MEMBERS PRESENT: Chairman Robert Dickinson, Arthur Barr, Michael Boyd, Michael Duggins, Laureen Kornel, and Mark Langello

MEMBERS ABSENT: Troy Dubose

STAFF PRESENT: Sally Sherman, Deputy County Administrator, Growth Management Director; Adam Mengel, Planning Director; Wendy Hickey, Planner; Gina Lemon Development Review Planner III

BOARD COUNSEL: Kate Stangle, with Broad and Cassel

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

1. Roll Call.
   Attendance was confirmed by Ms. Lemon and a quorum was present.

2. Pledge of Allegiance.
   Chairman Dickinson led the Pledge of Allegiance to the Flag.

3. Approval of Minutes.
   Minutes of the April 11, 2017 regular meeting

   Motion to approve made by Mr. Langello and seconded by Ms. Kornel.
   Approved unanimously

4. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3070 –APPLICATION FOR REZONING TO PUD (PLANNED UNIT DEVELOPMENT) request for rezoning from C-1 (Neighborhood Commercial) to PUD (Planned Unit Development); Parcel Number 27-11-31-4892-00000-00R0; Parcel size; 5.63 acres. Owner: Gurell Land Management, LLC; Applicant: Timothy J. Conner.

   Chairman Dickinson asked if there were any exparte communications none reported.

   Mr. Mengel made a statement that this meeting was not being broadcast on Flagler TV but it was being broadcast on Flagler You Tube in addition the video monitors are not working in the Board Chambers.

   Mr. Mengel Planning Director presented the staff report noting location, size and current zoning classification. He gave detailed historic information about this site and the proposed phased plan for the site. Mr. Mengel provided the staff recommendation as staff recommends that the
Planning & Development Board recommend the Board of County Commissioners, approval of Application #3070 a rezoning from C-1 (Neighborhood Commercial) to PUD (Planned Unit Development) District, finding that the requested change is consistent with the Comprehensive Plan and the Land Development Code.

Timothy J. Conner 4488 N. Oceanshore Blvd. Palm Coast Fl 32137 Applicant/ Agent stated this is a quality low impact development on Colbert Lane. What we are proposing is something compatible with the County’s uses that are already there as you have invested some money in the park, the trail head for Graham Swamp and the rail to trail facility I know your tourist and economic development wing is interested in eco-development. We are using this to duck tail into that mission the County is already engaged in and away from what this property may have been designed to be back in 2004. My client has done a tremendous amount of due diligence. We have a non jurisdiction determination letter from the Army Corps of Engineers as to the wetland impact; we know what we are going need to get a water management permit in order to get into the wetland part of the property. We put a lot of work into this to get where we are. We intend to keep as much of the canopy in place as possible in order to accommodate what we have asked for this 2 phase development. In phase 1 we would like to put in the road build the house as the primary residence and over time as we will get more familiar with the property we will be able to determine where the real heritage oaks are where the areas to be preserved are and work the 12 sites into that setting rather than mow that thing down and put in an RV park. We are not talking about Camp Town in Beverly Beach, we are not even talking about Gamble Rogers State Park we are talking about something that is much more environmentally friendly and more aesthetically pleasing. The road entrance as proposed will be a single entrance off of Colbert Lane we vision a gate with a 40 foot setback from the property line that puts the gate substantially back from Colbert Lane right-of-way there will be landscape in front of gate entrance and between the buffer of natural vegetation and beyond that other than the gate and the entrance apron, riding down Colbert Lane after this development is in place will be no different than it is today everything will be hidden from view. Behind the development we are completely wrapped by conservation area that was dedicated as part of Palm Coast Plantation development so there is nothing around us north, east or south. To the west on other side of Colbert Lane is conservation land and that has been preserved either by the Water Management District, Palm Coast or Flagler County so this parcel is surrounded by environmental set aside there are no residential structures close by so you won’t be able to see it the only way you would know it was there is if you literally flew over it with an airplane. We believe and our studies indicate that from the engineering that has been done noise would be non-existent to the neighboring community and there will be no other impacts that would be considered detrimental to the local residential area. We met with the Grand Haven CDD, at that time we thought we would have to annex into the city in order to get water and sewer for the project so we met our neighbors to see the reaction, the only negative reaction we got from the Grand Haven CDD was a gentleman in the audience was concerned that the speed limit on Colbert Lane would be
reduced. As you can see from the public reaction that is here tonight it is not something that is generating a lot of concern. It is zoned C-1(Neighborhood Commercial) right now it allows for bakeries, convenience store, hardware store, coin laundry, barber/beauty shops and pharmacy and all we would need to get is a development order and a building permit. I heard loud and clear from the Grand Haven people they don’t want any of that down on Colbert Lane but my client is interested in developing his property. So we talked to the development community through our engineering contacts and were told that it was not a corner so Walgreens doesn’t want it, and it is not located in an urban area so there are not many commercial uses that would be attracted to this site. Jim Cullis and Grand Haven are putting in commercial development already on the north end of Colbert in Palm Coast there are designs to develop the corners of 100 and Colbert Lane, There didn’t appear to be a community desire for neighborhood commercial type development nor did a developer desire the location so what we have left a Dollar General. We could get a Dollar General but I don’t think mowing down 5 acres for parking and bright lights is compatible with what you already have on Colbert Lane and I don’t think the neighborhood would like it either. So we are asking for approval of a planned development in 2 phases to allow for the residential structure to be built C.O.’d and occupied and a good boots on the ground understanding of what we got in natural features in place and allow us to come back and get a detailed engineered design back in front of the County for final development of the RV site. These will be pull through sites, they will pull through to the extent they will have parking pad, picnic table electric and water hookup but other than that we don’t envision disturbing the area much at all and if you think about it, this has the impact of 1 unit per half acre and that would be the residential impact but that is not the correct way of looking at it what we have is the impact of 1 residential unit on 5 ½ acres and 12 temporary parking sites that don’t take up much more than a car and a boat which people in the county are allowed to put in their front yards and they are temporary sites. This is a residential setting we are not allowing people to park their vehicles permanently. We are restricting it to transient use only no storage of vehicles, there will be no outside storage except for the owners storage of his own cars which is anticipated in the design of the site with a proposed garage to park his RV so that will be the only storage on site. So it won’t be a place where someone can come in set up, build a roof over it and use it as their winter home. It will be transient rental only and we envision at the level my client is going to charge for rental fees on a regular basis it is going to be high end RV, soccer moms and dads that can afford those kind of things, sports enthusiasts coming to the county to enjoy what we have, possibly families that are here for a lacrosse tournament or soccer tournament or some people that come to enjoy the water golfing and biking that is the market we are looking for not snow birds coming down and parking a RV that they can do in Beverly Beach.

Chairman Dickinson opened the Public Hearing seeing no one he closed the Public Hearing and opened Board comments.
Mr. Langello, questioned Mr. Mengel this 2 phase PUD I don’t recall where the first phase was a single family residence. Is there any issue if only phase 1 happened without phase 2. Would that create a problem? And is there a time limit for phase 2 to come on line.

Mr. Mengel, noted that we did talk internally and the applicant has not had time to respond about the concept. We have talked to Mr. Connor about this and what we would normally do is have some sort of bond or surety provided but you are talking about a subdivision and subdivision improvements so; we also understand what the owner has discussed as an outline. This parcel known as tract R had given all its density it was the donor parcel for the recipient parcel, no residential.

Mr. Langello stated the problem is there is residential and it may trip one extra unit that they had already given away.

Mr. Mengel responded yes.

Mr. Langello asked if we are still doing it anyway?

Mr. Mengel, yes but the manager caretaker residence is ancillary use for the commercial that is on the same parcel. The way to work those protections in you are hitting on just what we had talked about what if phase 1 happens and phase 2 never comes.

Mr. Langello asked if there is going to be a time line or any type of a trigger as Mr. Conner was saying he wants to go in there and take his time and figure out what is going on it could take 5 years it could take 25 years. So at what point does that trigger in the PUD and does that cause a problem.

Mr. Mengel stated that the ordinary language we would have is the 2 years suspense date or the 2 year milestone within the PUD. So, what we have talked about at least in the short run, is some of a kind of guarantee on the part of the owner to the County to say this is for that infrastructure of that portion that is yet to be done and if I don’t deliver on it then that can be held by the County maybe something in escrow.

Mr. Langello asked if that is something written into the PUD, or is it written into any site development order that may be issued.

Mr. Mengel responded at the moment is it written into the draft Ordinance of the PUD which you do not have the privilege of seeing at this point it is a concept we are trying to work through. But of the issue of if that the home happened only and phase 2 never did it is safe to
Mr. Langello encouraged the applicant to have a sign.

Mr. Langello stated the right in and right out concept is a bad idea if that isn’t released on this as a matter of fact I think it is dangerous If it remains all the RVs that all have to head north, they are going to go to the very next turnaround and try to make a big u-turn in the road. It is safer if they make a turnout of the site. Is this not on a bend in the road and they could have a left out from here hopefully when it goes to County Commissioners I hope they look at that regard. They will probably have to put septic tanks in or septic disposal for all of those camp sites because if it is high end they don’t want to have to keep their storage and that may be a significant size for 12 units.

Jerry Finley, Finley Engineering Solutions, Inc. 3959 Nova Road Port Orange FL 32127 project engineer we have had multiple conversations with the Health Department about this project. We see it as the number of units we have in there and the cutoff, I believe it was 14 that they can permit for water and septic for this project, one system for the whole project. So we have a gravity sewer that will drain to a common septic tank for this whole project.

Mr. Langello asked so you had already planned on doing that.

Mr. Finley responded we haven’t designed it but we have the parameters for it.

Mr. Langello asked so the way that the drawing showed the lots being evenly space you may have a septic in the middle of that or something.

Mr. Finley responded we envision gravity system just like in a subdivision. Gravity sewer man holes or clean outs running to a pump with a septic tank and common drain field.

Mr. Langello asked will the PUD have any other restrictions that Mr. Connor was talking about where there was just going to be a transient use no storage and different things was that the language you were discussing with the owner.

Mr. Mengel responded we have addressed them at least in this initial draft of the Ordinance that you have not had the benefit of looking at, but in very much keeping in line with what we already have in the Land Development Code the 6 month limit on occupancy in any single space within the park so that we are tracking that language we did have some feedback also from the County Administrator about something that is timely for us a prohibition of ground fires and I
Adopted 6/13/2017

think we have talked some about that and I don’t think there is any particular pushback on that either but some aspects we want to have incorporated into the Ordinance.

Mr. Langello conceptually I like the project.

Mr. Mengel stated that the item presented here as the reclassification as best is considered a sketch plan so that what was written into your written petition so we are meeting that requirement 3.04.03 of the LDC. The PUD site development plan that is the engineered plan will be submitted. That is submitted to the TRC, Planning Board and the Board of County Commissioners and that would follow. So your initial step for the rezoning is that sketch plan and that is what we have now. It has been stated that lots of work has been done but it has not been put into a format of a site plan to meet our requirements of a PUD site plan. So, then what you will have accompanying this Ordinance is the sketch plan for the purposes of the rezoning to satisfy the requirements for the reclassification to Planned Unit Development. So you will see the site plan again.

Mr. Barr referenced the sanitary service and it being a septic system. Is there public water along Colbert Lane or will there be internal central water?

Mr. Finley responded there are problems to connect to the water lines, to connect you have to annex into the City of Palm Coast and it is a great distance this little 5 acre parcel and water is 2300 feet to the north and 2300 feet to the south where the 2 entrance roads are to Palm Coast Plantation that is where the water is, so you have to be running 10-12 inch water line 2300 feet to get to the property. We did talk to the Health Department they can permit it themselves without having to go to DEP for a water system for this size project

Mr. Barr asked if Palm Coast Plantation has annexed into the City of Palm Coast.

Mr. Mengel no, to the best I am aware they are requiring pre annexation agreements to be signed for every lot that is developed within Palm Coast Plantation.

Mr. Barr so they have City water.

Mr. Mengel yes City water and sewer.

Mr. Barr asked so is there any restraint on this property for requirements for future annexation? Is there a demand for that they are surrounded by city.

Mr. Mengel responded there may be that push from the City but absent the availability of the utilities it would be safe to say the owner would have a very strong argument given against that
annexation occurring because there would be no benefit. You can envision that possibility of this being an enclave being surrounded by the City at some point I would also say suppose some of which we already know that the powers that be at Palm Coast Plantation have been able to resist the effort by the City to this point and that efforts continue going so even with the pre annexation agreements being signed by each lot owner there have been no properties annexed at this point and annexation is not on the horizon.

Mr. Barr asked on a side issue Mr. Cullis’ Light House project where will they be getting their water and sewer?

Mr. Mengel responded they, along with Harbor View Marina, which is south of this project will get their utilities from City of Palm Coast and will likely have some pre annexation agreement and may or may not be required to annex.

Mr. Barr asked we know for certain Graham Swamp will remain in the County.

Mr. Mengel when the Water Management District controlled the property the Graham Swamp was annexed so it is actually in the City limits they are on the other side of Colbert Lane across the street from this property.

Mr. Barr asked so this is within their water service area where it goes down to SR100.

Mr. Mengel we had some discussion about it. If you go back to 2007 where we were negotiating that settlement agreement we believe we have an area here that is carved out that was to remain County but be served by the City for utilities that was part of that agreement but there still seems to be a requirement for pre annexation agreements on the part of the City consistent with what they would apply to this area that they serve, the unincorporated area that they serve.

Mr. Boyd I am like Mr. Langello I think the County should revisit the right in right out requirement.

Motion made to approve made by Mr. Boyd and seconded by Ms. Kornel

Chairman Dickinson I am comfortable with the project what I am uncomfortable with is the PUD Agreement that is in the process. It is important that the components that we talked about are covered in the PUD Agreement. Is it normal for us to look at a PUD project without at least a draft of the PUD Agreement for our review?

Mr. Mengel responded we are attempting to move away from the traditional PUD text agreement our challenge is how we do this. While we moved away from the traditional text
agreement we then have incorporated restrictive language we wanted to into the Ordinance itself. What I can share at this point is there is a restriction on the use itself as the 12 sites along with the caretaker residence the transient nature the 6 month schedule out of the land development code a requirement on space size 30 feet of width a depth of 60 feet and those 12 spaces occupied no greater than 6 month duration by any single owner a restriction on ground fires a restriction or language that would forbid the sale or subletting of any space it would also prohibit the sale of the residence the caretaker residence that cannot be cut out from the property it must remain as one single project and also have that language that we are still trying to find out that surety will be there for us to make the improvement if Phase 2 doesn’t happen and it stops at Phase 1. That in its truest sense is all the points will be in the Ordinance. You can imagine one of the difficulties here is that while it is imposed here it is adopted by Flagler County BOCC as an Ordinance it is not necessarily something that gets the signature for the agreement of the applicant as much as the applicant submitted it to us as their initial rezoning request and they signify their consent through their submittal of the application so we will still have some negotiation where they would be able to comment and that is part of the reason you don’t have it here is we are still trying to work those things out with the pieces.

Chairman Dickinson asked if there was any other Board discussion. No reply

Motion made to approve made by Mr. Boyd and seconded by Ms. Kornel
Motion carried unanimously

5. Staff Comments

Mr. Langello asked about the Use of Owned Electronic Devices by Flagler County form he had received and felt that it does not apply to the Planning Board feeling that parts are a little ambiguous. He understood the County Administrator being concerned for a department head or anyone on the County staff going on the internet and doing something, but on a citizen’s advisory board it is a bit of over kill

Mr. Mengel, I think you are reading it in the right context think of it in the discharge of your official duties as a volunteer citizen board member with the county and if you keep that context take what applies in that situation and hold it to heart and don’t take what doesn’t.

Mr. Langello when I go on the internet to do my advertising for my company which is prohibited in here I shouldn’t be doing that. This document not necessarily designed for us and if you read pieces of it you have to read the whole thing and keep it in context the spirit of it. I just went to court this week against my insurance company and I won but it was one of these lawyer things pulling out little details like this particular thing did not say that and then I am
reading this and that is exactly what I am doing here I am agreeing to something that doesn’t apply.

6. Board Comments.

Mr. Barr stated I am concerned about the statement that you are removing text agreements to PUD’s and I think the implication was the ability towards specific guidance of the development within the Ordinance itself The PUD then I am losing track of what a PUD is. The PUD I grew up with is where all the details and all the controlling conditions are and it also gives the developer more flexibility and the ability to make changes. An Ordinance is controlled by County Government a more difficult avenue to make changes so what direction are you going?

Mr. Mengel commented could you please disclose that we did not talk about this before we came into the meeting so I did not prompt you to question or comment; to some degree I share your concern. What we are heading towards is this idea that PUDs are things that we have relied on where things don’t otherwise fit. I think in some areas it’s been correct. You may not all completely agree with it and I have definitely been able to talk about it on the opposite side of it also because I do see both sides. The PUD to me has the advantage they are wordy documents they are contractual documents there is a lot of obligations there is a of legalese in them but at the same time it is also something that the County depends on the developer to perform but they can go back and point and say the County thought this was important enough to be put into my agreement so beyond C&R’s beyond those things that the developer has the responsibility or they can incorporate some of those things that and giving the County the ability to amend or control or to work through it. I think our approach is a good one. I am happy with the idea and the concept where we are heading with this. I did leave out that we would start with a base zoning so what we would say is we have to have something that we can tie this piece of property to these PUDs going forward is so what is this use what is this spatial relationship. How are we dividing up these lots what is the closest zoning category we have to this development and then we would have a list of exceptions maybe it’s the setbacks so then we have all this applies except for this so here are those exceptions and the hope is that at least the effort is a noble one to make it easier for staff easier for the public to go through and look this is what this looks like in a snapshot I don’t have to read 30 pages to figure out my setbacks are 5 feet from the side lot lines.

Mr. Barr the idea behind the PUD allows development to be creative beyond what is in black and white in the Ordinance and it looks like you are kind of getting close to that line where you have Ordinances that you can do it unless it say you can’t do it or you can do it unless it says you can’t do it. So if you say you say you can’t unless it says you can do it that code is going to be 10 feet high. If it says you can do it unless you say you can’t do it then it is much simpler and that is the environment in which the PUD is created so I hope we are not going to that line
where there are so many rules and regulations preexisting that the concept of the PUD disappears.

Mr. Mengel I would offer one criticism I agree with you the original approach in our preamble in our Land Development Code is that we had some public good that was coming out of the PUD and it was not something we would offer up as candy just because you didn’t like the zoning that we had in place and it was suppose to be that avenue to have that creativity and maybe you had them more often than not you had mixed uses. We saw most of them and an accurate criticism is we had increasingly more single use PUD’s where for whatever reason I just didn’t like the setbacks and there is not a whole lot of creativity going on there. There is not a whole lot of public good coming with it. It is just I don’t want to do what the zoning tells me I can do and break the glass and call my emergency and go forward to the Board. I do understand where you are heading with your comment. I think we will take it to heart. We are beginning the journey yet again a new Land Development Code update and we will have some reports on that also. We will provide your comments to the consultant.

Mr. Langello I agree with Mr. Barr I did have a conversation with Mr. Mengel last year about PUD’s. I thought you indicated to me that what the concept was the way the language was going to be written so you could look at a table of setbacks and uses and that would be easy for staff to look at. I didn’t know we were trying to push the PUD in another direction.

Ms. Sally Sherman, Deputy County Administrator, Growth Management Director, we are not pushing PUD’s in another direction. What has been happening for the last 9 years is 99 percent of the development that came forward came forward as a PUD that becomes very cumbersome to manage that is one thing our zoning code is not working. Our approach is PUD’s should have an underlying zoning where probably about 80 percent of the zoning regulations work and you need that difference that variance to about 20 percent about instead of 100 percent of it being totally different from any of your other standard zoning regulations so the approach we are looking at is an underlying zoning for example for a residential it is R-1 the setbacks are basically going to be 25 on the front 7.5 on the side and 30 on the rear for example but you may want to vary from that rear with your screen setbacks or even your rear yard setback you would have that opportunity to differ but you underlying zoning will still be R-1 so you won’t have a 25 to 30 page document that is different from your basic zoning regulations. If that is the direction we are going to continue then why have a Land Development Code or zoning regulations have.

Mr. Langello since I have been on this Board and I was on this Board before, in all the approvals you have given have been for a positive for the County you have not been giving them out like candy and letting the developers do whatever they wanted so I don’t think that result was bad. If the new direction or the new method is going to hamper a developer just because of some underlying regulation that they can’t get around, it may make this more
difficult. You may be destroying stuff just for the simple fact there have been so many so we are
going to slow it down. Hopefully that is not what is going to happen.

Chairman Dickinson so, the PUD Ordinance will reference a zoning category which they have
to work within with the exceptions of the following correct that saves 28 pages so that it is
going to susceptible to the R-1 district with the exception of the setback of 4 feet so is that the
Cliff note?

Mr. Mengel responded yes sir.

7. Public Comments – Each speaker will be allowed up to three minutes to address the Planning
and Development Board on any item or topic not on the agenda.
8. No Public Comments
9. Adjournment
Motion to adjourn at 7:01 p.m. made by Mr. Boyd
Drafted by: Wendy Hickey
Reviewed by: Gina Lemon