

Dunnellon faces suit over Rainbow Ranch

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DUNNELLON - A surprise March settlement between Dunnellon and a developer with plans to build hundreds of homes along the Rainbow River left many of those opposed to the deal feeling they'd been left up a creek without a paddle.

Forget the paddle; now they're wielding a big stick.

Last month, the nonprofit Rainbow River Conservation group along with 15 individual landowners - most with property on the Rainbow River - sued the city of Dunnellon to stop Minnesota developer Gerald Dodd from building 340 homes and allowing 100,000 square feet of commercial space at his Preserve at Blue Cove. RRC's president said that the Dodd settlement agreement amounts to an "end run around the state's Growth Management Act."

"We felt we couldn't just let this pass. It's upsetting to the people who live near Rainbow River, to those who use the river and those who want to protect the environment," Burt Eno said. "We felt we had no choice but to bring a lawsuit to force the city to abide by the law."

The 35-page complaint, filed on April 15 in circuit court, alleges that the settlement agreement, which would also allow Dodd to build an additional 101 homes and 25,000 square feet of commercial space in the future, is inconsistent with Dunnellon's comprehensive plan and violates Florida's Growth Management Act, among other concerns. Dodd's Rainbow River Ranch LLC and Conservation Land Group LLC are not named in the lawsuit.

Initially, the city halted development amid concerns that the subdivision could pollute the river, which is designated an Outstanding Florida Waterway. Dodd sued Dunnellon for \$7.7 million under the state's Bert Harris Private Property Protection Act, alleging that subsequent density change for the property - after he bought it - deprived him of the land's value. The city has spent more than \$400,000 defending against Dodd's lawsuits.

In unanimously approving the settlement agreement in March, council members said they were weary of the legal wrangling, feared additional litigation could exhaust the city's coffers, and declared themselves ready to "move on." Asked about the RRC lawsuit before Thursday's City Council meeting, Mayor Fred Ward quickly quipped: "What lawsuit are you talking about? We have so many." He then went on to say that, on advice from the city's legal counsel, the council never discusses pending litigation. "It's in the court system now. Let the courts take care of it," Ward said, adding that the city's assistant attorney, Marsha Segal-George, will brief council members about the case individually.

Segal-George was as good as her own advice and declined to comment - except to say that the settlement agreement at issue still requires court approval. "I don't know when that will happen," she said. "We'd like to move as quickly as possible and put some of these things behind us."

Moving quickly - or too quickly, according to Eno - is what led to this latest round of litigation. He said that word of the hastily inked settlement was announced during a March 17 workshop, with details of the agreement available only later that night, and it was understood that the March 19 vote was a "done deal and it made no difference what people had to say." "It was quite a shock and done totally in secret," Eno said of the agreement. "We were really flabbergasted. No one in the public knew about it. ... If it (Preserve at Blue Cove) is built as now planned, it will be extremely harmful to the river and wildlife that live there now."

Problems with land use for the property go back at least to 1996 when the city adopted a mixed-use designation for the site, a designation that never took effect because it was rejected by the Florida Department of Community Affairs as "not in compliance" with Dunnellon's comp plan. The compliance issue was resolved by a remedial plan amendment in 2001 which designated a portion of the property as medium density residential and the rest for agricultural and conservation use.

The 2001 plan included an agreement limiting development in the agricultural portion to no more than 30 homes, and directing construction away from the river. According to the lawsuit, the city's settlement with Dodd is invalid for the following reasons: While the 2001 Agreement Limiting Development stipulated that changes could only take effect if adopted by amendment to the city's comp plan, the settlement agreement greatly increases development without a plan amendment and in violation of the Agreement Limiting Development as well as the 2001 agreement.

The settlement agreement purports to amend the future land-use element of the comp plan, which is not a valid method for amendment. The agreement claims precedence over the city's comp plan, land development regulations or any other rules or ordinances. But the Bert Harris Act on which the agreement relies does not supersede the state's growth management provisions.

The lawsuit includes the March 19 letter faxed to the city by Charles Gauthier, director of DCA's division of community planning. Gauthier urged the council to reject the settlement agreement and noted that state law requires that when the Growth Management Act "may be in conflict with any other provision of law relating to local governments having authority to regulate the development of land, the provisions of this act shall govern."