

**PLANNING COMMISSION
MEETING
DECEMBER 20, 2011**

MEMBERS PRESENT: Lynne Matthews, Acting Chairman
Donna Aveck, John Burrage, Massey Loughman,
Bill Schindler, Charles Thomas, Charles Zajicek

MEMBERS ABSENT: Edward Zapke

OTHERS PRESENT: Teri Tubbs, Zoning Official
Lisa Hannon, Zoning Coordinator
David Hilston, Urban Design Manager
Steve Nelson, Bill Gazzola, Deborah Highsmith,
Mark Hoskins, Dave Contarino, Dan Holtan,
Theresa Jenkins, Glen Larson, Charlie Cheek,
Thomas Martin

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
 - 1. January 23, 2012

APPROVAL OF MINUTES

- A. November 28, 2011
 - Ms. Matthews confirmed the public hearings from November 28, 2011, had been found to meet Statutory requirements, recalling there had been some questions with regard to signatures and the accuracy of a legal notice.
 - Mr. Burrage MOVED, Mr. Zajicek SECONDED approval of the November 28, 2011 minutes. MOTION CARRIED UNANIMOUSLY.

QUASI-JUDICIAL PUBLIC HEARINGS

- Recording Secretary Kelly swore in all participants.
- A. Amend SE-02-11 – Request by Steve Nelson, Agent for Stock Development, to amend the previously approved SE-02-11, pursuant to Chapter 26, Section 26-16.8(o), to install lighting on 3 existing tennis courts at a tennis club facility located at 92 Vivante Boulevard in a General Multi-family-15 Units per Acre (GM-15) zoning district.
 - Ms. Teri Tubbs, Zoning Official, displayed an aerial photograph of the subject location, as delineated in the agenda material, stating the original special exception request was to allow non-resident members. She explained in order to accommodate evening tennis, this request was to allow lighting on three of the four remaining courts. She mentioned no lighting was proposed for the tennis court located closest to 90 Vivante Boulevard so as to ensure no light glare to the residents of same. She noted the

electrical conduit was in place as lighting of the courts was originally planned, adding the proposed lights would match the existing fixtures. She concluded staff had no objections to the request but had received a number of e-mails expressing residents' concerns, primarily from those in Building #90.

- Ms. Matthews asked why all the courts were not lit upon construction.
- Ms. Tubbs expressed uncertainty regarding same, noting all the tennis courts were wired for lighting.
- Mr. Steve Nelson, applicant's agent, confirmed all courts were originally intended to be lit but were not due to cost; however, the applicant never indicated the courts would not be lit. He mentioned all units at Vivante were sold with the exception of a portion of Building #99. He announced Stock Development (Stock), applicant, had exclusively acquired the nearby tract of land known as Trevi, which would be the final stage of the Vivante development and would consist of up to 189 additional units, adding those residents would also have access to the subject tennis courts, thus increasing the need for lighting same. He expressed Stock's willingness to work with the community, thus the basis for agreeing to light only three additional courts as opposed to all four as originally planned. He listed the following concessions offered to concerned residents: (1) players would be encouraged to use the tennis courts located furthest from nearby Building #90; (2) stop all tennis activity at 9:00 p.m.; (3) limit the number of night-time tennis leagues to 2 per week. He clarified these concessions were not a formal part of this petition, explaining it was felt operating times were more appropriate for the community to establish.
- Mr. Burrage confirmed the lights were shielded so as to prohibit direct glare, asking if the majority of complaints were related to reflection off of the courts themselves.
- Mr. Nelson expressed uncertainty regarding same, stating some complaints were related to noise level related to tennis activity or the lights simply being on.
- Mr. Schindler asked if the original construction/design plans included lighting.
- Mr. Nelson replied affirmatively, reiterating electrical conduit was in place to all six courts.
- Mr. Zajicek questioned the number of units in Building #90.
- Mr. Nelson replied 24.
- Ms. Aveck asked how the tennis club would respond if league play was not concluded by 9:00 p.m.
- Mr. Nelson replied he did not anticipate same as matches started at 6:00 p.m.
- Mr. Thomas confirmed the applicant constructed Building #90.
- Mr. Nelson added the tennis courts were in place prior to that construction.

- Mr. Thomas clarified Stock handled the initial sales of Building #90 units through an on-site realtor. He asked if buyers of those units had seen the tennis courts.
- Mr. Nelson replied affirmatively, acknowledging Vivante had not been heavily populated at that time nor had there been significant activity on the tennis courts; however, no intimations were made relative to not lighting the courts.
- Ms. Matthews asked if the purchase documents contained any indication of the presence of lighted tennis courts.
- Mr. Nelson replied he was unaware of same being written into sales contracts, stating he believed it had been understood Vivante's amenities, i.e., tennis courts, pool, gym, etc., would be utilized.
- Ms. Matthews asked if any complaints had been filed regarding noise stemming from use of the tennis courts.
- Mr. Nelson replied affirmatively.
- Mr. Loughman clarified lighting for the entire development was part of the originally approved plan. He questioned the time when safety lights were turned off in the parking lot.
- Mr. Nelson replied they were never turned off.
- Mr. Zajicek asked if the courts would be lit if not in use.
- Mr. Nelson replied they would not.
- Mr. Zajicek confirmed individual controls were in place for each tennis court.
- Mr. Thomas clarified the original special exception was to allow non-residents to become members of the tennis club. He confirmed this current request to amend the special exception would not be required if membership was limited to Vivante residents.
- Ms. Matthews asked if residents of Buildings #93 and #97 had commented on this request, disclosing she had driven through the area.
- Mr. Nelson replied he was unaware of same.
- Ms. Matthews asked if this application had been amended to eliminate a request to light the court closest to Building #90, noting the e-mails provided this date were all written in the last four days.
- Mr. Nelson replied the proposal was to light only four courts, adding subsequent discussions resulted in offers of earlier closing times or limiting league play.
- Mr. Schindler requested clarification of what the Commission was being asked to approve this date.
- Ms. Tubbs replied the request was only for the lighting; however, contingencies and/or safeguards could be added to a special exception.

- Mr. Nelson interjected the above mentioned, additional restrictions were specifically omitted from the petition to allow the community to change their operating hours without requiring the City's approval.
- Ms. Matthews confirmed an operating policy was in place, acknowledging same was the association's responsibility.
- Mr. Bill Gazzola advised he did not reside in the Vivante development but rather lived across the water on Colony Point Drive. He commented noise from Vivante had always been a significant issue as had lights, particularly from Building #90, noting he had installed sound insulating sliders. He asserted the pounding of tennis balls had always been a problem as well, adding the tennis program was unique in that it seemed to act independently from the homeowner's association.
- Ms. Deborah Highsmith stated she was a non-resident tennis club member. She spoke in favor of this request, asserting the tennis facilities at Vivante were fabulous.
- Mr. Mark Hoskins, Vivante resident, gave a detailed review of the development of the Vivante community and the various problems experienced by the developers over the past several years. He contended everyone who purchased a condominium was provided documentation which clearly provided for the request outlined in SE-02-11. He asserted Vivante's tennis program enhanced property values. He then advised he met recently with Mr. Nelson and Mr. Dave Contarino, stating an agreement was reached by which lights would be turned off at 9:00 p.m., no more than 2 league nights would be held per week and players would be encouraged to utilize Courts #1 and #2 to minimize proximity to Building #90; however, Mr. Contarino subsequently expressed opposition to same at a meeting with Ms. Tubbs.
- Mr. Contarino stated he had advised both Messrs. Hoskins and Nelson he was unable to respond to the above mentioned agreement on behalf of all opposing residents without meeting with them first. He further noted he made a counter proposal to accept two nights of lighted tennis for leagues but no additional, lighted, league nights beyond same, three other nights of casual tennis for residents with lights off at 9:00 p.m., and finally no tennis on Friday, Saturday or Sunday nights. He asserted numerous residents of buildings other than Building #90 were opposed to this request. He asked the Commission to consider continuing this public hearing, stating he was aware of 37 other people who wished to speak on this issue but were away for the holidays. He opined approval of SE-02-11 would adversely affect the use of his property.
- Mr. Thomas asked Mr. Contarino why he purchased a unit directly adjacent to the tennis courts.

- Mr. Contarino replied there was very little activity at that time. He clarified he had no objection to the activity level of the tennis program at this time but rather his objection was specific to the lighting of additional courts.
- Ms. Matthews noted the Commission was advisory in nature, recommending all interested parties plan on attending the January 18, 2011 City Council Meeting.
- Mr. Dan Holtan, Building #90 resident, spoke in favor of the request, stating he purchased his unit due to its close proximity to the tennis courts and nearby body of water. He noted he believed the lighting was planned at the time he purchased his unit.
- Mr. Theresa Jenkins, Building #85 resident, commented owning a condominium was not the same as owning a house. She pointed out amenities such as tennis, pool, etc., were the community's property, adding same represented one of the biggest draws to Vivante. She concluded she had no objection to this request, respectfully requesting the Commission's approval of same.
- Mr. Glen Larson stated he owned two units in Vivante, residing in one and renting out the other. He asserted there was no known sense of what residents desired.
- Mr. Charlie Cheek, Vivante resident, asserted his property value had increased at least 30% over the last few years. He pointed out Vivante was promoted as a tennis community, urging the Commission to recommend approval of the request.

Note: Ms. Aveck left the meeting at 3:02 p.m.

- Ms. Matthews called three times for anyone to speak on the amendment to SE-02-11.
- Mr. Burrage MOVED, Mr. Thomas SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Note: Ms. Aveck returned to the meeting at 3:03 p.m.

- Mr. Loughman stated he did not believe the Commission should become involved in Vivante's operating policies.
 - Mr. Schindler reiterated lighting had been planned for all six courts, acknowledging same was interrupted by the poor economy. He agreed the Commission must not become involved with operating hours, etc.
 - Ms. Aveck questioned the process if the applicant wished to light the sixth court.
 - Ms. Matthews replied another amendment would be required.
 - Mr. Burrage MOVED, Mr. Thomas SECONDED to find the request to amend SE-02-11 consistent with the Comprehensive Plan and to recommend approval of same based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.
- B. SE-05-11 – A Special Exception request by Thomas J. Martin, Agent for Punta Gorda Senior Living, LP, pursuant to Chapter 26, Section 26-16.8(o), Punta Gorda Code, to

amend the previously approved SE-08-94, to expand the existing Adult Congregate Living Facility (ACLF) by adding an additional building to accommodate up to 30 additional units at the Palms of Punta Gorda, 2295 Shreve Street, which is located in a General Multi-Family-15 units per acre (GM-15) zoning district.

- Ms. Tubbs displayed an aerial photograph of the subject location, as delineated in the agenda material, stating this was a request to construct an addition to the existing ACLF to facilitate 30 additional, “supported dwelling units” (40 beds). She noted sufficient land existed to support the addition, adding staff supported the request. She explained it was felt the proposal was needed within the community, concluding no concerns or complaints had been submitted.
 - Mr. Loughman confirmed this expansion would not conflict with the Strategic Plan.
 - Mr. Thomas Martin, applicant, displayed a rendering of the proposal, stating this addition was being put forth as current residents were being forced to leave the community to find the treatment and care provided by an ACLF. He offered to answer any questions or address any concerns of the Commission.
 - Mr. Thomas disclosed he had discussed the project with Mr. Martin separate from this hearing.
 - Ms. Matthews called three times for anyone to speak on SE-05-11.
 - Mr. Zajicek MOVED, Mr. Burrage SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
 - Mr. Zajicek MOVED, Mr. Thomas SECONDED to find SE-05-11 consistent with the Comprehensive Plan and to recommend approval of same based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.
- C. SE-06-11 – A Special Exception request by Casey Jo Kennedy, agent for Souls Harbor Church of God, pursuant to Chapter 26, Section 26-16.8, Punta Gorda Code, to allow a child care facility to be located at 425 West Helen Avenue, in a Neighborhood Residential-15 units per acre (NR-15) zoning district, as such use requires Special Exception approval pursuant to Chapter 26, Section 26-3.7(f)(6), Punta Gorda Code.
- Ms. Tubbs displayed an aerial photograph of the subject location, as delineated in the agenda material, stating the proposed child care facility would provide child care services and would be licensed to serve approximately 74 children, ages 6 weeks to 12 years of age. She noted the building was existing and had adequate parking as well as an area for an outdoor playground. She confirmed the playgroup area would be fenced as required. She pointed out the property was located directly behind Cross Trails Shopping Center, located at 615 Cross Street, adding adequate roads existed for the

traffic to and from the site. She concluded no adverse effects were anticipated; thus, staff recommended approval of the request, offering to answer any questions.

- Ms. Matthews confirmed no other day care facilities had expressed any concerns relative to this request.
- Mr. Burrage asked if there were any concerns relative to traffic.
- Ms. Tubbs replied the right-of-way would more than handle any impact.
- Mr. Schindler pointed out a section of the overhead, asking if consideration had been given to utilizing same as a driveway access.
- Ms. Tubbs replied in the negative.
- Mr. Burrage noted the applicant was not present.
- Ms. Lisa Hannon, Zoning Coordinator, replied the applicant had mis-read the date of this hearing.
- Ms. Matthews called three times for anyone to speak on SE-06-11.
- Mr. Burrage MOVED, Mr. Thomas SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Burrage MOVED, Ms. Aveck SECONDED to find SE-06-11 consistent with the Comprehensive Plan and to recommend approval of same based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

A. 2012 Meeting Dates

- Ms. Matthews confirmed members had received a list of 2012 meeting dates in their agenda packets.

STAFF COMMENTS

A. Community Redevelopment Agency (CRA) Project Status Report

- No discussion.

COMMITTEE/BOARD COMMENTS

- Members wished everyone a Merry Christmas.

ADJOURNMENT

- Meeting Adjourned: 3:19 p.m.

Lynne Matthews, Acting Chairman

Mary Kelly, Recording Secretary