

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin *SG*
DATE: August 2, 2016
RE: 15-0801PD; 140 Grove Street

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 1E

Owner/Applicant: Bayberry, LLC

Request: Amend final plat approval relative to overall phasing and condition 13 specifically relative to phasing of inclusionary housing units.

Applicable Regulations:

Article 3 (Applications and Reviews) and Article 9 (Inclusionary and Replacement Housing)

Recommendation: Amended final plat approval as per, and subject to, the following findings and conditions:

I. Findings

Background Information:

The applicant is seeking approval to change the phasing plan for construction of the 232-unit residential development. Some relatively minor adjustments are sought for construction sequencing of the 19 multi-family buildings, clubhouse, maintenance garage, and associated site improvements. More significantly, change to the phasing of inclusionary housing units is sought. Rather than provide all inclusionary units in the first 5 phases as presently required, the applicant is seeking to provide the inclusionary units at a rate proportionate to construction of the market-rate units.

Previous zoning actions for this property are noted below.

- 5/19/15, Final plat approval of 232-unit PUD
- 3/20/14, Preliminary plat approval of 245-unit PUD
- 11/10/97, Approval of lot line adjustment with neighboring parcel

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Sec. 3.5.6, Review Criteria

(a) Conditional Use Review Standards

11. Time limits for construction;

The approved phasing schedule includes a total build-out time of just under 4 years. It spans from July 2015 – March 2019. No changes are sought to the total build-out time. The applicant is seeking approval to adjust the sequencing of the phases so that most of the construction on the upper (northwestern) plateau is complete prior to construction within the lower (southeastern) plateau. The changes are best depicted on the proposed phasing plan revised 6/7/16 as compared to the previously approved phasing plan dated 2/13/15. The requested changes have no significant bearing on the build-out of the project and are acceptable. **(Affirmative finding)**

Article 9: Inclusionary and Replacement Housing

Sec. 9.1.18, DRB Review of Proposal for Phasing & Sec. 9.1.19, Timeline for Availability/Phasing of Inclusionary Units for Issuance of Certificate of Occupancy

Preliminary plat approval for this project included a condition from the DRB requiring that all of the inclusionary units (35 [15% of 232]) be built either first or at a rate consistent with the build-out of the market-rate units.

9. Prior to final plat application, a revised project phasing schedule shall be provided that clearly depicts what will be constructed and when it will be constructed. The phasing schedule shall be consistent with the inclusionary housing requirements of Sections 9.1.18 & 9.1.19 of the CDO. If the inclusionary housing units are to be contained within a single building as presently proposed, the inclusionary housing units must be constructed first. Written acceptance of the proposed inclusionary housing shall be obtained from the city's Housing Trust Fund. The phasing schedule must also provide for the duplex housing units to be built early during the project construction.

For final plat review, the applicant proposed building all of the inclusionary units in the first 5 phases. Note that, because they were to be dispersed in several buildings, construction first was not necessary. The applicant; however, proposed doing so. This proposal was incorporated into condition 13 of the final plat approval:

13. This project approval includes the 2/13/15 "Phasing Plan" and related 2/16/15 "Anticipated Construction Phasing Schedule." Phases 1A & 1B, 2A & 2B, and 3A shall include construction of all 35 inclusionary housing units. Alternation of this schedule shall require separate zoning permit review.

The applicant is having significant difficulty financing construction with all of the inclusionary units within the first 5 phases and is now requesting approval to construct them at a rate consistent with that of the market rate units. Insofar as the inclusionary units will be dispersed throughout the development, provision of them at a rate concurrent with the market-rate units is acceptable. Sec. 9.1.18, *Timeline for Availability/Phasing of Inclusionary Units for Issuance of Certificates of Occupancy*, states that "inclusionary units shall be made available for occupancy on approximately the same schedule as a covered project's market units..." The manager of the city's Housing Trust Fund concurs with the acceptability of the proposed schedule. **(Affirmative finding)**

II. Conditions of Approval

1. Except as specifically modified in this amendment, all conditions of the original final plat approval dated May 19, 2015 shall remain in effect.

2. The amended phasing schedule shall be as depicted on the "Phasing Plan" revised 6/7/16.
3. The inclusionary units shall be made available for occupancy on approximately the same schedule as the market units, except that certificates of occupancy for the last ten percent (10%) of the market units shall be withheld until certificates of occupancy have been issued for all of the inclusionary units.
4. Standard permit conditions 1-15.