

NEWS / PINELLAS

Tarpon Springs declines to halt Anclote project while lawsuits play out

Citizens group says the land could be irrevocably damaged while their challenges are pending. Developer calls their request a delaying tactic.



Stands of mangroves populate the Anclote River shoreline on land where developer Morgan Group has received approval from Tarpon Springs to build 404 apartments. [DOUGLAS R. CLIFFORD | Times]

McManus Times staff

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Concerned Citizens of Tarpon Springs has already filed three lawsuits in Pinellas-Pasco Circuit Court to fight the [city's approval](#) of a 404-unit luxury apartment complex on green space along the Anclote River. On Tuesday the attorney representing the nonprofit asked the city to halt the issuance of all permits for the project until that litigation plays out.

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the east side of U.S. 19, "damage to this habitat cannot be undone or restored."

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Commissioners voted 3-1 to deny the request for a stay, explaining the merits on which they approved developer Morgan Group's project have not changed. Commissioner Costa Vatikiotis voted to approve the request.

"As far as the motion to stay goes, it does interfere with the private property rights the property owner has," Commissioner Connor Donovan said. "I'm not going to support that."

If the city had paused the issuance of building and tree removal permits, it would have been unprecedented in Florida law because no tribunal has ever granted a stay of a land development permit during an appeal, according to Scott McLaren, an attorney representing Morgan Group.

The project's final site plan, approved by commissioners on Nov. 10, will expire if Morgan Group is not able to apply for a building permit within one year. Given the time constraint, McLaren alleged Concerned Citizens' request for a stay was "a backdoor attempt to deny and kill the project."

The group was seeking "to delay the litigation as much as possible in order to 'time out' Morgan's legitimate right to move forward with its project," McLaren wrote in a motion submitted to the city.

The move was the latest flashpoint in an issue that has drawn dozens of residents to public meetings to oppose the project and has become a campaign issue in the March 15 city election.

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Similar public activism arose in 2005, when the city approved a plan by Walmart to build a Supercenter on the site. Residents sued, alleging the city violated local rules in approving the project.

The lawsuits were not successful, but they tied Walmart up in court for so long that certain approvals expired by 2008. The retail giant walked away from the project and put the land up for sale in 2013.

Walmart still owns the property, but Morgan Group has rights to develop the land as a contract buyer, McLaren said.

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version of the application. The two lawsuits filed after the city's Nov. 10 approval of the final site plan allege a variety of due process violations.

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In its [Nov. 29 complaint](#), Concerned Citizens alleges the city violated state law and city codes by approving an exclusively residential development in a “commercial general” district that allows residential only as a secondary or supplemental use. The group also alleges the city violated the public’s due process during the hearing on the preliminary application, which lasted 10 hours and didn’t get to citizen comment until after 2:30 a.m. on Oct. 29.

If the city had required Morgan Group to apply for an amendment to the future land use map for residential, the developer would have had to seek city, county and state approval for the project.

In their response to Concerned Citizens’ request for a stay, Morgan Group stated the city’s approval of a residential project in a “commercial general” district complies with the city’s land development code and comprehensive plan.

“There exists no language in the (land use plan) suggesting that a secondary use cannot be approved unless there also exists a ‘primary use’ on the same property,” according to Morgan Group’s response.

The developer also responded that Concerned Citizens’ allegations of a lack of due process are baseless. The city held 24 hours of testimony over six days on the application, well above the legal requirement that the public be given notice and an opportunity to be heard, according to its filing.

“I’ve been doing this for a long time,” McLaren told commissioners on Tuesday. “I’ve been practicing law for 31 years. I’ve never seen a tribunal be more patient and provide more time and more notice to anyone than this tribunal has provided to Concerned Citizens and its members in this case.”



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