



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes Zoning Board of Appeals

Monday, December 16, 2024

9:00 AM

City Commission Chambers

Special Meeting

1. CALL TO ORDER

Chair Deming called the meeting to order at 9:02 a.m.

2. ROLL CALL

Present 4 - Vice Chair Matthew Koratich, Board Member Richard P. Gortz, Chair Nolan Deming, and Board Member Terry Cheney
Absent 1 - Board Member Frank J. Rotonda

ALSO PRESENT:

Staff Liaison Sherry Willette-Grondin, Assistant Director of Development Services Lori Barnes, Interim Deputy City Attorney Margaret Roberts, Court Reporter Olivia Cristanhello, and Assistant City Clerk Matthew Powell

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Board.

4. PUBLIC COMMENT

Roland Oliver: expressed support for Petition No. AZB-24-122.

5. PUBLIC HEARING

- A. [AZB-24-122](#) Consideration of Petition AZB-24-122, Appeal to Development Order Issuance for Heron Creek-Parcel K Multi-Family Project (Major Site and Development Plan Approval MAS-23-160) (Lobeck) (QUASI-JUDICIAL)

Chair Deming announced the item, stated this is a quasi-judicial hearing, and called on the Assistant City Clerk to read by title only.

Mr. Powell read the Petition by title and swore in those wishing to provide testimony.

Chair Deming queried the Board Members regarding conflicts of interest.

Vice Chair Koratich disclosed conflict of interest and stated that he would recuse himself in accordance with Section 112.3143 of the Florida Statutes.

Chair Deming called for disclosure of ex-parte communications.

Chair Deming disclosed the public comment heard under general public comments.

Vice Chair Koratich disclosed the public comment heard under general public comments, employer involvement, and reviewing of plans.

Board Member Cheney disclosed the public comment heard under general public comments.

Board Member Gortz disclosed the public comment heard under general public comments.

Mr. Powell stated aggrieved parties Morgan Bentley and Caroleen Brej, Esquires of Bentley, Goodrich, and Kison Law Firm, representing Heron Creek Associates.

Daniel Lobeck, Lobeck and Rowe Law Firm, being duly sworn, spoke to hearing officer versus Board jurisdiction.

Ms. Roberts spoke to meeting procedure, quorum status, and Board role.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to allow three minutes by each party to discuss aggrieved party status and challenges. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Mr. Bentley, being duly sworn, challenged the appellant status relating to form requirements, definition, and location.

Mr. Lobeck spoke to appellant status and definition.

Ellie Neiberger, Esquire of Bryant, Miller, and Olive, representing City of North Port staff, being duly sworn, abstained from challenges to appellant or aggrieved party status.

Mr. Bentley provided a rebuttal including evidence provided versus challenge status.

Mr. Lobeck provided a rebuttal including appellant status and time constraints.

A motion was made by Board Member Cheney, seconded by Board Member Gortz, to allow Board discussion relating to the aggrieved party and appellant challenges and status. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Discussion took place regarding aggrieved party form requirement, notice of appeal versus aggrieved party status, appellant status, and hearing evidence prior to determining status.

Mr. Lobeck requested additional time for presentation.

Discussion continued regarding time limitations.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to allow sixty minutes for presentation for all parties with a reservation for additional time. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Discussion continued regarding meeting procedure, time limitations, and transfer of jurisdiction.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to hear the request for transfer of jurisdiction at this time. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Discussion continued regarding time limitations.

A motion was made by Board Member Cheney, seconded by Board Member Gortz, to allow ten minutes for presentation and five minutes for rebuttal regarding the transfer of jurisdiction request for all parties. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Mr. Lobeck provided a presentation including Board role versus Planning and Zoning Advisory Board, provisions of Unified Land Development Code (ULDC), Comprehensive Plan interpretation, and request for transfer of jurisdiction.

Mr. Bentley provided a presentation including staff interpretation of ULDC and jurisdiction.

Ms. Neiberger provided a presentation including jurisdiction determination, ULDC provision interpretation, and Board role.

Mr. Lobeck provided a rebuttal including verbiage, Board role, staff interpretation, and jurisdiction determination.

Mr. Bentley did not provide a rebuttal.

Ms. Neiberger did not provide a rebuttal.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny the request for transfer of jurisdiction. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to take a recess of five minutes. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Recess was taken from 10:25 a.m. to 10:32 a.m.

The Board Members disclosed no ex-parte communications.

Mr. Lobeck, provided a presentation including the following witness testimony:

Richard Cordow, being duly sworn, spoke to Heron Creek entrance safety and concerns.

Roland Oliver, being duly sworn, spoke to effected neighbors.

Russell Logaleo, being duly sworn, spoke to previous intent of development and master site plan.

Discussion continued regarding meeting procedure relating to witness testimony cross examination.

Mr. Lobeck continued the presentation including unit density, gross acre definition, staff interpretations and jurisdiction, Comprehensive Plan requirements, Development Master Plan (DMP) input, developer affidavit, applicable land uses and definitions, development of regional impact (DRI), and the following witness testimony:

Diane O'Connor, being duly sworn, spoke to available residential versus multifamily land use.

Mr. Lobeck continued the presentation including multifamily units, traffic impact study concerns, utility consumption, and Comprehensive Plan interpretation.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to take a recess of two minutes. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Recess was taken from 11:34 a.m. to 11:37 a.m.

The Board Members disclosed no ex-parte communications.

Ms. Neiberger provided a presentation including the following witness testimony:

Ms. Barnes, being duly sworn, spoke to role, experience, department role, major site development plan, staff jurisdiction, DRI impact and review, Comprehensive Plan and ULDC relating to density, multifamily units and location, Map H, land use conversion matrix, flood zones, Comprehensive Plan compatibility, compliance with development requirements, multifamily residential classification, Heron Creek Pattern Book, declaration of condominium, traffic impact study, concurrency review, utility impact requirements, DRI deviation measurement, and review of land development petition.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to take a recess of forty-five minutes. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Recess was taken from 12:32 p.m. to 1:19 p.m.

The Board Members disclosed no ex-parte communications.

Mr. Bentley provided a presentation including staff jurisdiction, density, flood zones, covenants and restrictions, traffic impact study, land use conversion matrix, interpretation and application on macro scale, history of Heron Creek DRI, unmitigated development, compatibility, declaration of condominium, and the following witness testimony:

Daniel Trescott, being duly sworn, spoke to applicable experience, DRI review process, regulatory requirements, parcel versus entire development, Map H, density calculation, and land use conversion matrix.

Matthew Morris, being duly sworn, spoke to traffic impact study review process, parking allocation, traffic manual usage, stormwater mitigation, and sealed report.

Mr. Bentley continued the presentation including aggrieved party and appellant status, Homeowners Association (HOA) status, applicable cases, and traffic impact expert testimony.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to allow eight minutes per witness for cross examination. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Mr. Lobeck cross examined the following witnesses:

Ms. Barnes spoke to legal review, high density, review of applicable documents, Parcel K application denial, DRI review, and land use determination.

Daniel Trescott spoke to allowable density determination, Comprehensive Plan review, maximum density limitations, DRI review, parcel versus entire development, and applicable laws.

Matthew Morris spoke to sealing report process, traffic impact study timeline, DRI review, purview of site and development plan, Heron Creek Boulevard analysis, safety concerns, and Parcel K development site.

Ms. Neiberger did not cross examine any witnesses.

Mr. Bentley cross examined the following witnesses:

Russell Logaleo spoke to allowable land uses.

A motion was made by Board Member Cheney, seconded by Board Member Gortz, to allow thirty minutes for rebuttal for all parties. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Mr. Bentley did not provide a rebuttal.

Ms. Neiberger did not provide a rebuttal.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to take a recess of five minutes. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Recess was taken from 2:52 p.m. to 2:58 p.m.

The Board Members disclosed no ex-parte communications.

Mr. Lobeck provided a rebuttal including development density, staff review, urban infill area, parcel versus entire development, pattern book land uses, multifamily allocation, traffic impact study review, unit limitation, roadway maintenance, flood zones, development separation, incompatibility, and review process.

A motion was made by Board Member Cheney, seconded by Board Member Gortz, to allow five minutes for each public comment. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Public comment:

Jeff Nelson: being duly sworn, expressed support for the proposed Petition.

Larry Lemanski: being duly sworn, expressed support for the proposed Petition.

Richard Cordow: being duly sworn, expressed support for the proposed Petition.

Russell Logaleo: being duly sworn, expressed support for the proposed Petition.

Roland Oliver: being duly sworn, expressed support for the proposed Petition.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to take a recess of ten minutes. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Recess was taken from 3:49 p.m. to 4:01 p.m.

Chair Deming disclosed no ex-parte communications.

Vice Chair Koratich disclosed citizen speaking at the dais during recess.

Board Member Cheney disclosed no ex-parte communications.

Board Member Gortz disclosed no ex-parte communications.

Discussion continued regarding HOA aggrieved party status, ULDC definitions, evidence provided, density limitations and determinations, DRI review, witness testimony, and staff review.

A motion was made by Board Member Cheney, seconded by Board Member Gortz, to take a recess of five minutes. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Recess was taken from 4:31 p.m. to 4:36 p.m.

Chair Deming disclosed non-impactful connection to involved party.

The Board Members disclosed no ex-parte communications.

Discussion continued regarding multifamily units, assisted living facilities (ALF) development intent, permitted land uses, pattern book role, concurrency regulations, utilities impact, DRI issuance, traffic impact study, land use conversion matrix, tolling period, stormwater mitigation, parcel versus entire development, flood zones, original density designation, and comparable parcels.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to allow fifteen minutes for closing arguments for all parties. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Mr. Lobeck provided a closing argument including staff review, multifamily development, DRI review, utilities impact, density increase, land use designation, traffic impact study, and jurisdiction.

Ms. Neiberger and Ms. Barnes provided a closing argument including consistency with Comprehensive Plan, ALFs, permitted land uses, roadway development, and urban infill location.

Discussion continued regarding meeting procedure relating to participation in closing arguments and evidence provided.

Ms. Barnes continued the closing argument including staff review and evidence provided.

Mr. Bently provided a closing argument including density designation and calculation, development intent, parcel versus entire development, DRI review and process, and consistency with Comprehensive Plan.

Chair Deming closed the public hearing.

A motion was made by Board Member Cheney, seconded by Board Member Gortz, to take a recess of ten minutes. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Recess was taken from 5:54 p.m. to 6:04 p.m.

The Board Members disclosed no ex-parte communications.

Discussion continued regarding aggrieved party and appellant status.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to approve the aggrieved party status of Morgan Bentley and Caroleen Brej, representing Heron Creek Associates. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

Discussion continued regarding HOA standing.

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to determine the Heron Creek Community Association does have standing to challenge the Development Order MAS-23-160. The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 1- Lack of Staff Jurisdiction to Approve Major Site and Development Plan of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding competent and substantial evidence.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 2- Violation of Comprehensive Plan and ULDC as to Density of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding evidence provided.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 3 - Violation of Comprehensive Plan Policies as to Flood Zones of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding flood zone mitigation.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 4 - Violation of Comprehensive Plan Policies as to Compatibility of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding evidence provided and development density.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 5 - Too Few Multi-Family Units Left in DRI-ALF Dwellings are Not an Office of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding pattern book determination, ALF versus office, evidence presented, and traffic considerations.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 6 - Failure to Provide and Record Declaration of Condominium of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding applicable State law.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 7 - Failure to Provide the Required Traffic Impact Study of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding signature and seal.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 8 - Failure to Comply with Water and Sewer Impact Requirements of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding DRI issuance and development intent.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

A motion was made by Board Member Gortz, seconded by Board Member Cheney, to deny Count 9 - The Developer's "Shift" of Land Use Rights to Get More Multifamily Units Exceeds the Substantial Deviation Limits Provided by Ordinance 2011-33 of Petition No. AZB-24-122, Appeal to Development Order Issuance for Heron Creek Parcel K Multi Family Project, based on the competent substantial evidence presented.

Discussion continued regarding land use conversion matrix and evidence provided.

The motion carried on the following vote:

Yes: 3 - Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

Abstain: 1 - Vice Chair Koratich

6. GENERAL BUSINESS

[24-1560](#)

Discussion and Possible Action Regarding Approval of the 2025 Meeting Schedule

Chair Deming announced the item and requested a motion to approve the schedule.

A motion was made by Vice Chair Koratich, seconded by Board Member Gortz, to approve the Zoning Board of Appeals 2025 Meeting Schedule as presented. The motion carried on the following vote:

Yes: 4 - Vice Chair Koratich, Board Member Gortz, Chair Deming and Board Member Cheney

Absent: 1 - Board Member Rotonda

7. UPDATES:

[25-1716](#)

Update on the Newly Adopted Unified Land Development Code and Changes to the Zoning Board of Appeals.

Chair Deming announced the item.

Ms. Willette-Grondin spoke to Unified Land Development Code (ULDC) impact on Board and role of Hearing Officer.

8. PUBLIC COMMENT

There was no public comment.

9. ADJOURNMENT

Chair Deming adjourned the meeting at 6:38 p.m.

By: _____
Nolan Deming, Chair