

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, December 12, 2017 at 6:00 PM**

Adopted 2/13/18

1 **MEMBERS PRESENT:** Chairman Robert Dickinson, Arthur Barr, Michael Boyd, Timothy
2 Conner, Anthony Lombardo and Mark Langello

3

4 **MEMBERS ABSENT:** Laureen Kornel, *excused*,

5

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

9

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

11

12 **Chairman Dickinson** called the meeting to order

13

14 1. **Roll Call.**

15 Attendance was confirmed by Ms. Lemon and a quorum was present.

16

17 2. **Pledge of Allegiance.**

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

19

20 3. **Approval of Minutes.**

21 Minutes of the November 14, 2017 regular meeting.

22

23 *Motion to approve as amended made by Mr. Langello and seconded by Mr. Barr.*

24 *Motion approved unanimously.*

25

26 4. Legislative not requiring disclosure of ex parte communication:

27 Application #3109 – **APPLICATION FOR FUTURE LAND USE MAP AMENDMENT LESS**
28 **THAN TEN ACRES** – request for a Future Land Use Map Amendment for less than ten acres from
29 MUL (Mixed Use: Low Intensity, Low- to Medium-density) to CHI (Commercial: High Intensity).
30 Parcel Number 40-10-31-4050-00000-0270; 0.58+/- acres. Owner: Rhonda J. West / Applicant:
31 Hammock Enterprises, LLC.

32

33 **Planning Director Adam Mengel** presented the item and staff's recommendation for approval.

34

35 **Melissa Tincher E.I., Alann Engineering Group, Inc 880 Airport Road, Ormond Beach**
36 **32174**, representing the applicant gave a brief overview of the proposed project.

37

38 **Chairman Dickinson** opened the public hearing.

39

40

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- 1 **Chairman Dickinson** closed the public hearing and asked for Board comments.
- 2
- 3 **Raymond Cleech, 4 Holly Street** Spoke against the project he is concerned about using the
- 4 residential road in the rear of the property, also concerned about the garbage.
- 5
- 6 **Vincent Nagy, 4 Palmetto Road,** spoke against the project he is concerned about the noise level,
- 7 traffic and the value of his property.
- 8
- 9 **James Garcia, 19 Magnolia Road,** spoke against the project he is concerned about traffic
- 10
- 11 **Julie Dutton, 4 Magnolia Road,** spoke against the project is concerned about the traffic.
- 12
- 13 **Magnolia Road,** spoke against the project and is concerned about traffic and the size of the lot.
- 14
- 15 **Donald Bateman, 8 Magnolia Road,** spoke against the project concerned about access to the
- 16 residential street, trash, lighting, noise and odors from the proposed brewery.
- 17
- 18 **Scott Wunderle, 9 Holly Road,** spoke against the project concerned about the parking, traffic
- 19 and odors from the brewery.
- 20
- 21 **Stewart Smith, 7 Magnolia Road,** spoke against the project concerned about the lighting, noise,
- 22 parking and traffic on the residential street.
- 23
- 24 **Ludmila Haustova, 5 Holly Road** spoke against the project concerned about noise, trash and
- 25 traffic and parking on the residential road.
- 26
- 27 **Dennis Clark, 5784 North Oceanshore Boulevard,** supports the concept of the use but not the
- 28 rezoning. Mr. Clark provided a handout to the Board which is found at the end of these minutes
- 29 as attachment "A".
- 30
- 31 **Chairman Dickinson** closed the public hearing and asked staff and applicant rebuttal.
- 32
- 33 **Mr. Mengel,** Responded to the citizens comments, noting that no commercial traffic will be
- 34 allowed on the residential road. He also responded to the trash, odor and noise and lighting
- 35 concerns.
- 36
- 37 **Kimberly Buck P.E., Allan Engineering Group, Inc. 880 Airport Road, Ormond Beach,**
- 38 **32174,** responded to the citizen comments, noting that there will be minimal noise, and lighting
- 39 will be low level.
- 40

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- 1 **Josh Parker, 202 Tallahassee Street, Carrabelle, Florida 32322, Brewer for the proposed**
- 2 **project,** discussed the brewing process and the proposed size of the operation.
- 3
- 4 **Brent Bruns, Hammock Enterprises LLC, 102 Yacht Harbor Drive Suite 161, Palm Coast,**
- 5 **32137,** He gave a brief overview of the proposed business model and his reasoning behind it.
- 6
- 7 **Mr. Langello,** asked if there was an Odor Ordinance. If there was another way through either a
- 8 Special Exception or Variance to allow for the outdoor seating so as not to rezone to C-2.
- 9
- 10 **Mr. Mengel,** responded no to both questions.
- 11
- 12 **Mr. Langello,** asked if by putting a cover over the seating that would alleviate the situation? The
- 13 other concern is the parking
- 14
- 15 **Mr. Barr,** is there a minimum lot width in Scenic A1A? Or in the R/ C zoning district?
- 16
- 17 **Mr. Mengel,** there is no minimum lot width within the Scenic A1A Corridor. There is in the R/C
- 18 district it is 80 feet.
- 19
- 20 **Mr. Barr,** so this lot is non-conforming.
- 21
- 22 **Mr. Mengel,** there is no minimum for lot frontage there is for lot width measured at the front
- 23 setback line.
- 24
- 25 **Mr. Barr,** asked with a land use change and a rezone does any grandfathering go away.
- 26
- 27 **Mr. Mengel,** responded grandfathered is grandfathered.
- 28
- 29 **Mr. Connor,** what is the maximum seating capacity based on the proposed 400 square foot area.
- 30
- 31 **Mr. Bruns,** no more than 40 people based on the septic system. We are restricted also by parking.
- 32
- 33 **Mr. Connor,** the access to Live Oak is for emergency services only?
- 34
- 35 **Mr. Mengel** that is the intention only emergency vehicles.
- 36
- 37 **Mr. Connor,** wanted to clarify that there is no other way under our Land Development Code to
- 38 accommodate this use. And asked if there any other way to accommodate this use without taking
- 39 it to C-2.
- 40

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Mr. Mengel, responded this is the only way to accommodate this use.

Mr. Langelo, thinks there is a better way than going through this land use change and rezoning

Chairman Dickinson, asked if there was a more creative way to come to the maximum 25 % outdoor seating requirement.

Chairman Dickinson, asked for a motion

*Motion to deny made by Mr. Langelo seconded by Mr. Boyd.
Application denied 5-1 with Mr. Conner dissenting.*

- 5. Quasi-judicial requiring disclosure of ex parte communication:
Application #3110 – APPLICATION FOR REZONING TO C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT – request for Rezoning from R/C (Residential/Limited Commercial) to C-2 (General Commercial and Shopping Center). Parcel Number 40-10-31-4050-00000-0270; 0.58+/- acres. Owner: Rhonda J. West / Applicant: Hammock Enterprises, LLC.

Chairman Dickinson called for disclosure of exparte communications.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Gail Nagy, 4 Palmetto Road, spoke against the rezoning and is concerned about the C-2 zoning.

Dennis Clark, 5784 North Oceanshore Boulevard, referenced a hand out of his concerns which is attached to these minutes as attachment “A” stating the only thing he did not address was tree preservation.

Scott Wunderle, 9 Holly Road, spoke against the rezoning.

Julie Dutton, 4 Magnolia Road, spoke against the rezoning.

Ludmila Haustova, 5 Holly Road, spoke against the rezoning.

Raymond Cleech, 4 Holly Street spoke against the rezoning.

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- 1
2 **Carol Bateman, 8 Magnolia Road** spoke against the rezoning.
3
4 **Donald Bateman, 8 Magnolia Road** spoke against the rezoning.
5
6 **Chairman Dickinson**, closed the public hearing and asked for Board comments.
7
8 **Mr. Langello**, concerned about the parking and the what could happen with the C-2
9
10 **Mr. Conner**, asked if we are to make zoning recommendation based on our Land Use Map
11
12 **Ms. Stangle**, yes
13
14 **Chairman Dickinson** asked for a motion.
15
16 *Motion to deny made by Mr. Langello seconded by Mr. Boyd.*
17 *Application denied unanimously.*
18
19 6. Quasi-judicial requiring disclosure of ex parte communication:
20 Application #3112 – **APPLICATION FOR SITE DEVELOPMENT PLAN IN THE PUD**
21 **(PLANNED UNIT DEVELOPMENT) DISTRICT** – request for review of site development plan
22 for Iris at Hunters Ridge. Parcel Numbers 21-14-31-0000-01010-0030, 21-14-31-0000-01010-0070,
23 21-14-31-0000-01010-0080, 21-14-31-0000-01010-0130 and 21-14-31-0000-01010-0000; 22.03+/-
24 acres. Owner/ Applicant: U.S. Capital Alliance, LLC.
25
26 **Chairman Dickinson** called for disclosure of exparte communications.
27
28 **Planning Director Adam Mengel** presented the item and staff’s recommendation for approval,
29
30 **Cole Buck E.I., Alann Engineering Group, Inc 880 Airport Road, Ormond Beach 32174**,
31 representing the applicant gave a brief overview of the proposed project.
32
33 **Chairman Dickinson** opened the public hearing.
34
35 **Chairman Dickinson** closed the public hearing, and asked for Board comments.
36
37 **Mr. Langello** asked if capacity has been looked at.
38

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1 **Mr. Mengel** responded that this was looked at during the view of the Development of Regional
2 Impact.

3
4 ***Motion to approve made by Mr. Boyd seconded by Mr. Barr.***
5 ***Motion carried unanimously.***

6
7 7. Quasi-judicial requiring disclosure of ex parte communication:
8 Application #3111 – **APPLICATION FOR PRELIMINARY PLAT IN A PUD (PLANNED**
9 **UNIT DEVELOPMENT)** – request for review of a Preliminary Plat in the PUD for Iris at Hunters
10 Ridge. Parcel Numbers 21-14-31-0000-01010-0030, 21-14-31-0000-01010-0070, 21-14-31-0000-
11 01010-0080, 21-14-31-0000-01010-0130 and 21-14-31-0000-01010-0000; 22.03+/- acres. Owner/
12 Applicant: U.S. Capital Alliance, LLC.

13
14 **Chairman Dickinson** called for disclosure of exparte communications.

15
16 **Planning Director Adam Mengel** presented the item and staff’s recommendation for approval.

17
18 **Chairman Dickinson** opened the public hearing.

19
20 **Chairman Dickinson** closed the public hearing, and asked for Board comments.

21
22 ***Motion to approve made by Mr. Boyd seconded by Mr. Langelo.***
23 ***Motion carried unanimously.***

24
25 8. **Staff Comments:**

26 **Mr. Mengel** thanked the Board for the year and Happy Holidays, and welcomed the new
27 members.

28
29 9. **Board Comments:**

30
31 **Mr. Langelo**, Thanked staff for their work

32
33 10. **Public Comments:** None

34
35 11. **Adjournment**

36
37 ***Motion to adjourn made by Mr. Boyd at 8:24 p.m.***

38
39 Minutes drafted by Wendy Hickey.

40 Minutes reviewed by Adam Mengel.

Review of 5047 N. Oceanshore Blvd, Hammock Playgarden / Ocean Shore Brewery for the 12/12/2017 meeting of the Planning & Development Board by Dennis Clark, 5784 N. Oceanshore Blvd in the Hammock

The idea of up-zoning this parcel to C-2 merely because they want more outside seating than what is specified in the R/C zoning district has several legitimate concerns. Here are ten of them.

1. There is ***no good reason to change it***. Why not apply for a variance for outside seating? There are currently only 16 out of 484 parcels that are zoned C-2 along A1A in the Hammock. Seven of those are vacant and only three of them are currently uses of C-2. (detail below)
2. This is not Palm Coast Parkway, SR 100, or US 1 near intersections of I-95. This is a our National Scenic Byway, a precious asset to this county that receives special consideration in the LDC and the Comp Plan. So ***the "Purpose and Intent" of C-2 zoning is not met***. (see below)
3. The C-2 criteria, "where compatible business establishments will be planned, organized and grouped in a unified arrangement" is not met. (see below)
4. It was only three months ago when Flagler County removed the residential requirement for a business in the R/C zoning district. The rationale stated was that ***we would retain the constraints of the usage via the "special exception" provisions included in the R/C district***.
5. ***The lot width is only 47 feet on the street side***. It does not meet the minimum requirement of 100 feet for C-2, nor does it meet the 80 feet limit for R/C special exceptions. (see table below)
6. The Parcel is surrounded by R-1 and R/C. A restaurant with a parking lot, outside seating and entertainment at night will be a disturbance to neighbors. ***The required landscaping buffer cannot be met***. (see table below)
7. ***Up-zoning this parcel sets a precedent for future up-zoning with no compelling need. The use of this property is likely to change in the future***. General Commercial Uses include many ***uncomplimentary uses*** with potentially higher traffic, especially if adjacent property is obtained or sewer access is available. (see list below)
8. ***Seven parking spaces are insufficient for 40 customers***. At one space per three customers, 16 would be the absolute minimum, to allow for 2 employees plus 1 ADA. This violates the purpose and intent of C-2 where "uses should be designed of sufficient dimension to satisfy all off-street parking needs." (see below)
9. The "classic" definition of ***spot zoning*** is "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners." (see zoning map below)
10. The site plan review of a C-2 zoned parcel less than five acres ***does not come back to the Planning & Development Board for review***. This particular site plan should be thoroughly reviewed.

Conclusion:

This is a turning point for us. The National Scenic Byway is a nationally recognized unique and cherished asset in Flagler County, and it's our job to try to preserve it. Not from development but from unwarranted changes that can change its character beyond recognition. Adding a restaurant is fine, but the idea of giving it a General Commercial/Shopping Center zoning is very much overkill for a half-acre restaurant that needs more than 25% outdoor seating for 40 people.

References

The facts about C-2 parcels in the Hammock:

- There are **484 parcels on A1A** in the Hammock, mostly zoned R/C
- 69 are registered as commercial use, double from ten years ago
- 16 of those are zoned C-2. 53 are zoned R/C. None are zoned C-1
- 7 of those are vacant or unused and 1 is residential (was a motel)
- That leaves 8 currently in use as C-2
 - 1 Shopping Center (Publix / Suntrust)
 - 2 Shops (Hammock W & C, Consignment shop)
 - 3 Restaurants (386, Captain's, JTs)
 - 2 Hotels (Ocean Shore Villa, PC Villas)
- The original C-2 designations for some of the properties were likely for an earlier usage, for instance:
 - The Wine & Cheese was an Auto Repair shop.
 - The Island Breeze Consignment Shop was a supermarket.
 - Captain's BBQ/Bings Landing was a fish camp with a market (and a hotel in the 1940s).
 - J.T.'s Seafood Shack was a nightclub.
 - Dolores Schatz's property was a motel.
- **That leaves 3 / 484 or 0.006% that are currently legitimate C-2 uses**
 - 1 Shopping Center (Publix / SunTrust)
 - 2 Hotels (Ocean Shore Villa, PC Villas)

Land Development Code Definitions:

3.03.13. R/C—Residential/limited commercial use district.

- A. *Purpose and intent.* This district is primarily intended for application to parcels within the A1A Scenic Corridor. The district may be used to implement the mixed use low intensity category of the Future Land Use Plan. **Commercial uses are limited to those having a low impact to established residential uses and the overall character of the corridor; i.e., they are not major generators of vehicular traffic, do not rely on exterior sales or storage, and are of accordant scale to the primary residential use of the district. Permitted uses are to be harmonious in appearance and have landscaped open space meeting or exceeding the requirements of this Land Development Code.**

3.03.17. C-2—General commercial and shopping center district.

- A. *Purpose and intent.* The purpose and intent of the C-2, general commercial and shopping center district is to provide commercial uses **where compatible business establishments will be planned, organized and grouped in a unified arrangement.** Such uses should be designed of sufficient dimension to satisfy all off-street parking needs, and be located along major arterial streets, where the traffic generated can be accompanied in a manner consistent with the public health, safety, and welfare. It is intended that such commercial areas **will be located around the interchange of I-95 and Palm Coast Parkway, I-95 and SR 100, I-95 and U.S.1,** along arterial roads and other suitable areas when consistent with the Flagler County Comprehensive Plan.

General Commercial Uses in the A1A Scenic Corridor include the potential for **uncomplimentary permitted principal uses in this case** with potentially higher traffic, especially if adjacent property is obtained.

- Retail sales and services, excluding: motor vehicle sales and rental; automobile driving schools; boat or mobile home sales and service; car washes; miniwarehouses and water slides.
- Retail specialty shops
- Adult congregate living facility.
- Auction parlors.
- Automobile service stations.
- Nightclubs, Bars.
- Bowling alleys.
- Art, dance, modeling and music schools.
- Day care centers.
- Employment agencies.
- Financial institutions.
- Game rooms or arcades for pool, billiards, pinball machines, jukeboxes or other coin-operated amusements.
- Laundry and dry cleaning establishments.
- Stamp redemption centers.
- Taxicab stands.
- Theaters.
- Other commercial uses of a nature similar to those listed may be permitted upon determination by the planning board that such uses are appropriate in the C-2 district. The standard industrial classification manual will be used as a reference for these determinations.
- **All uses permitted in the shopping center district.**
- Automobile driving schools.
- Automobile rental agencies.
- Boat, mobile home sales and service establishments.
- Catering services.
- Funeral homes.
- Pest exterminators.
- Private clubs.
- Tailors.
- Trade shops including electrical, plumbing, cabinet maker and heating and air-conditioning.
- Veterinary clinics.
- Car washes.
- Printing.
- Hotels, motels and other tourist accommodations.
- Medical and dental clinics.
- **Commercial recreational uses.**

Comprehensive Plan Excerpts:

Objective A.2.3: Flagler County shall continue to work with Corridor Management Entities for the A1A River and Sea Trail Scenic Highway and the A1A Ocean Shore Scenic Highway to ensure consistency with the adopted Corridor Management Plan.

Policy A.2.3.1: By 2011 Flagler County shall develop design standards in the Land Development Regulations (LDRs) to *encourage village centers* as methods of discouraging “strip commercial” development.

Policy A.2.3.2: Flagler County shall on a continuing basis review and amend the Land Development Regulations (LDRs) to incorporate changes made to the Corridor Management Plan that pertain to the regulation of use, signage, buffering, landscaping, and architectural design.

Policy A.2.3.3: Flagler County shall review the application of the “Mixed-Use: Low Intensity/Low-Medium Density” land use and RC zoning along the SR A1A corridor. The goal is to amend the future land use map and zoning map to *encourage commercial clusters at roadway intersections* and eliminate ineffective strip development.

Objective E.3.32: Maintaining Scenic Routes. Flagler County shall continue to maintain designated Scenic Routes and shall continue to protect areas. The County will establish by *establishing a scenic road system in order to help preserve the Coastal Area’s natural beauty*.

Policy E.3.32.01: Flagler County shall continue to coordinate with the Corridor Management Entities for the State and/or Federally-designated scenic or historic roadways in order to assist with the implementation of the applicable Corridor Management Plan.

Policy E.3.32.023: Flagler County’s Recreation and Open Space Element shall designate the scenic roads and the “Future Land Use Map” *shall establish land uses that are consistent with the goal of preserving the natural beauty and scenic vistas along these routes*.

Policy E.3.32.034: Properties between designated scenic roads and wetlands or open water shall be zoned the lowest intensity allowed for their respective Future Land Use categories.

Objective F.1.14: Flagler County will establish and maintain a scenic road system in order to help preserve the area’s natural beauty.

Policy F.1.14.2: Flagler County’s Recreation and Open Space Element shall designate the scenic roads and the Future Land Use Map shall establish land uses that are consistent with the goal of preserving the natural beauty and scenic vistas along these routes.

Policy F.1.14.3: *Flagler County shall establish in the Land Development Regulations (LDRs) minimum buffering/conservation requirements for scenic roadways*. The standards shall be based on site conditions including, but not limited to, the following: lot depth/width; existing grade; and land use/zoning. The goal is to ensure reasonable use of the property with sufficient provisions for the preservation of existing vegetation, protection of vistas, and implementation of appropriate design requirements to protect the scenic value of the roadway.

Policy F.1.14.4: Properties located between designated scenic roads and wetlands or open water shall be zoned for the lowest intensity allowed for their respective Future Land Use categories.

Policy F.1.14.5: Flagler County shall *support the efforts of the A1A Scenic & Historic Coastal Byway and Heritage Crossroads: Miles of History Heritage Highway Corridor Management Entities (CMEs)*.

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Summary of Parcels along A1A

Residential	174	36%
Commercial	69	14%
Open Space	26	5%
Vacant/Uncommitted	215	44%
TOTAL	484	100%
Potential for Commercial	458	95% (R/C can become commercial)
R/C	442	

Commercial Parcel Listed Uses

Use	Count
In Use	37
Vacant Bldg	4
Vacant Com	34
Total	75

Zoning	Count	
C-2	16	(see facts about C-2 above)
PUD	3	Surf Club North
R/C	55	
R-1c	1	previously Adam's Rib bar
Total	75	

Review of 5047 N. Oceanshore Blvd, Hammock Playgarden / Ocean Shore Brewery for the 12/12/2017 meeting of the Planning & Development Board by Dennis Clark, 5784 N. Oceanshore Blvd in the Hammock

Zoning Comparison

Requirement	R/C (Resid/Limited Commercial) FLU - Mixed use Low intensity	C-1 (Neighborhood Commercial) FLU - Commercial low intensity	C-2 (General Comm / Shopping Ctr) FLU - Commercial high intensity?
Retail and office FAR*	0.20	0.30	0.40
Max. Impervious Area	75%	60%	70%
Residential Units/gross acre	1.0 to 7.0	None	None
Min. Living Area	1,000 SF None	None	None
Min. Lot Size	9,000 SF 10,000 SF for Special Exception	20,000 SF (0.459 acres)	10,000 SF (0.23 acres)
Min. Lot Width	75' for Single Family Dwelling 80' for Special Exception	100'	100'
Max. Lot Coverage	35%	35%	35%
Minimum Pervious Area	30%	35%	30%
Max. Lot size	NA	5 acres	5 acres
Max Building Height	35'	35'	40' and no more than 3 stories*
Min. setback - Front yard	25' (or 25% up to 40')	25' (or 25% up to 40')	25' (or 25% up to 40')
- Rear Yard	25'	25'	50'
- Side Yard	10'	10'	10' or 50' if abutting Residential
Landscaping buffer 5.01.00	10' or 15' if abutting Residential	10' or 15' if abutting Residential	10' or 15' if abutting Residential
Max Restaurant Seating	Sit down only. The max seating capacity of 160. No drive through permitted. A maximum of 25% of the seating capacity may be outdoor or visually screened from adjacent right-of-ways. Incidental consumption on premises of alcoholic beverages may be considered as part of a special exception application	Restaurants (takeouts with a maximum seating capacity for seventy-five (75) persons). One (1) drive-thru allowed.	None Drive through permitted?
Parking Requirement	1 space / 50 SF of seating area	1 space / 50 SF of seating area	1 space / 50 SF of seating area
Require review by Planning Board?	Yes, as special exception	Yes, as special exception	Not if less than 5 acres

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