Review of the Site and Development Plan Process

Performed by Office of Management and Budget
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EXECUTIVE SUMMARY

The following report presents the results of a site and development plan process review and will serve as a response to the formal complaint filed with the County Administrator on January 22, 2003.

The Community Development and Public Works Departments were both afforded an opportunity to respond to the findings and recommendations of this report. The complete responses are included as attachments #13 and #14.

Summary of Findings Relating to the Seminole Raceway:

1. The Seminole Raceway applicants parking standards application reflects a request for 383 parking spaces (336 regular and 47 racer). This request was based on using a standard of 3 persons per vehicle. The Parking Standards Committee approved this request. The engineer certified final approved site and development plan contains a table reflecting 336 regular and 47 pit area parking. The actual number of parking spots reflected on the plan are 254 regular (or a deficiency of 82 spaces) and 47 pit area.

2. The Seminole Raceway applicants Florida Department of Transportation (FDOT) Driveway Connection Application contains a traffic analysis. The traffic analysis utilizes a standard of 2.5 persons per vehicle. This is inconsistent with the information presented to the Leon County Parking Standards Committee. Utilizing the 2.5 standard, the parking requirement would result in the need for 432 regular parking spaces.

3. The July 19, 2003 DRC Approval Letter regarding the Seminole Raceway requires a number of conditions necessary for final approval. The applicant was required to make the necessary changes to the site and development plan as referenced in the conditions. A number of these conditions are not reflected on the final site and development plan. The conditions not corrected include, but are not limited to: Noise attenuation fence, lighting orientation, and hours of operation on holidays.

4. There are a number of design concerns relating to the final approved site plan. This issues include, but are not limited to: type of surface for parking area; encroachment into the National Forest for turn around at end of track; gravel in the pit parking area may allow for pertroleum leakage into ground; lack of information relating to flow of traffic associated with check-in area; turn lane configuration on Blounstown Highway appears to be irregular and may not be approved FDOT as currently proposed; lack of traffic controls relating to return lane from track possible safety issue.

5. Other issues related to special exception uses and active karst features were identified in the County Code as requiring revisions for clarification.

Recommendations Relating to the Seminole Raceway

A. The approved site and development plan should not be able to proceed as currently submitted and the applicant must correct all inaccuracies and deficiencies.

B. The County Attorney's Office should review the language in Section 10-210 as it relates to karst features and determine the most appropriate revision.

H. Section 10-1027 should be revised to allow the various directors that encompass the Parking Standards Committee to utilize designees.

I. Defer the issue of whether to eliminate or revise Section 10-1489 to the County Attorney's Office for consideration.

J. For purposes of consistency, it is recommended that for Division 4 of the LDR (Procedures for Review and Approval of Site and Development Plans), the director of growth and environmental management or designee terminology be replaced with the county administrator or designee.

The following report discusses each of these findings and recommendations in detail.

BACKGROUND

In February, 2001, a pre-application for the reopening and upgrading of an existing raceway located on State Highway 20 was submitted to the County's Community Development Department. This project, hereafter referred to as "Seminole Raceway," went through the various stages of a type B review and the application was approved by the Development Review Committee (DRC) on July 17, 2002.

On August 15, 2002, opponents of the raceway filed a petition for a hearing to challenge the DRC's approval of the Seminole Raceway application. This hearing took place on December 11th through 13th and the Administrative Law Judge of the Division of Administrative Hearings (DOAH) issued a final order on March 4, 2003 that upheld the DRC's approval of the Seminole Racetrack site and development application.

While awaiting the DOAH final order, a formal complaint regarding the Seminole Raceway Site and Development Plan approval was filed with the County Administrator on January 22, 2003. Per Section 10-838 (c) of the Leon County Code of Laws, "Whenever a violation of this article occurs or is alleged to have occurred, any person may file a written complaint. Such a complaint, stating fully the causes and basis thereof, shall be filed with the county administrator or designee, who shall properly record the complaint, investigate it, and take appropriate action." It is under this section of the Code of Laws that a review of the Site and Development Plan review and approval process was initiated.

This review was not limited to an investigation of the Seminole Raceway Site and Development Plan approval, but also included an overall review of several site and development plans that were approved within the last twelve months. The review focused on the site and development process from pre-application to approval. The following section of this background presents an overview of the regulatory documents that govern development in Leon County.

Regulatory Documents

Land development within Leon County is regulated by the ***Tallahassee - Leon County Comprehensive Plan*** adopted on July 16, 1990 with subsequent amendments, as necessary. The

Project Name	Review Type
Lake Jackson United Methodist Church	Type A
Beech Ridge Trail Shops	Type A
Seminole Raceway	Type B
Westminster Presbyterian Church	Type B
Oak Ridge Place Subdivision	Type B
Trinity Reformed Church	Limited Partition
Proposed Deck Conversion	Exception
Humane Society	Exception

The following section of this report presents the results of this site and development plan review and approval process review and will serve as a response to the formal complaint filed with the County Administrator on January 22, 2003. This report will first present the findings associated with the review of the Seminole Raceway Project followed by other relevant findings as a part of the entire review.

The Community Development and Public Works Departments were both afforded an opportunity to respond to the findings and recommendations of this report. The complete responses are included as attachments #13 and #14, however excerpts from these response are included as part of each issue discussed.

ANALYSIS

I. SEMINOLE RACEWAY

Discussion: The Seminole Raceway Reconstruction and Reopening was approved by the Development Review Committee on Wednesday July 17, 2002. Subsequent to this time the project has been subject to an administrative hearing which upheld the approval. The administrative hearing ruling is currently being appealed in Circuit Court.

As discussed in the methodology section, staff reviewed all documentation associated with the Seminole Raceway site and development review process. This review also included interviews with members of Planning, Public Works, Community Development and the Department of Health.

As discussed below the review does indicate there are areas of concern regarding the approved site and development plan that warrant further discussion. Other issues raised by the citizen complaint

"stacking" lanes required to be built on the state road. Second, the traffic study shows utilizing 2.5 attendees per vehicle. This is different than the 3 attendees per vehicle the applicant utilized in the application to the parking standards committee. Using 2.5 attendees per vehicle and 1,080 seats, the required parking would be 432 parking spaces.

Conditions of Approval

The DRC approval letter dated July 19, 2002 (Attachment #9) contains a number of specific conditions of approval. Based on the letter, the applicant was required to revise the site plan and re-submit for final approval. The final certified site plans are in conflict with the approval letter as follows:

a. Specific Condition #4 requires that "On holidays preceding school days, the facility shall cease operations no later than 9:00 pm." The plans provide that on such days, the last race shall not start after 9:00 pm. A race starting at 9:00 pm does not comply with the condition.

b. Specific Condition #5 requires that a dumpster be placed "...with no encroachment into the drive aisle..." The dumpster pad's construction within the drive aisle and the dumpster itself being placed exactly at roadway edge may constitute an encroachment.

c. Specific Condition #7 requires that "All lighting shall be oriented so as not to have any residentially zoned property impacted by direct illumination." Note #18 on sheet 3 of 7 of the plans modifies that requirement so that it refers to "residentially developed property" (not zoned) and limits the impacts to properties developed at the time of plan approval.

d. Specific Condition #8 refers to limitations on the public address system. Note #17 on the plans appears to address these requirements, but the second sentence of the note is an incomplete sentence.

e. Specific Condition #9 refers to an 8 foot noise attenuation fence. The requirement of the attenuation fence is based on the sound study completed by Law Engineering, and the County Commission's intent to protect residentially developed areas as reflected in the County's application of the Residential Preservation (RP) overlay on the existing neighborhood. The plans refer to an 8 foot wooden fence. A standard wooden fence is not generally regarded as a "noise attenuation fence", and the plans do not contain further information to confirm noise attenuation capabilities of the fence.

f. Specific Condition #9 requires the plan to distinguish between the 8-foot tall fence and the 6-foot tall chain link fence. The chain-link fence referred to on the site plan is shown as 4-foot tall.

g. Specific Condition #10 requires that the plans be modified to define the term "drag strip." A review of the plans finds no such modification on the plans.

Project Phasing

The site plan reflects six sets of total stands, each representing 180 seats. Three sets of the stands are depicted as future stands.

The County Code Section 10-1481 (3) (b) (i) (z) addresses phasing of projects. The section reads "Proposed build-out date of the infrastructure for the development in its entirety, and, if the development will be built in phases, a development schedule and proposed buildout date for each phase." The site plan does not include any of this information. As a point of comparison, the Westminster Presbyterian Church site and development was originally proposed to build a multi-phase project. Throughout the development review process, the applicant was notified in writing by the County to remove any reference to future development and the final approved site plan contains the following notation "Future building and parking shall require site plan approval by Leon County." In addition, the Beech Ridge Trail Shops approved site and development plan contains a note on the plans stating "No phasing of this development is proposed." The approved Seminole Raceway plan does not contain any notations to this effect.

Section 10-954 Special Exception Uses

Within each zoning district outlined in the County Code, there are various allowable uses, appropriate permit levels and applicable development and locational standards. These uses consist of permitted use, restricted use and special exceptions. Section 10-954 discusses the special criteria that shall be applied to ensure compatibility of the proposed use with adjacent and nearby uses and developments.

The Seminole Raceway site and development plan was designated a special exception use within the Urban Fringe District, under active recreation. Section 10-954 (a) through (d) provides a series of factors that need to be addressed as part of the site and development plan. This section of the code was relied upon by the DRC in requiring the developer to address certain issues in the development (i.e. sound buffers, and lighting mitigation). Section 10-954 (e) states that other factors deemed appropriate by the County Administrator, planning commission or Board of County Commissioners due to the nature of the proposed development need to be addressed. However, the Code does not provide the mechanism for the Board to have input into this process. Given the nature of the current process as it relates to the various type A, B, C site and development reviews, a determination needs to be made as to the relevance of having these entities provide input at this level.

With regard to the Seminole Raceway, the Board may have wished to place certain restrictions on the hours of operation. The approved site and development plan shows the hours of operation extending until the last race starting no later than11:00 PM on Friday and Saturday evenings and holidays. (The site and development plan list the specific holidays.) During the April 9, 2002 Board meeting, Commissioners expressed concerns regarding the hours of operation and some suggested more restrictive hours, such as a 10:00 PM closing (Attachment #10). In addition, the Planning Department's comments in a memorandum dated July 17, 2002 also indicate that a 10:00 PM closing time would be appropriate (Attachment #11).

major modification and reconsideration by the DRC. Based on the level of inconsistencies, the site plan should be referred back to the DRC.

Public Works' Response: The site plan should not move forward at this time. The plan should be held in abeyance until the inconsistencies are addressed and the plan is brought into compliance. As a professional engineer, there should be accountability of the inconsistencies addressed by the applicant's professional engineer. The utilization of two different spectator ratios per vehicle as well as 47 racers versus 54 racers contributes to the confusion of the parking spaces. The applicant should be required to submit a revised application to address the inconsistencies.

Preliminary Recommendation

2. To clarify the actual practice and intent of Section 10-210 as it relates to karst features, a modification could be made in the main section to read "The direct discharge of stormwater runoff into any active karst feature shall conform to the following:" Section 10-210 (1) could then remove the term direct.

Community Development Response: *Staff agrees that a minor modification to Section 10-210, Active karst feature requirements, would provide clarification of the intent for protection of these features. The uses specified in Section 10-210(5) were intended to not directly discharge stormwater runoff into any active karst feature, except the term "directly" is not included in this provision. Staff disagrees that the modification should be made to the main heading in this section since several of the subsections would be required whether or not there was a direct discharge to the active karst feature. Instead, adding the term "directly" in Section 10-210(5) would provide the needed clarification of what has been staff's policy for this and other applications. Sec. 10-210(5) would then read: "The following uses shall not directly discharge any stormwater runoff into an active karst feature: ....."*

Preliminary Recommendation

3. Special Exceptions allowing Board of County Commissioner input to the process (Section 10-954 (e)) needs to be reviewed to determine whether this provision is necessary during the site and development review and approval process, and if so, a mechanism or process by which to implement this provision needs to be included in the County Code.

Community Development Response: *Community Development staff does not concur with the recommendations of OMB staff with regard to this section of the LDC. As long as the County's LDC contains performance-based zoning/future land use districts, this section is required to enable the entity with the authority to approve a proposed development the additional ability to address issues that are not specifically noted in the LDC. Furthermore, Community Development staff does not concur with this recommendation based on the proposed ordinance regarding revision to section 10-954 that would require Board approval for all special exception uses.*

DETERMINATION OF REVIEW TYPE - OAK RIDGE PLACE

Discussion: As discussed above, the Oak Ridge Place subdivision involves two discrete zoning categories: MR-1 and R-3. Each zoning category requires differing thresholds for determining the appropriate review process (i.e. A, B, C or D).

Findings: As part of the PUV application and determination, the proposed Oak Ridge Place subdivision was classified to need a Type B review. The development consists of 71 parcels: 4 in the MR-1 zoning and 67 in R-3 zoning. This level of detail was not provided nor required as part of the PUV process.

However, based on Section 10-1479 (1) (a) R-3 zoning, type B reviews are for developments with residential dwelling units totaling between 11 and 49. As the portion of the development zoned R-3 has 71 parcels, the project review should have been a type C. As a type C, the project would have required Board approval as opposed to DRC approval. It appears that the initial determination that the project be classified as a type B review was an error and no subsequent steps in the process are currently required to check this initial determination.

In further review of the project, the comments received by the DRC where extremely supportive of the project and this review found no other issues regarding the development.

Preliminary Recommendations:

1. Community Development bring the approved site and development plan to the Board for ratification of the DRC's action. This action will bring the site plan's approval into compliance with the requirements of a type C review.

In a May 13, 2003 meeting with Community Development, it was determined that this project will come before the Board in the near future for final platting. As a part of the agenda item, Community Development will include an option for Board ratification of the DRC's approval of this project.

2. Community Development review existing internal processes and determine a method to ensure the appropriate site and development plan process is utilized for each project request submitted.

Community Development Response: *Community Development concurs with this procedural enhancement recommendation and will review the current process and revise procedures as appropriate to enhance internal review of a project's PUV certificate with the formal site plan application for consistency and LDC compliance. Preliminary review indicates that this could be accomplished by including an additional finding of fact statement in the project's initial staff report which is provided to the applicant prior to the initial staff technical review meeting on the proposed project.*

Final Recommendations:

1. Include in the upcoming agenda item seeking Board approval for final platting an option to allow Board ratification of the DRC approval of this project.

shall be notified whether the application contains all the required information at the required level of detail.

Findings: GEM has implemented a standing policy of conducting Technical Staff Review Meetings on the 2nd and 4th Wednesday of each month. This step is intended to have the appropriate staff review the completed applications and provide the requirements as outlined in the County Code. GEM has established standing meetings for Pre-Application Conferences for the 1st and 3rd Wednesday of each month. In reviewing various files, the time frame from the point of application submittal to the Technical Staff Review meeting generally exceeds the ten day requirement outlined in the County code.

Preliminary Recommendation: Community Development should evaluate existing internal procedures and make necessary adjustments to comply with the ten day requirement imposed by the County code in Section 10-1479 (9) (c).

Community Development Response: *Staff responded to this finding by clarifying that the ten day period established in the code indicates "ten working days" as the period for staff to provide the applicant with a determination of completeness. Staff also contends that it is standard operating procedure to fax copies of the technical review report to the applicant prior to the Technical Staff Review meeting. Community Development offers that "staff will review the current practice and procedures for notifying the applicant concerning application completeness... and enhance fax transmittal record keeping/documentation."*

The review finding takes into consideration the "ten working days" as clarified by staff. Furthermore, the files considered in this review indicate that the ten working day requirement was exceeded in all three of the type B site plans reviewed by at least 5 working days.

Final Recommendation: Community Development should evaluate existing internal procedures and make necessary adjustments to comply with the ten day requirement imposed by the County code in Section 10-1479 (9) (c). When utilizing faxed transmissions to comply with the ten working day requirement, the project file should be documented and this record should be incorporated into the project file.

PARKING STANDARDS COMMITTEE, SECTION 10-1027

Discussion: This section of the code establishes a parking standards committee comprised of "the planning director, the growth management director and the public works director." The section generally describes the purpose of the committee.

Findings: The existing Parking Standards Committee appears to be designees of the various directors authorized in this section of the Code (Attachment #5, page 5). The use of designees is not inconsistent with other sections of the County Code, however this particular section does not authorize this to occur.

Preliminary Recommendation: For purposes of consistency, it is recommended that for Division 4 of the LDR (Procedures for Review and Approval of Site and Development Plans), the director of growth and environmental management or designee terminology be replaced with the county administrator or designee.

Community Development Response: *Community Development agrees with this recommendation.*

Final Recommendation: For purposes of consistency, it is recommended that for Division 4 of the LDR (Procedures for Review and Approval of Site and Development Plans), the director of growth and environmental management or designee terminology be replaced with the county administrator or designee.

III. SUMMARY OF FINAL RECOMMENDATIONS

This section provides a summary of the final recommendations that were presented above.

Regarding the Seminole Raceway Project:

1. The approved site and development plan should not be able to proceed as currently submitted and the applicant must correct all inaccuracies and deficiencies.

2. The County Attorney's Office should review the language in Section 10-210 as it relates to karst features and determine the most appropriate revision.

3. The County Attorney's Office should review the Special Exceptions Section of the Code (Section 10-954 (e)) allowing Board of County Commissioner input to the process and determine appropriate revisions.

Other Relevant Recommendations:

4. Include in the upcoming agenda item seeking Board approval for final platting of the Oak Ridge Place Subdivision an option to allow Board ratification of the DRC approval of this project.

5. Review the current process and revise procedures as appropriate to enhance internal review of a project's PUV certificate with the formal site plan application for consistency and LDR compliance.

6. Community Development is strongly urged to implement a procedure by which the waiving of site and development application requirements are documented and made a part of the applicant's file.