

EXCERPTS

PLANNING AND ZONING COMMISSION MEETING

MAY 4, 2017

V) SUBDIVISIONS

MR. STRODTMAN: Moving on to our first subdivision case.

Case Number 17-93

A request by McGrath Marjorie Revocable Intervivos Trust, Chong, Lisenby, Jesse, Gianino, Hristov & Misirova (owners) for a revised preliminary plat to be known as Creeks Edge, Plate 1-B. The 5.3-acre subject site is located at the northeast corner of Sawgrass Drive and Valhalla Court.

MR. STRODTMAN: May we have a staff report, please?

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the revised preliminary plat for "Creeks Edge, Plat 1-B."

MR. STRODTMAN: Thank you. Commissioners, any questions for staff? Ms. Burns?

MS. BURNS: Mr. MacIntyre, on one of your photos I saw a fence -- I'm sorry -- Mr. Smith. Sorry. I miss Steve. In one of your photos there was a black fence -- yeah -- bordering the backs of these properties to the west.

MR. SMITH: Uh-huh.

MS. BURNS: Is that a fence -- a common fence or is that something that's maintained by individual property owners or do you know that?

MR. SMITH: I don't -- I don't know if I can answer that. I do not know that.

MS. BURNS: Okay. Thank you.

MR. STRODTMAN: Commissioners, any additional questions for staff? I see none. As is in past practices with our subdivisions, if there is anyone in the audience who would like to come forward and give us any relevant information to this case, we would welcome that at this time. We just ask for your name and address.

MR. GIANINO: Hi, everyone. I'm Mario Gianino; I live in Lot 104. I'm here with other interested parties, being Lot 101 and 102. With regard to the fence that you see there, that's actually Lot 101, so I think it's relevant to tell you all that there's actually been an ongoing developmental contract that we intend to execute upon approval and hopefully approval of this land that's going to include berms tied into irrigation. It's intended to be privately maintained in an area that is going to be much different than what you see on these pictures here. So, you know, as of right now, we intend for berms as has been mentioned to be built not only to obstruct that area, but to create something that is a little bit more pleasurable than what you're seeing there. And everybody is in agreement on that and I think that's it. So thank you.

MR. STRODTMAN: Thank you, sir. Commissioners, any questions of this speaker? Ms. Loe?

MS. LOE: Mr. Gianino, I believe we got a letter from you included in our packet?

MR. GIANINO: Yes.

MS. LOE: So when you said that this will be more enjoyable for everyone, can you clarify? Will this area remain unfenced?

MR. GIANINO: As far as the fencing goes, I can't say that for certain it's not going to be fenced. I can't say we've had any specific discussions regarding the fencing. As of right now, I don't think when the fences went up that was really a point of discussion until this recently developed. I can tell you that with the system being tied into our irrigation systems that we're going maintain that. It's going to be sodded. There are very specific specifications that have been laid out. So with that, I can't speak specifically to the fence, but that area will be well maintained and I think that's the intention of all of the interested homeowners.

MS. LOE: In your letter, you state that this is also to the benefit of the neighborhood association which will have its liability and the maintenance costs reduced by the replat.

MR. GIANINO: Right.

MS. LOE: Can you describe or explain what that means?

MR. GIANINO: Sure. So I'll take that twofold, if you don't mind. The liability portion being -- say that any additional public -- I guess it would still be private. But say the neighborhood decided to develop that area at a later portion, or people are cutting through that area to get to the pool, for example. The neighborhood association is going to incur less premiums with regard to insurance costs as a result of not having as much land to cover. That being said, there are -- and I say this in response to the opposition that was mentioned earlier. As of right now, the development is slated to be over -- approximately 50 percent green space. In terms of how that is actually apportioned among the neighborhood, that's about 80 acres. So any type of community activities or developments that want to be had by the Creeks Edge people or, you know, neighbors can be had directly north of this area that's in question, east, or virtually anywhere else in the -- in the neighborhood. So it's not like we're taking this land solely to deprive anybody of it. I think we find a mutual benefit in all of the landowners maintaining an areas that's -- that looks good for people that are at the pool, us, as well, and then also leaving open other areas that we've

got plenty of for other developments.

MS. LOE: Do you have anything from the neighborhood association showing that they're in approval of this?

MR. GIANINO: No, I do not.

MS. LOE: Thank you.

MR. GIANINO: But -- sure. And if I -- I would also like to add that if that were the case and nothing has come up as -- with regard to covenants, restrictions, nothing of that nature has arisen. So as far as I know and I've reviewed them myself, that this isn't an issue that has really been addressed and I don't think it needs to be addressed given the -- the ownership of the land as is. I just want to make sure that everybody understands that the land, as -- as of now, does have an intention to be, like I said, well developed.

MR. STRODTMAN: Commissioners, additional questions? I see none. Thank you, Mr. Gianino.

MR. GIANINO: Sure. Thank you.

MR. STRODTMAN: Appreciate it. Thank you. Any additional speakers who would like to come forward related to this case? I see none. Commissioners, discussion needed? Additional comments, information needed from staff? Ms. Loe?

MS. LOE: I have to admit I'm a bit confused by this one because even though staff has told us that -- that the site identified is not -- or is not identified as not for typical development, the legal description or -- of the site is Creeks Edge Clubhouse --

MR. STRODTMAN: Uh-huh.

MS. LOE: -- which seems to me to be a site that's not identified for typical development. That seems to convey a community-oriented development. So even though it's not identified in a plan as common use, there seems to be a greater -- I mean, I understand it's privately owned, but there seems to be a greater amount of land owned by this owner and that this clubhouse may be intended for use by multiple streets -- developments in the area, so I'm confused as to the real intent of this property.

MR. STRODTMAN: Mr. Smith, would you like to maybe go into a little more details as to why the intent and --

MR. SMITH: Sure. Well, I can -- I can provide a little more information. I'd say as far as the -- the naming of the plat, the clubhouse plat, you can name a plat anything you would like. The name of the plat does not confer any specific restrictions on it. What we look for as far as developmental restrictions is when you identify a common lot on a plat. A common lot has specific definition that restricts certain types of activities on it. We're also not suggesting, which I touched on in the staff report, that there could not be detrimental impacts to certain residents out here, but as far as staff investigating what the HOA implications are here, we're not equipped or responsible at this stage to verify if the HOA is going to feel that they are -- or this request would be a detriment to the community. So part of the revision of the preliminary is sending out notices that this -- this request was made in the hopes of making sure interested parties are aware of that. Notices anyway to the PI meeting -- the public information meeting.

So in that case we look to make sure that possible interested parties that may consider this to be detrimental could have the chance to voice their opinion at this stage. So we did receive the one letter. I don't think we received any other comment at the PI meeting, as well. So staff's view as far as not being a detriment has a very limited scope. It's really about like it says in there, basically, the removal of restrictions that maybe the City had relied on, the common lot issue. If there was a clear, I think, connection you could make to removal of certain common lot restrictions that the community as a whole might consider a detriment, I think that could be looked as a detriment, but, from our standpoint, what we look at a lot is the character of the neighborhood going to be disrupted? Are we taking lots and combining them into much larger lots where the development of that lot now could, basically, cause something to be built that would be out of character with the neighborhood? So there's things that we look at that I think we could use to determine if there's a detriment, but there are other things we cannot look at or at least we did not look at in this case. And I think HOA implications or legal ownership of this lot implications and who is a party to it and who has an expectation of having access to this lot is not something we considered.

MS. LOE: I guess I just don't want to be party to some decision that -- I mean, if there's an understanding in this neighborhood that this is a common -- if they've been led to believe that this a common area and would be landscaped for common use, and somehow a decision by this group has taken and construed or built on to be -- then give part of that to private owners is -- are we getting ourselves in trouble?

MR. SMITH: I don't know if I can answer that for you 100 percent.

MS. LOE: Okay.

MR. SMITH: I can tell you what the letter of the Code says as far as what you can consider when reviewing whether resubdivision can and should be approved. So it's not that specific as far as looking into the implications or the implied access to these type of lots from the HOA. But, I mean, that's generally why staff included that in there is that that is -- is likely to be a point of discussion. But I think our stance is we're not, I think, equipped to -- to fully answer those questions. So, I think in that case, it would be the responsibility of the HOA, which, in a lot of situations with newer subdivisions, is either not created or is controlled by the developer at that stage. So there's -- there's some limitations to that.

MR. STRODTMAN: Thank you, Mr. Smith. Mr. MacMann?

MR. MACMANN: To follow up on your last point, Mr. Smith, this HOA was developed by the owners; do we know that? Or is this a neighbor --

MR. SMITH: I -- we do not -- I did not review the HOA covenants, the HOA standing, or anything of that nature.

MR. STRODTMAN: Commissioners? Would you like to make a motion for discussion?

MS. RUSHING: I'll make a motion to approve the request by McGrath Marjorie Revocable Trust - Intervivos Trust, Chong, Lisenby, Jesse, Gianino, Hristov and Misirova (owners) for a revised preliminary plat to be known as Creeks Edge Plat 1-B.

MR. STRODTMAN: Thank you, Ms. Rushing.

MS. BURNS: Second.

MR. STRODTMAN: Thank you, Ms. Burns, for that second. Commissioners, additional discussion on the motion that we have in front of us for approval? If I -- I see no discussion. Ms. Burns, when you're ready for a roll call.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Rushing, Ms. Russell, Ms. Burns, Mr. Harder, Mr. Strodman. Voting No: Mr. Toohey, Mr. MacMann Abstention: Ms. Loe. Motion carries 5-2 with one abstention.

MS. BURNS: We have five in the affirmative. Motion carries.

MR. STRODTMAN: Thank you, Ms. Burns. Our recommendation for approval of Case 17-93 will be forwarded to City Council for their approval.