

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, January 10, 2017 at 6:00 PM**

Adopted 2/14/2017

1 **MEMBERS PRESENT:** Chairman Michael Boyd, Arthur Barr, Robert Dickinson, Troy Dubose
2 Michael Duggins, Lauren Kornel, and Mark Langelo

3

4 **MEMBERS EXCUSED:** None

5

6 **STAFF PRESENT:** Sally Sherman, Deputy County Administrator; Adam Mengel, Planning
7 Director; Wendy Hickey, Planner;

8

9 **BOARD COUNSEL:** Kate Stangle, with Broad and Cassel

10

11 Chairman Boyd called the meeting to order at 6:00 p.m.

12

13 1. **Roll Call.**

14 Attendance was confirmed by Wendy Hickey and a quorum was present.

15

16 2. **Pledge of Allegiance.**

17 Chairman Boyd led the Pledge of Allegiance to the Flag.

18

19 3. **Election of Chair**

20 Mr. Mengel opened the floor to nominations for Chair.

21

22 Mr. Langelo nominated Mr. Dickinson and nomination was seconded by Mr. Duggins. No
23 other nominations made.

24

25 *Approved unanimously*

26

27 4. **Election of Vice Chair**

28 Mr. Mengel opened the floor to nominations for Vice Chair, adding following the discussions
29 we have had in the past that would fall to Mr. Duggins I believe.

30

31 Mr. Langelo nominated Mr. Duggins and nomination was seconded by Ms. Kornel. No other
32 nominations made.

33

34 *Approved unanimously*

35

36 5. **Approval of Minutes.**

37

38 Minutes of the November 8, 2016 regular meeting

39 Motion to approve made by Mr. Barr and seconded by Mr. Boyd

40

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1 *Approved unanimously*

2
3 Minutes of the December 13, 2016 regular meeting.
4 Motion to approve made by Mr. Langelo and seconded by Mr. Barr.

5
6 *Approved unanimously*

- 7
8
9 6. Quasi-judicial requiring disclosure of ex parte communication:
10 Application #3043 – APPLICATION FOR REVIEW – DRI NOPC AND AMENDMENT TO
11 PUD SITE DEVELOPMENT PLAN; request for a Notice of Proposed Change (NOPC) and a
12 Planned Unit Development (PUD) modification to the Bulow Plantation Development of Regional
13 Impact (DRI) and the Bulow Plantation PUD (Resolution No. 2000-15); Parcel Numbers: 38-12-
14 31-0000-04050-0010 and 38-12-31-0000-04050-0030; Owner: MHC Bulow Plantation, LLC, and
15 MHC Bulow Plantation Two, LLC, respectively / Agent: Mark W. Shelton, AICP, Kimley-Horn
16 and Associates, Inc.

17
18 Chairman Dickinson asked Mr. Mengel if he would speak about the correspondence he had
19 received pertaining to the postponement of this item.

20 Mr. Mengel discussed that we have this item and it was scheduled to be heard at the December
21 13th meeting we had opened the hearing and then we postponed that hearing to a time and date
22 certain which was tonight's meeting. The applicant is continuing to work with state agencies on
23 one of their requirements that they are trying to meet for their biennial report they are working
24 on the traffic analysis that is part of that report. They tried to get that completed by the end of
25 December and have not been able to complete that step. We have had as our informal policy I
26 don't believe it is in any codified status but to continue a hearing not more than twice without
27 renewing that notice. So our recommendation on this item is to continue this hearing that was
28 originally scheduled for December 13th and continued to January 10th to now February 14,
29 2017 our next scheduled meeting at 6:00 in this chambers. As we had before if there is anyone
30 present we would ask the Board to open the hearing and ask if anyone who cannot attend on
31 February 14th who is here to discuss this item to make comments on the record and close the
32 hearing and continue this item to February 14, 2017.

33 Chairman Dickinson opened the Public Hearing and asked if anyone was here for application
34 #3043 seeing no one he closed the Public Hearing and will continue the item to February 14,
35 2017.

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1 *Motion to move to a date certain made by Mr. Langello and seconded by Mr. Boyd.*

2 *Motion approved unanimously*

3 7. Quasi-judicial requiring disclosure of ex parte communication:
4 Application #3061 – APPLICATION FOR REVIEW – SITE DEVELOPMENT PLAN
5 APPROVAL FOR AN EXISTING SPECIAL USE IN THE PLANNED UNIT
6 DEVELOPMENT (PUD) DISTRICT for System Improvements to the Plantation Bay
7 Wastewater Treatment Facility at 1600 Old Dixie Highway; Parcel Number: 03-13-31-0650-
8 000C0-0050; Owner/Applicant: Flagler County / Agent: Phillip J. Locke, P.E., with McKim and
9 Creed and Flagler County Engineering.

10
11
12 Chairman Dickinson asked the Board if anyone had any communications to report. None reported.

13
14 Mr. Mengel presented the staff report noting that it is a County project for the Plantation Bay Waste Water
15 and Utility System. Showing a aerial map and noting the existing conditions and structures, stating that the
16 zoning for the location is PUD (Planned Unit Development) and there are multiple land uses with a majority
17 being Mixed Use Low Intensity that should eventually all become Mixed Use Low Intensity. This is part of
18 the Plantation Bay Development of Regional Impact.

19
20 In our review these are improvements to the system required to bring the plant into compliance with the
21 FDEP consent order prior to the County's acquisition of the utility. The utility has been in continual
22 operation since construction in 1980's, and was acquired by Flagler County in 2013. We have specific
23 work authorization that was done by the Board of County Commissioners on September 24, 2014 for
24 McKim and Creed. This particular work order includes construction of ,one (1) influent screening system,
25 one (1) submersible triplex master pump station, one (1) 0.475 MGD package wastewater treatment plant,
26 one (1) filtration system, chlorine contact tank modifications, one (1) submersible duplex reject pump
27 station, one (1) 1.0 MG reject water ground storage tank, one (1) motor control center building two (2) new
28 centrifugal blowers, one (1)standby generator, yard piping, controls, electrical and site improvements.

29
30 We brought this forward to you because this is an existing public use actually a special use in the PUD by
31 the zoning district This is a wastewater plant but these site improvements per the LDC (Land Development
32 Code) require a review by the Planning and Development Board and the Board of County Commissioners
33 for approval. We already had the Board of County Commissioners authorization but we need this step of
34 the Site Plan review by the Planning and Development Board.

35
36 Staff recommendation is that the Planning and Development Board find the Site Plan is sufficient and you
37 are approving this application #3061 and application for review a Site Development Plan for improvements
38 to the Plantation Bay Waste Water Treatment Facility and existing Special Use in the PUD (Planned Unit
39 Development) district.

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1 Chairman Dickinson opened the Public Hearing for public comments seeing no one he closed
2 the Public Hearing and opened Board Comments.

3

4 *Motion to approve made by Ms. Kornel seconded by Mr. Boyd*

5 *Motion approved unanimously*

6

- 7 8. Quasi-judicial requiring disclosure of ex parte communication:
8 Application #3062 – VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT)
9 **DISTRICT – SIDE YARD SETBACK VARIANCE** for an existing at 4 Via Capri (Ville Di
10 Capri subdivision); Parcel Number: 04-11-31-3011-000000-0020; Owner: Constantine
11 Mitsopoulos / Applicant: Tropical Enclosures.

12

13

14 Chairman Dickinson asked if anyone had any disclosures on this item hearing none. He stated that
15 he has conflict as he is on the Hammock Dunes Design Review Committee and will excuse himself
16 and pass the gavel to Vice Chairman Duggins for this item.

17

18 Mr. Mengel presented the staff report noting the location of the existing pool and orientation of the
19 lot. The Mixed Use Low Intensity Future Land Use is consistent with the Hammock Dunes DRI
20 and the zoning is PUD (Planned Unit development). The lot as shown has a dog leg an unusual
21 configuration which is a little unusual but each of these lots have this. So when we talk about the
22 criteria this in itself is not unusual because there are others that are similarly situated within this
23 development. In the siteplan it is noted that there is twelve (12) feet between the existing pool deck
24 and the neighboring structure. There is also an additional note of 2.44 feet and essentially we took
25 that over the extent of this proposed screen room that will go over this deck this distance because
26 of this agreement is supposed to be four (4) feet so the variance you are considering is for that
27 difference between which will equal 1.56 feet side yard setback variance to allow that distance to
28 be 2.44 feet. Another item that is part of this is there is a ten (10) foot separation requirement
29 between structures not homes not single family residences but structures. So we need a good idea
30 of where that neighboring structure sits in relation to the proposed screen room attached to the
31 home. The reason why we are going through the variance and the notation is in the aerial it does
32 appear to be some twelve (12) feet away. The lot to the south does not take advantage of that dog
33 leg and that pool structure does not turn so you have a widening of that distance a greater gap. We
34 think the twelve (12) feet is correct even absent of a survey that displays that measurement. So, not
35 only having the side setback variance of 1.56 that is under consideration likewise we have a
36 reduction in that ten (10) foot separation between structures I don't want to penalize that owner to
37 the south any more through this They would have that reduction likewise 1.56 feet from the ten
38 (10) feet takes them to 8.44 feet separation between structures. So, if they wanted to build
39 something they could build it on their lot and not be penalized because of the reduction on this set

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1 back so if this was 2.44 feet they would have to have their structure further away. Staff wanted to
2 acknowledge this conflict for the record. Criteria two (2) this is something created by the applicant
3 in this situation the letter provided notes they have a child that is allergic to mosquitoes. This is
4 admissible but cannot be used as grounds for a variance. We have talked before about the medical
5 hardship and how that may play or not play into it. Historically we have said that is not a
6 consideration. We do feel and it is strong in the narrative that ITT had done this from the onset.
7 There is that wall that is shown in the graphic that shows there is a portion of the wall that varies
8 from the property line to the neighbors property that is something that was put in by ITT it was not
9 done by this owner or the owner of the adjacent lot it was part of the improvements at the time the
10 homes were built. I this may weigh into your consideration of this item but staffs analysis of these
11 conditions is that we do realize and acknowledge the presence of the wall as something they
12 inherited but it is the desire for the screen enclosure for the pool is of their own creation. Criteria
13 three (3), is about health safety welfare morals of the community. We feel this would not adversely
14 affect the community by the granting this variance. The variance over all germane more than others
15 we also have the Hammock Dunes Design Review Committee variance request authorization and
16 they provided their approval from May 16, 2016 and submitted for our records and they provided
17 their approval of the requested setback variance that noted it will be harmonious with the
18 surrounding structures and topography as required by DRC (Design Review Committee)
19 evaluation criteria and has been established by precedent in the area the additional rationale the
20 pool was built in the 90's the screen will not be outside the pool decking area. That speaks to the
21 health safety welfare community as a whole. Criteria (4), states that we can't have a use variance.
22 This is an appropriate use for the development. I have hit on all points so the nature of the variance
23 that we are looking for from the Board is to allow the owner to place the screen enclosure within
24 the 2.44 of the property line
25

26 Based on the presentation and what we have provided and supplemental information the Planning
27 Department recommends the Planning and Development Board make a finding that the criteria
28 found in Section 3.07.03 E in the LDC (Land Development Code) have been met and therefore
29 recommends approval of a 1.56 foot side yard setback variance at 4 Via Capri. I want to add that
30 1.56 foot makes several assumptions first if the survey is correct I had some reservations on taking
31 this out to the hundreds because is anything ever that accurate I will pose to you if you would like
32 to give some more comfort with your ultimate action you may choose to do so, but also recall that
33 as I was reminded as we were preparing this item that our variance criteria calls for the minimum
34 relief necessary. That is why I took it out to the normal place I wouldn't take it to the hundreds of
35 a foot but this one and the certain information we had provided a 2.44 setback from the edge of the
36 pool deck to the property line the appropriate variance would be 1.56 foot side yard setback
37 variance.
38

39 Vice Chairman Duggins asked if the applicant would like to make a statement.

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1 Scott Norton, Tropical Enclosures 3500 Beachwood Court Ste 205 Jacksonville, Applicant I am
2 here on behalf of the homeowner I have built several enclosures for him in the past. If you have
3 any questions everything is in the packet. The measurements are from the foundation we are going
4 to be about three (3) inches from that I am not going to push it to the edge.

5
6 Vice chairman Duggins opened the Public Hearing for public comments seeing no one he closed
7 the Public Hearing and opened Board comments.

8
9 Mr. Boyd stated he was comfortable with staff's recommendation citing the letter from the
10 management group and that the Hammock Dunes Design Review Board approved this variance.

11
12 ***Motion to approve made by Mr. Boyd seconded by Ms. Kornel***

13 Mr. Langelo asked what are the side setbacks for the buildings in that area?

14
15 Mr. Mengel responded we have usually a zero on one side and something else on the other. Here
16 you have four (4) feet minimum and ten (10) feet separation between structures.

17
18 Mr. Langelo asked so its four (4) feet minimum.

19 Mr. Mengel responded yes sir.

20
21 Mr. Langelo asked your comment about the neighbor to the south made sense. Is that something
22 that we take up in this motion? How do you want to handle that?

23
24 Mr. Mengel responded to me if we are granting this side yard setback variance we have no other
25 action to take. I just wanted to make sure the Board knew that through their action to me that is
26 inclusive of the reduction of the separation.

27
28 Mr. Langelo asked so if that applicant ever goes to do something when they come in you will have
29 some notes somewhere pertaining to that lot.

30
31 Mr. Mengel responded yes sir.

32
33 ***Motion approved unanimously***

34 9. Staff Comments.

35 Mr. Mengel wished the Board a Happy New Year and thanked Mr. Boyd for serving as Chairman

36
37 10. Board Comments.

38 Mr. Boyd stated that over the past year and a few months I appreciate the Staff, Ms. Sherman
39 Ms. Stangel Mr. Mengel, Ms. Hickey and Ms. Lemon, all of them producing our material and

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1 the council we got from them to study and take care of these items so I appreciate them and also
2 to my colleagues on the Board. I think most of the time we fairly much agree on things and
3 sometimes you get a motion that don't get a second or a motion that don't get passed but at the
4 end of the day we all shake hands and that is what is important I really appreciate you all.

5

6 11. Public Comments – Each speaker will be allowed up to three minutes to address the Planning
7 and Development Board on any item or topic not on the agenda.

8

9 12. Adjournment

10

11 *Motion to adjourn made by Mr. Boyd*

12

13 Drafted by: Wendy Hickey

14 Reviewed by: Adam Mengel

15