

City of
Gainesville

Inter-Office Communication

Planning Division
x5023, FAX x3259, Station 12

Item No. 2

TO: City Plan Board

DATE: August 20, 1998

FROM: Planning Division Staff

SUBJECT: Petition 153PDA-98 PB, Merrill L. Pugh, Agent for Howard Wallace.
Planned Development Amendment to reduce the west 100-foot buffer of Mill Pond along Newberry Road to a 25-foot buffer to create a buildable lot. Located in the 600 block of Northwest 51st Street, east side.

Recommendation

Planning staff recommends approval of Petition 153PDA-98 PB, with conditions.

Explanation & Analysis

Mill Pond is a residential planned development which was approved under regulations of Alachua County. The petition was approved by resolution ZOM-57-93 and was partially developed when it was annexed into the City of Gainesville. In establishing the Planned Development, six (6) single-family residential lots were created in order to establish continuity and compatibility with adjacent single-family residential development. The large Mill Pond development was also required to establish a 100-foot wide buffer along the full length of the property where it abuts Newberry Road. Since the original property extended to Northwest 51st Street, the 100-foot buffer was similarly extended to include screening of the six lots..

Due to the existing pattern of development which has occurred over the years and the fact that existing single-family lots do not have any buffer, the owner of the adjacent lot is requesting that the buffer be reduced to 25 feet.

Conformance with Comprehensive Plan

The development as proposed, is in conformance with the overall goals and objectives of the Comprehensive Plan. Details of conformance with the Comprehensive Plan is expressed in the approved land use petition. The zoning of PD, existing on the development, is intended to be in conformance with allowable uses under the approved PUD (Planned Use District) land use designation. Other elements of the Comprehensive Plan were addressed in the overall PD approval. Reducing the buffer to 25 feet is not inconsistent with the goals and objectives of the Comprehensive Plan.

Concurrency

A certificate of concurrency must be issued prior to approval of the petition. The amendment will result in one additional single-family dwelling in the neighborhood and related impacts on Newberry Road.

Internal & External Compatibility

The intended use of the property taken for the buffer is consistent with surrounding and internal developments. The remaining 25-foot buffer is adequate to ensure consistent harmony between existing and proposed development as they relate to the adjacent roadway. Single-family lots, existing west of this development, fronting on Newberry Road do not have as much a buffer as the 25-foot buffer which remains after the reduction.

Condition 1:

The 70-foot wide parcel shall be used as a single-family lot with setbacks and development standards in accordance with the requirements of the RSF-2 Zoning District.

Condition 2:

Except as provided herein, the created lot shall be subject to the Mill Pond PD in the same manner as the six original lots to the south.

Environmental Constraints

During development, every effort shall be made to procure as many trees as possible on the site. The building shall be designed and placed so as to minimize the amount of trees to be removed. Tree removal if necessary, must be coordinated with the development review coordinator.

Condition 3:

The building shall be designed and placed so as to minimize the amount of trees to be removed. Tree removal, if necessary, must be coordinated with the development review coordinator.

External/Internal Transportation Access and Off-street parking

The created lot is subject to all external and internal transportation issues as applicable to single family lots.

Sidewalks, Trails and Bikeways

The development and created lot, lie off Newberry Road which is equipped with sidewalks. No sidewalks exist along Northwest 51st Street. It would be in keeping with the intent of the

Comprehensive Plan to provide sidewalks and areas for pedestrian movement. It would be an improvement to have accessible sidewalks and other pedestrian amenities.

Condition 4:

A sidewalk shall be provided in front of the lot, along Northwest 51st Street to meet sidewalks along Newberry Road.

Public Facilities

Public facilities are available within close proximity to the development site.

Unified Control

Documents provided with the application indicate unified control of the property

Development Time Limits

Bonds

This section is not applicable at this time, during subdivision review, any required bonding will be addressed at a later date.

Respectfully submitted,



Ralph Hilliard
Planning Manager

RH: LDC

2. **Petition 153PDA-98 PB** Merrill L. Pugh. Planned Development Amendment to reduce the west 100-foot buffer of Mill Pond along Newberry Road to a 25-foot buffer to create a buildable lot. Located in the 600 block of Northwest 51st Street, east side.

Mr. Lawrence Calderon was recognized. Mr. Calderon indicated that the request was to amend a Planned Development to reduce a buffer requirement on one portion. He explained that when the development was approved, six lots were excluded. He noted that the six lots were created to allow compatibility between the Planned Development and the single family homes to the west. He indicated that the lots to the west fronting Newberry Road had no buffer at all. Mr. Calderon explained that a 100-foot buffer was required along Newberry Road in the front of the Planned Development and the six lots. He indicated that the Planned Development had undergone changes and the petitioner was requesting a reduction of the buffer on the end lot fronting on Newberry Road. He explained that the purpose of the reduction was to create a new lot with a 25-foot buffer. Mr. Calderon indicated that staff was recommending approval of the petition, with conditions.

Ms. Michelle Amsted, agent for the petitioner, was recognized. Ms. Amsted discussed the reasons for reducing the buffer. She indicated that the owner of the house adjacent to the proposed new lot did not object to its creation. She noted that, if the buffer was reduced, the remaining lot would be the same size as those directly south of it.

There was discussion of the purpose of the original buffer and the buildings in the Mill Pond PD.

Mr. Calderon stated that staff would not approve of a reduction of the 100 foot buffer for Mill Pond which was not included in the petition. He noted the greater intensity of development of the PD. He explained that the original PD of Mill Pond had been amended because of wetlands and flood plain.

It was noted that there was a letter from a Ms. Smith who owned a lot across the street from the proposed new lot. The letter objected to another house in the neighborhood.

Mr. Shelton requested clarification on whether the buffer would be 25 or 30 feet.

Mr. Calderon indicated that the buffer would be 30 feet.

Mr. Guy suggested that there was no hardship involved in the request. He indicated that the buffer was a feature of the PD and he saw no reason to change that feature.

Mr. Carter agreed with the proposed buffer reduction.

Mr. Shelton also agreed.

Chair Barrow opened the floor to public comment.

Mr. Chuck Woods indicated that he was speaking as a citizen. He suggested that the buffer should remain given the high density of traffic on Newberry Road.

Mr. McGill agreed with the proposed reduction.

Mr. Calderon requested that the board amend the motion to reduce the buffer to 30 feet instead of the stated 25.

Ms. Amsted indicated that the petitioner was requesting 25 feet.

<u>Motion By:</u> Mr. Carter	<u>Seconded By:</u> Mr. Shelton
<u>Moved To:</u> Approve Petition 153PDA-98 PB with staff conditions.	<u>Upon Vote:</u> Motion Carried 6-1 Yeas: Shelton, McGill, Barrow, Carter, Dowling, Polshek Nay: Guy

9/11/98

980270

Quasi-Judicial Registration Form

Name:(please print) ELIZABETH A. MOORE *ELIZABETH A. MOORE*

Address: Betty B. Moore

Betty B. Moore
356 Northwest 48th Blvd.
Gainesville, FL 32607

Telephone Number: _____

Please indicate whether you are for or against this petition: FOR ___ or AGAINST (mark "X")

Please indicate whether you are requesting a Formal Hearing: YES ___ or NO ___ (mark "X")

Complete the following section of the form only if you are requesting a formal quasi-judicial hearing:

(Please refer to the enclosed Quasi-Judicial Hearing sheet contained in this mail-out for more information)

As an affected person receiving notice of the public hearing on **Petition 153PDA-98 PB**, I hereby request, that the City Commission conduct a formal quasi-judicial hearing as described above.

Signature: _____

This form and exhibits to be presented to the City Commission must be delivered to the Clerk of the Commission at least seven (7) days prior to the City Commission public hearing as stated in the notification letter sent to you. The Clerk of the Commission Office is located at City Hall, First Floor, 200 East University Avenue, Gainesville, Florida. Mailed forms may be mailed to the following address: Clerk of the Commission, Quasi-Judicial Hearing, Petition 153PDA-98 PB, P.O. Box 490, Station 19, Gainesville, Florida, 32602.

Attorney Information (If applicable):

Name: (please print) _____

Address: _____

Signature: _____

Telephone Number: _____

CITY OF GAINESVILLE
CITY COMMISSION

98 SEP 4 P12:59

Quasi-Judicial Hearings

In 1993, the Florida Supreme Court, in the case of Board of County Commissioners of Brevard v. Snyder, held that an individual rezoning was a quasi-judicial act rather than a legislative act of a local governing body. As a result of this decision, the way that the City holds public hearings on individual land use actions such as rezonings, small scale land use changes, special use permits and site plans has changed dramatically. The City has established two types of quasi-judicial proceedings: informal and formal. The informal process, which is most widely used, includes a presentation by both City staff and the petitioner, followed by questions by the governing body, of staff and the petitioner. The next step in the process is public comment. During public comment, citizens may ask the governing body questions, and offer their testimony and opinions.

The formal quasi-judicial hearing is more like a trial court (an administrative hearing). All public testimony is taken under oath. Everyone testifying before the governing body is subject to cross-examination. All documents and exhibits that the governing body deems admissible is entered into evidence. The giving of opinion testimony is limited to expert witnesses, i.e., people whom the governing body finds have education or practiced experience in an area to be able to render an informed opinion on the subject. Finally, the closing arguments to the governing body are limited to the evidence presented. After hearing closing arguments for and against the petition the governing body receives public comment (5 min. per person maximum) and makes its decision to approve or deny the petition.

Whether informal or formal, decision makers, City Commission, Plan Board, and the Development Review Board are not allowed to discuss quasi-judicial matters outside of the meeting room with anyone. All discussions about petitions must occur during the hearing. The reason for this restriction is that ex parte contacts with decision makers are presumed to be prejudicial to the side not represented.

What is the meaning of quasi-judicial? Quasi-judicial: means somewhat like a trial process. Rezoning, small scale land use changes (generally less than ten acres), special use permits and site plan approval applications, which have an impact on a limited number of persons or property owners, on identifiable parties and interests, where the decision is contingent on a fact or facts arrived at from distinct alternatives presented at the hearing, where the decision can be functionally viewed as policy application rather than policy setting, are considered quasi-judicial actions. (Source: Zoning Law and Practice After Brevard County v. Snyder, page 5.93)

Who determines if a quasi-judicial item will follow the formal or informal procedures? All quasi-judicial items are placed on the agenda as informal petitions, unless a formal hearing is requested by the petitioners or an affected party.

Who would be considered an affected party? All property owners who are entitled to actual written notice of the petition provided by the Community Development Department. A party who is not entitled to actual written notice, but who believes that he or she has a special interest or would suffer an injury distinct in kind and degree from that shared by the public at large, by the decision, may apply for affected party status by filing an application form with the Clerk of the Commission during regular business hours no less than 7 days prior to the meeting when the petition is scheduled to be heard. The request must be received by the clerk, during business hours. The decision making body will approve or deny the application prior to the start of the hearing.

How do you request a formal hearing? An affected party is automatically sent a registration form; others may request a form from the Department of Community Development. The form must be received by the Community Development Department no less than seven days prior to the public hearing for Special Use Permits and site plan approvals with all the evidence and documentation to support the affected party's or petitioner's position. For all zoning and small scale land use changes (less than 10 acres and less than 10 dwelling units per acre) the form must be received by the Clerk of the Commission no less than seven days prior to the City Commission public hearing on the petition.