

**PLANNING COMMISSION
MEETING
APRIL 25, 2011**

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

MEMBERS ABSENT: Charles Zajicek

OTHERS PRESENT: Lisa Hannon, Zoning Coordinator
David Hilston, Urban Design Manager
Rob Berntsson, Mark Hoskins, Valerie McChesney,
Steve Nelson, Marcia Rubin, Donald Moore,
Glen Larson, Gerry Devita, Cindy Mail

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. May 23, 2011

APPROVAL OF MINUTES

- A. March 25, 2011 Meeting
 - Mr. Burrage MOVED, Mr. Loughman SECONDED approval of the March 25, 2011 minutes. MOTION CARRIED UNANIMOUSLY.

QUASI-JUDICIAL PUBLIC HEARINGS

- Recording Secretary Kelly swore in all participants.
- A. SE-02-11 - A Special Exception request by Rob Berntsson, Agent for Palm Isles Condominium Development, LLC, a/k/a Vivante, pursuant to Chapter 26, Section 16.8, Punta Gorda Code, to allow a tennis country club to include non-resident members to be operated at 92 Vivante Boulevard, Punta Gorda, Florida 33950, in a General Multi-family (GM) zoning district, as is permitted by Special Exception approval per Chapter 26, Section 26-3.5(f), Punta Gorda Code.
 - Ms. Lisa Hannon, Zoning Coordinator, displayed an overhead of the subject location and entered the staff report into the record, both delineated in the agenda material. She confirmed the request met the criteria required by City Code for a special exception, concluding the Urban Design Division recommended approval of SE-02-11.
 - Mr. Burrage questioned the number of people who had contacted staff to express disapproval of the request.
 - Ms. Hannon replied staff had received approximately four to five e-mails indicating same.

- Mr. Thomas asked if the property owner's association (POA) was in favor of the request.
- Ms. Hannon deferred to the applicant regarding same.
- Mr. Rob Berntsson, applicant's representative, confirmed the Commission did not object to hearing a presentation, expressing hope some of their questions would be addressed through same. He explained this was a request to allow a limited number of outside, non-resident tennis memberships within the Vivante community, noting there had been outside members since the inception of tennis at Vivante upon development of the project. He clarified the tennis program had been in operation for many years as the community had been unaware the City did not permit same without approval of a special exception. He commented outside memberships were relatively common in developments such as Vivante and had, in fact, been contemplated in the Declaration of Covenants, Restrictions and Easements (Declaration) document, which all residents received upon purchase. He drew members' attention to Section 3.3, Recreational Amenities, of Vivante's Declaration, as delineated in the agenda material, noting the right to permit persons or entities who were not owners to use some or all of the recreational amenities was reserved, providing all such persons paid fees and costs deemed necessary to meet costs and expenses. He clarified this use was contemplated from the beginning, acknowledging same was intended to suppress residents' costs. He mentioned plans were in place to finish the development via a project known as Trevi, adding the intent was to promote same as an active community, tennis being an important aspect of same. He then introduced Mr. Mark Hoskins, POA President.
- Mr. Hoskins provided personal background relative to his decision to purchase a Vivante condominium, stating same occurred on May 13, 2009, 5 days prior to foreclosure on the south half of Vivante. He noted that foreclosure almost crippled the entire development; however, the POA worked their way out with the help of the tennis program's revenues. He acknowledged he was not a tennis player; however, he expressed full support of Vivante's tennis program as it encouraged an active lifestyle and helped the community financially. He requested the Commission's recommendation for approval, announcing the POA Board was unanimously in favor of the special exception. He commented one resident had previously expressed a number of concerns, questions and misconceptions regarding issues such as ownership, parking, security, sales tax, insurance coverage and property values, for example, which had since been addressed. He reported that resident's objection to the special exception had since been withdrawn. He then stated Stock Development (Stock) had formed a loose alliance with Mr. Gabriel Bove and Bove Construction;

however, Mr. Bove had been foreclosed upon. He explained Stock had signed the first part of a contract to purchase the entire area, including the already platted Trevi development, expressing hope Stock would be successful in this endeavor.

- Ms. Matthews asked if all property owners were provided with the above mentioned Declaration.
- Mr. Hoskins replied affirmatively.
- Ms. Matthews asked if all Vivante residents were automatically provided with a tennis membership.
- Mr. Hoskins replied all residents could utilize the tennis courts; however, non-resident members paid a price roughly comparable to outside tennis memberships.
- Ms. Aveck clarified all residents paid association fees regardless of whether or not they utilized the tennis facilities. She asked if residents who played tennis paid an additional amount to do so.
- Mr. Hoskins replied they did not.
- Mr. Zapke confirmed residents were required to sign the Declaration documents, asking if same implied agreement with the contents of same.
- Mr. Bertsson interjected the Declaration documents were no different from the deed restrictions in other special residential districts. He acknowledged some residents may not agree with such covenants but were subject to their restrictions.
- Mr. Thomas questioned the number of POA Board members.
- Mr. Hoskins replied five presently, with two more to be appointed within the next ten days.
- Mr. Thomas confirmed no vote had been taken of the POA membership.
- Mr. Hoskins agreed; however, the issue had been discussed at POA meetings. He opined a strong majority were in favor of the special exception.
- Ms. Matthews asked if an analysis of the difference in insurance rates as a result of allowing non-resident members had been conducted.
- Mr. Hoskins replied affirmatively, stating he had received correspondence from their insurer confirming there would be no difference in premium.
- Ms. Aveck commented it appeared granting the special exception would benefit Vivante owners.
- Mr. Burrage asked if the entire membership was polled in any way.
- Mr. Hoskins replied in the negative; however, all residents were advised of the POA's intent to apply for this special exception, adding a POA meeting was held where the application was discussed at length.

- Ms. Valerie McChesney, Stock Development, stated Stock was the parent company of the applicant, Palm Isles Development. She provided a detailed outline of Stock's history and business philosophy as same applied to their award winning development of active life style communities, noting this special exception would ensure same for Vivante. She announced Stock was working toward purchase of the Trevi property, which would add 189 units, acknowledging those plans were not finalized.
- Mr. Burrage asked if the Trevi purchase was contingent upon this request.
- Ms. McChesney replied it was not; however, it was an important factor.
- Mr. Thomas asked who owned the tennis courts.
- Mr. Berntsson replied technically Mr. Bove as it had not yet been turned over nor had title been transferred from the original development.
- Mr. Schindler requested clarification of the rights provided to non-resident members.
- Mr. Steve Nelson, Vivante Tennis Club Manager, replied non-resident members had the right to play tennis on Vivante's courts any time the facilities were open. He reported a relatively small number of resident members were active initially, adding non-resident members currently totaled roughly 49.
- Mr. Schindler asked if resident members were given any priority over non-resident members as far as scheduling court time.
- Mr. Nelson replied scheduling was web-based, adding one specific court had been set aside to provide for unscheduled court time for residents; however, there had been only two minor scheduling conflicts in four years.
- Mr. Schindler asked if outside members had voting privileges.
- Mr. Nelson replied they did not.
- Mr. Schindler commented it appeared both resident and outside members enjoyed equal privileges.
- Mr. Nelson noted outside members were required to pay a \$10 guest fee while residents paid nothing extra to bring a guest.
- Mr. Schindler asked if outside members were provided with a gate pass.
- Mr. Nelson replied they were provided with a specific code which must be entered to gain access.
- Mr. Schindler questioned the method by which such passes were approved.
- Mr. Nelson replied Vivante's on-site property manager handled same.
- Mr. Schindler asked if the number of outside member passes were limited.
- Mr. Nelson replied affirmatively, specifically passes could not exceed 100.
- Mr. Schindler expressed concern unanimous support of the request was not first sought from the POA, stating it seemed to have been done secretly.

- Mr. Nelson reiterated outside membership in Vivante's recreational amenities had always been allowed through the Declaration document.
- Mr. Schindler asked if restricting tennis memberships to residents would allow for adequate maintenance of the tennis facilities.
- Mr. Nelson replied it would not. He concluded the tennis committee had been functioning for over one year, adding the relationship between outside members and residents had been exceptionally positive.
- Ms. Marcia Rubin, on-site Vivante manager, spoke in favor of the request. She advised a traffic analysis had been conducted over the past several months which confirmed the traffic impact was minimal. She stated parking availability was more than adequate. She urged the Commission to recommend approval of the request.
- Mr. Donald Moore, Vivante resident, commented favorably on allowing outside memberships, stating same would encourage a viable tennis program.
- Mr. Glen Larson, Vivante resident, commented favorably on the tennis program, noting he resided directly across from the tennis courts. He opined the outside memberships helped keep residents' costs down; thus, he urged the Commission to recommend approval of the special exception.
- Mr. Loughman asked how long the outside memberships had supported the tennis program.
- Mr. Larson replied approximately three years.
- Mr. Nelson interjected outside members had originally paid \$365 per year, adding it had since been increased \$500.
- Mr. Gerry Devita, Vivante owner, stated many residents had relatives who utilized the tennis courts but did not appear on the outside membership roster; thus, the number of players may be skewed.
- Mr. Burrage asked if same impacted court availability.
- Mr. Devita replied it did not.
- Ms. Cindy Mail, Vivante resident, stated the tennis program at Vivante had allowed her to overcome a disability which had previously not permitted her to even walk. She maintained an active community encouraged additional, physical activity.
- Mr. Zapke called three times for anyone to speak on SE-02-11.
- Mr. Burrage MOVED, Ms. Matthews SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Ms. Matthews reminded members of the four criteria necessary for a special exception, stating there were no grounds to deny the request if those criteria were met.

- Ms. Matthews MOVED, Mr. Burrage SECONDED to find SE-02-11 consistent with the City's Comprehensive Plan and to recommend approval of same based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

- A. Community Redevelopment Agency (CRA) Project Status Report
- Mr. Zapke confirmed there were no questions concerning the CRA projects.

COMMITTEE/BOARD COMMENTS

- Ms. Matthews announced she would not be present at the July 2011 meeting.
- Messrs. Loughman and Zapke advised they would be unavailable in August 2011.

ADJOURNMENT

- Meeting Adjourned: 3:05 p.m.

Edward Zapke, Chairman

Mary Kelly, Recording Secretary