Chairman: Greg Sutton
Board Members: Bill Callan David Dahl Georgette Dumont Britton Sanders (*absent*)
Alternates: Jason Lee (*absent*) Margo Moehring

Also present were Senior Planner Heather Ireland, and City Clerk Laurie Scott.

APPROVAL OF MINUTES

None.

Correspondence

Ms. Ireland reported an email was received today in regards to item PC # 1-18.

OLD BUSINESS

There was no old business.

NEW BUSINESS:

- (A) **PC#1-18 Ocean Terrace Residential PUD**
Planned Unit Development: PUD Amendment Application to amend the *Planned Unit Development: PUD* Ordinance governing the *Ocean Terrace* Residential PUD Subdivision (Ord. No. 2013-8031) by revising the PUD Narrative as it relates to allowable uses and structures in Tract D - Open Space, located along the west edge of the subdivision. (*Ocean Terrace Home Owners Association - Applicant*)

Staff Report:

Ms. Ireland read the following into the record:

In 2013, Richmond American Homes of Florida applied for a rezoning of the property that is now the *Ocean Terrace* residential subdivision. The rezoning of the 9.9 acre property from *Residential, single family: RS-1* to *Planned Unit Development: PUD* was approved by City Council and is governed by Ordinance No. 2013-8031. The PUD consists of 59 single family lots. The developer also applied for, and received under application BOA#12-100203, a variance for 5 percent open space instead of the minimum 20 percent open space required for PUD developments. After the variance was granted, the developer provided 9.2 percent open space within the PUD that was spread over four separate open space parcels.

A portion of that open space (Tract D), which is the subject of this PUD Amendment application, exists along the western boundary of the PUD and runs north to south, parallel to an unimproved 14-foot public alley. All of the open space tracts within the PUD are owned by its Home Owners Association (HOA). The Tract D open space was provided by the developer in order to protect a significant stand of old growth live oaks and to minimize impacts to the existing tree canopy. According to the property owners adjacent to Tract D, the lots that are adjoining were sold at a higher premium than other lots in the PUD.

Pursuant to the approved PUD Ordinance No. 2013-8031, no structures are permitted in Tract D, including fences. A fence was required to be erected along the western boundary of Tract D prior to construction as part of the approved PUD. However, the developer, and some homeowners who were unaware of the PUD restrictions, did install fences across Tract D in order to provide safety and security for their property, pets, and families.

In 2017, the City was notified of the unpermitted and illegal fences that were installed running east to west across Tract D, and a code enforcement case was initiated against the Home Owners Association (HOA). Control of the HOA has recently transferred from the developer to the property owners. Staff advised representatives from the HOA that a PUD amendment would be required to legally permit fences and any other structures in Tract D. The HOA has now submitted an application to amend the PUD narrative in order to allow fences to run across Tract D open space, and allow movable temporary structures, such as benches and play equipment. Currently, Tract D is only accessible from the adjacent lots, due to the fences installed and large hedges planted that prohibit north to south access across the tract.

The homeowners adjacent to Tract D are requesting to amend the PUD in order to better secure their yards. They wish to keep Tract D as open space and also to have the ability to maintain that property as well, as they essentially have become responsible for watering and maintaining the portion of Tract D that is immediately adjacent to their properties. Additionally, in May of 2016, the Covenants and Restrictions for the HOA were amended to make Tract D "limited open space" instead of "common open space" which makes it essentially available only to the property that is immediately adjacent. Staff has advised the HOA to identify any potential legal issues that may arise due to private use of this portion of HOA-owned open space property.

Applicant:

Jenny Robles, HOA Board Secretary, 4074 Gulfstream Drive, Jacksonville Beach, stated that the Tract D land is unusable space because it has been cut off on either side and residents are left to maintain it because of changes in the HOA amendments. The residents would like to use that space and fence in their own lots including Tract D. Ms. Robles stated she put up her fence within her property line, with Tract D space behind it. Mr. Sutton commented that it is exactly as it was designed when the PUD was put in place. Mr. Sutton asked as it stands today what is the City's stance on planting in Tract D. Ms. Ireland stated the PUD says they can put in landscaping into Tract D but no structures, which fences qualified as structures. Discussion of putting in hedges and landscaping versus fencing ensued. The Board's intention in 2013 was that this tract would be a buffer, an open space for all to enjoy.

Public Hearing:

The following individuals spoke in favor of the agenda item:

- Ann Frendenthal, 4021 Palm Way, Jacksonville Beach

- John Weyer, 4058 Gulfstream Drive, Jacksonville Beach

The following individuals spoke in opposition to the agenda item:

- Tom Riley, 4033 Palm Way, Jacksonville Beach

Discussion:

Discussion continued on landscaping, open space and fencing. Board members expressed their concerns over setting a precedent where agreements between a developer and the City have been approved, and then any conditions of approval subsequently being allowed to be amended to the benefit to property owners.

Motion: It was moved by Mr. Dahl and seconded by Ms. Dumont, to deny the application.

Roll call vote: Ayes – Callan, Dahl, Dumont, Moehring, and Sutton.
The motion to deny passed unanimously.

PLANNING & DEVELOPMENT DIRECTOR'S REPORT

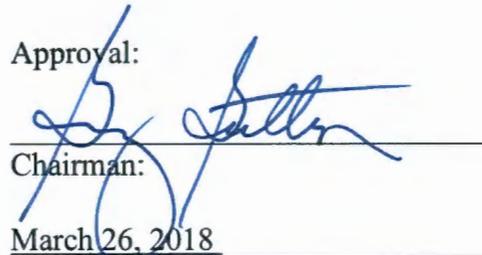
Ms. Ireland noted the next meeting is scheduled for Monday, February 26, 2018.

ADJOURNMENT

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 8:00 P.M.

Submitted by: Paula Emminger

Approval:


Chairman:

March 26, 2018

Date: