

she said the original plan showed it to be filled but, after discussions with the neighbor who wanted to see it stay because of associated wildlife uses, the plan had been to retain it.

However, the state water commissioner had raised concerns that there were not any water rights in place and had since made it clear that it could not stay because such a pond is only allowed in a ranch or other agricultural setting and is not acceptable in a residential setting. Barlow said, "We tried to accommodate the neighbor. We were told we couldn't do it by the state water commissioner and that's really the bottom line as far as we're concerned. We have to fill it in."

Judy von Ahlefeldt, the neighbor in question, told the commissioners that she had no quarrel at all with the subdivision but had only very recently heard that the pond was to be filled in. She explained that a representative of the owner had been to her property the day before the hearing to try to come up with alternative ways forward but that there had not been time to discuss anything further.

Planning Commission Chair Jim Egbert suggested the commissioners could either take a vote or continue the item to allow time for the pond matter to be resolved. However, Lori Seago, senior assistant county attorney, advised that the pond discussions were a private matter between Ahlefeldt and the property owner and that there would be time between the Planning Commission hearing and the BOCC hearing for them to discuss it. Chris Collins, the applicant's water rights attorney, said, "I believe the preferred solution would be to assist Judy in putting a pond on her property and we'll continue to have those discussions between now ... and our presentation to the Board of County Commissioners."

The commissioners voted unanimously to recommend both applications for approval. Commissioner Sharon Friedman commended the applicant for sticking with the 5-acre lots and for their work with the BFTA.

The application was unanimously approved by the BOCC at its April 23 meeting without further discussion.

**Petrick special use request for a guest house recommended for approval**

Also at the April 2 meeting, the commissioners heard a request from Randall and Gwendena Petrick for approval of a special use for a guesthouse with special provisions for extended family housing. The property is slightly south of Pleier Drive and Silvertown Road in the Overlook Estates neighborhood. The applicant is proposing to build a new 4,200-square-foot house as a main dwelling on the property and have the existing main house as a guesthouse in which Gwendena Petrick's mother will live.

Under the guesthouse regulations in the county's Land Development Code, a guesthouse is an allowed use in the RR-5 (rural residential) zoning district provided it does not exceed 1,500 square feet. Len Kendall, Planner 1 with Planning and Community Development, told the hearing that the existing family home totals 1,648 square feet and therefore exceeds the size limitations. The applicant is therefore pursuing an administrative special use for approval of the larger size. Kendall said such a request would normally be dealt with through an administrative process, but a hearing was being held in this instance because neighbors had raised concerns.

Neighbors' concerns were primarily that the property's 873-square-foot basement, which they believed to be livable space, was not being included in the square footage calculation. Its inclusion would take the square footage total well beyond the 20 percent increase allowed for in the regulations. There was concern that approving such a large dwelling as a guesthouse would unintentionally set a precedent for two main single-family homes on one RR-5 (rural residential) lot, effectively bypassing the rezoning process. However, the code does state that a guesthouse is not a dwelling unit. Kendall told the commissioners that basements, even when finished, were not considered livable space if, as in this case, they were being used only for storage, laundry, and mechanical purposes. Also, the basement did not comply with current code requirements.

The commissioners voted unanimously to recommend the application for approval. It was scheduled to be heard at the BOCC on April 23 but did not

appear on the agenda. Instead, on April 17, the application was placed on the Planning Commission's agenda for May 7 as a request for approval of a much larger guest house of 2,682 square feet. Following this hearing, the application is expected to be heard at the BOCC on May 28.

**Flying Horse North lot 35**

At the April 16 meeting, the Planning Commission unanimously recommended for approval a request for a vacation and replat of lot 35 at the Flying Horse North Filing 1 into two residential lots. The property is

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 May 25: Michael Hawkins & Charlie Milo  
 May 31: Matt Bloom  
 June 1: Desperate Measures

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