

Clearwater, Florida, October 3, 2019

The Board of Adjustment and Appeals (BAA) met in special session in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida on this date with the following members present: John Doran, Chairman; Deborah J. White, Vice-Chairman; Jose Bello; Alan C. Bomstein; Joe C. Burdette; Vince Cocks; and Cliff Gephart.

Also Present: Glenn Bailey, Planning Department Zoning Manager; Gina Berutti, Code Enforcement Operations Manager; Chelsea Hardy, Assistant County Attorney; other interested individuals; and Christopher Bartlett, Board Reporter, Deputy Clerk.

CALL TO ORDER

Chairman Doran called the meeting to order at 10:42 A.M. and with input by Attorney Hardy, provided an overview of the hearing process.

PUBLIC HEARING ITEM

Due notice having been given to interested persons pursuant to Comprehensive Zoning Ordinance No. 90-1, public hearing was held on the following application. All persons planning to give testimony were duly sworn by the Deputy Clerk.

APPLICATION OF STEVE AND COLLEEN DANNEMILLER FOR AN APPEAL OF THE ISSUANCE OF THE HABITAT PERMIT RELATING TO STRUCTURE DEMOLITION ON PROPERTY FORMERLY OPERATED AS THE TIDES GOLF COURSE (BA-01-09-19) – APPEAL DENIED

Public hearing was held on the appeal of Steve and Colleen Dannemiller of the issuance of the Habitat Permit re a 151-acre parcel located at 11832 66th Avenue in unincorporated Seminole (BA-01-09-19). A petition with 195 signatures, 470 Save the Tides postcards, 32 letters, and 22 phone calls in support of the appeal have been received by the Clerk. Correspondence is unverified for duplicates and/or validity.

Chairman Doran stated that there are three parties to the case, the appellants, Pinellas County, and the property owner, TTGC, LLC; and that the hearing addresses only the issuance of the habitat permit and not the demolition permit; whereupon, with input by Attorney Hardy, he provided an overview of the procedures for testimony, cross-examination, and rebuttal, noting that testimony should address the following issues:

1. Lot/Site Grading Plan and County Drainage Standards
2. Hazardous Waste Management
3. Emissions
4. Delinquent Property Tax

Attorney Hardy clarified that the four issues are the only grounds the appellants have included in their appeal.

Director of Development Review Services and Code Enforcement Blake Lyon conducted a PowerPoint presentation and provided background information regarding the original application and the subsequent appeal. Referring to aerial maps and photographs, he pointed out the geographical location of the property and the clubhouse set for demolition.

Mr. Lyon presented the following staff recommendation:

1. Reduce the grounds for the appeal to the single issue of whether the County properly considered a Lot/Site Grading Plan. The other three grounds provided by the appellants are not relevant to the issuance of a Habitat Permit and therefore do not fall within the purview of the Board of Adjustment and Appeals for consideration.
2. Deny the appeal, finding that Pinellas County complied with the Pinellas County Land Development Code when it issued the Habitat Permit to the owner of the subject property and thereby uphold the approval of the Habitat Permit (0319.0322).

Mr. Lyon noted that concerns involving hazardous materials on the property have been cited in the appeal documents; and that no evidence has been provided that would substantiate that concern. Responding to queries by Messrs. Bomstein and Burdette, he stated that the property owners have chosen to regrade and backfill the hole after the building is removed; and that it will be re-sodded and left as open space; whereupon, he related that at this time, there is no request for a land use and zoning amendment; and that the County took action only relating to the habitat permit.

Referring to emissions, Mr. Lyon indicated that the demolition is a one-time event, so there are no long-term concerns relating to emissions; that the Florida Department of Environmental Protection may have its own requirements; and that under current law, a county action cannot be contingent upon a state or federal permitting requirement, and discussion ensued.

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Mr. Lyon related that delinquent property taxes are not addressed by the Code and therefore are not pertinent to the appeal; and that the property taxes have subsequently been paid, bringing the account current at this time; whereupon, he requested that the Board find issues Nos. 2 through 4 irrelevant to the Habitat Permit and not consider them as valid grounds for the appeal.

Referring to the grading plan and drainage concerns, Mr. Lyon discussed the requirements of the County when evaluating an application and indicated that the County met what was required. He noted that demolition is considered to be a minor development activity; and that extensive topographic details and soil and traffic studies are not required; whereupon, he discussed the scope of work completed by the County to evaluate the site/grading plan, habitat permit, flood maps, and preliminary flood insurance rate maps in relation to issuing the habitat permit.

Following the presentation, Chairman Doran stated that a decision must be made based on substantial and competent evidence, such as expert opinions or fact-based testimony from lay witnesses; and that the number of persons in support of or opposition to the appeal should not weigh into the Board's decision.

Upon the Chairman's call for the appellant, Steve and Colleen Dannemiller, Seminole, and Dan Hott, Madeira Beach, came forward. Mr. Dannemiller provided information on his background and qualifications and conducted a PowerPoint presentation, stating that the reason for the appeal is that hazardous waste materials may be in the soil, which could contaminate the neighborhood environment after it is disturbed during the demolition process.

Mr. Dannemiller indicated that the Florida Department of Environmental Protection issues generator I.D. numbers to golf courses that generate hazardous waste; that the Tides Golf Course did not have an I.D. number; and that it is more than possible that hazardous waste materials from the operation of a golf course may be in the soil; whereupon, he discussed contaminants commonly used when operating a golf course and the primary areas of contamination, which are tee boxes, greens, retention ponds, and maintenance areas.

Mr. Dannemiller related that since filing the appeal, the applicant has submitted a brownfield status request; and that the request proves the applicant is concerned about contamination on the site, and discussion ensued.

Mr. Hott stated that he is the former operations manager of the Tides Golf Course and showed photographs of the inside and outside of the clubhouse, pointing out the former locations of the tee boxes, storage areas, wash station, and mechanics shop on the site. He noted that he and others in

the neighborhood informed the County of their desire to be heard; and that the County responded that a Type 1 permit application does not require a public hearing.

Mr. Hott discussed the timing of the minimum housing code violation received by the owner and the granting of a permit for a surrounding security fence, and the deterioration and plant overgrowth on the site, noting that the owner had agreed to manage the overgrowth but has done very little; and that the County cleared the drainage ditch and mowed the easement. He acknowledged that the delinquent taxes have recently been paid; and noted that the County allowed the permit process to continue during the delinquency.

Referring to the signed petition in favor of the appeal, Mr. Hott discussed how important today's decision is to the community; whereupon, Ms. Dannemiller spoke about how the County codes are confusing and, as first-time appellants, they did their best with the information they were given. She stated that the possible health impacts and adverse effects of digging up dirt on the property are very real; and that the building is sound and in the center of her community.

Responding to queries by Mr. Bomstein, Mr. Hott indicated that as operations manager it was not in his scope of work to know the maintenance procedure for disposing of waste materials; and that he was hired in June 2015 and worked through April 2017.

Chairman Doran invited the property owner to the podium, and Michael Sznajstajler, Daytona Beach, indicated that he is the owner's representative; and that he has brought with him members of the development team, including an environmental expert and a representative from the demolition contractor company.

Mr. Sznajstajler conducted a PowerPoint presentation and provided information regarding the application for the habitat permit. He discussed the criteria used for the appeal and the Land Development Code criteria used by staff to evaluate the permit, noting that all of the criteria have been met.

Mr. Sznajstajler stated that the demolition project involves only 0.2 acre of the site; that there are minimal to no changes in subsequent grading patterns and drainage; and that only a small amount of dirt will be moved from one point on the site to another; whereupon, he questioned the following persons as expert witnesses on specific issues relating to his testimony.

James Oliveros, St. Augustine, SCS Engineering

Responding to queries by Mr. Sznajstajler, Mr. Oliveros provided his credentials and discussed the redevelopment of brownfield areas in Florida, stating that the risk of negative environmental impacts relating to the demolition is low to zero.

Jacob Sisco, Tampa, Demolition Estimator

Responding to queries by Mr. Sznajstajler, Mr. Sisco provided his credentials and discussed the scope of work related to the demolition project, noting that only one excavator will be needed to complete the job.

Chairman Doran provided the parties an opportunity for cross-examination, allowing Mr. Sznajstajler to cross-examine Mr. Dannemiller, and the appellants to cross-examine Messrs. Oliveros and Sisco.

In response to queries by Mr. Bomstein, Mr. Sznajstajler indicated that Mr. Sisco works for the same contractor that will complete the demolition work; and that it will include stabilizing and sodding the area; whereupon, Mr. Bomstein noted for the record that Mr. Sisco concurred from among the audience.

Chairman Doran called for citizens wishing to be heard, and the following persons appeared and stated their concerns in support of the appeal:

Thomas Beckwith, Seminole
Sandy Holloway, Seminole
Dawn Ladd, Seminole
Liam Nolan, Seminole
Bob Geyer, Seminole
Trisha Kirby, Clearwater

In rebuttal, Mr. Sznajstajler indicated that a golf course management company operated the golf course and not the property owner; that a brownfield area designation is separate and distinct from the appeal in question today; that drainage will actually improve compared to what is currently occurring; and that demolishing the clubhouse will improve the safety and security of the property.

Responding to query by Mr. Bomstein, Mr. Sznajstajler stated that there are no plans for redevelopment before the Board today; that development of the property is a separate process and a separate set of rules will apply; and that the applicant is only removing an unsuitable structure at this time.

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Mr. Lyon related that the County applied the Code based on the scope and scale of the request; that the process stops with the regrading and re-stabilization of the land into open space; and that anything proposed subsequent to the demolition will need to be evaluated under its own merits.

In response to queries by Ms. White, Mr. Lyon indicated that 50 acres of the property extend into Boca Ciega Bay and are submerged, and the remaining 100 acres are upland; that wetlands along the water's edge are subject to jurisdictional determination; and that additional buffers to protect the wetlands would be required by the County as a transitional area of the property; whereupon, he stated that brownfield area determinations and soil testing are not required for demolition, but would be relevant should the applicant apply for a change in land use and/or zoning.

Responding to queries by Mr. Bomstein, Mr. Lyon noted that an asbestos survey is required for demolition; and that the applicant must provide the results to the County Air Quality Division and the state. He related that any existence of asbestos would be addressed as part of the building permit hearing to be held later in the afternoon; and that it is not part of the habitat permit under appeal, and discussion ensued.

In rebuttal for the appellant, Mr. Hott stated that the demolition of the clubhouse would adversely affect the neighborhood; that there are numerous health concerns; and that airborne contamination will permeate the neighborhood; whereupon, he responded to query by Mr. Gephart.

Mr. Dannemiller indicated that test results should be transparent and shared with the community; and that if the area is not contaminated, it would be acceptable to remove the structure from the property. Ms. Dannemiller noted that she is concerned about water runoff from the property flowing through her property and into the bay, and Mr. Lyon provided information on how the water is conveyed through the surrounding properties, and discussion ensued.

Chairman Doran closed the public hearing. Attorney Hardy provided an overview of the basic legal framework, indicating that the appeal is limited to the grounds identified in the appeal application; and that the burden of proof is on the appellant to provide substantial competent evidence to support their case regarding:

1. Lot/Site Grading Plan and County Drainage Standards
2. Hazardous Waste Management
3. Emissions
4. Delinquent Property Tax

Mr. Burdette stated that based on the testimony of staff and the property owner, Items Nos. 2 through 4 are not applicable to the Board's decision; and that Item No. 1 remains viable for discussion by the members. He noted that the property owner provided testimony from an environmental expert, and the appellants did not; and that all of the appellant's concerns are valid and will have to be met at some point, but not as part of the overall demolition process, and Mr. Gephart provided input.

Mr. Bomstein indicated that the community is largely concerned with airborne particles being detrimental to the neighborhood; that County staff has said that those concerns are not addressed as a requirement of the permit; and that the Board cannot change the requirements of the permit even if the members agree there is a legitimate concern, and Attorney Hardy concurred.

Chairman Doran clarified the Board's decision process and following brief discussion, Mr. Bomstein stated that he believes the County's actions regarding lot/site grading and drainage were legitimate and should be upheld by the Board based on the following findings of fact:

1. While there is merit to the argument that the County must examine and approve surface drainage and the lot/site grading plan, based upon the facts presented, the criteria of the Code was met by staff, specifically as pertains to the fill of the site, to any outflow of the site, and the appropriateness of the demolition of the building.

He further indicated the following:

2. Notification of hazardous waste management history is not a requirement of the County for a Habitat Permit.
3. Specific requirements to control and prevent emissions during site excavation are not a requirement of the Habitat Permit portion of the Demolition Permit.
4. The approval decision made while property taxes were delinquent is completely irrelevant as pertains to issuance of the Habitat Permit, as it is not prohibited in the County ordinance.

Thereupon, Mr. Bomstein moved, seconded by Mr. Burdette, that the appeal be denied. Upon call for the vote, the motion carried unanimously.

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ADJOURNMENT

Upon motion by Mr. Cocks, seconded by Mr. Burdette, the meeting was adjourned at 1:04 P.M.

Chairman