FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, March 12, 2019 at 6:00 PM

Approved April 9, 2019

MEMBERS PRESENT: Chair Michael Boyd, Timothy Conner, Jack Corbett, Mark Langello.

MEMBERS EXCUSED: Michael Goodman, Laureen Kornel and Anthony Lombardo.

STAFF PRESENT: Adam Mengel, Planning Director; Wendy Hickey, Planner

BOARD COUNSEL: Kate Stangle, with Nelson Mullins Broad and Cassel

Chair Boyd called the meeting to order.

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

2. Pledge of Allegiance.
   Chair Boyd led the Pledge of Allegiance to the Flag.

3. Approval of the February 12, 2019 regular meeting minutes

   Motion to approve made by Mr. Conner, seconded by Mr. Langello.

   Motion carried unanimously.

CONTINUED FROM February 12, 2019 REGULAR MEETING
Quasi-judicial requiring disclosure of ex parte communication:

4. Application #3158 – APPLICATION FOR SITE DEVELOPMENT PLAN IN PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for review of a PUD Site Development Plan in the PUD (Planned Unit Development) District for Beachwalk PUD located at 4931 North Oceanshore Boulevard; Parcel Number: 40-10-31-5137-000H0-000; 12.44+/- acres. Owner: LRA RIO, LLC/Applicant: Atlee Development Group, Inc.

Chair Boyd asked for ex-parte disclosures.

Mr. Conner stated that he represents the owner of the property to the north of this project, but he and his client had not had any discussions about this project.

Mr. Mengel presented the staff report stating that this is a continuation from last month’s meeting he gave a brief history and explanation of the proposed Site Development Plan. Since this item was continued the conditions placed in the staff recommendation have been agreed to by the applicant and will amend the PUD Site Development plan accordingly with the exception of the inclusion of the cross-access easement on the site plan. He also added that the text in the PUD
Development Agreement provides for several alternatives related to the easement and its original intent. In addition the applicant will seek a waiver of the secondary access requirement if the cross access easement is infeasible. He then and gave the staff recommendation that the Planning and Development Board recommend to the Board of County Commissioners approval of Application # 3158, a PUD Site Development Plan consistent with the Flagler County Comprehensive Plan, the Flagler County Land Development Code, and the Beachwalk PUD Development Agreement, subject to the following conditions:

1. add a five foot (5’) wide landscape buffer tract along the East project boundary adjoining the County’s Greenway parcel;
2. identify and label the proposed roadway as a private roadway tract;
3. delete the clarifying footnote in the Dimensional Requirements Table referencing the measurement of minimum lot width;
4. add the twenty four foot (24’) wide cross-access and utility easement to coincide with the easement location within the Hammock Commercial Park subdivision, recorded at Map Book 37, Pages 10 and 11, Public Records of Flagler County, Florida;
5. add the 10 foot (10’) front easement to the Conceptual Lot Layout Detail graphic and label the purpose (utility, drainage, etc.) of the easement;
6. correct (or delete) the 110 foot (110’) typical lot depth label shown within Lot 39 – the minimum lot depth is 115 feet (115’), unless these lots are different from the others, then the Dimensional Requirements table and the Development Agreement needed to be amended to change the minimum lot depth from 115 feet to 100 feet; and
7. correct notes on the PUD Site Development Plan as follows:
   a. the maximum building height is stated in the Development Agreement as two stories above a garage, not to exceed 35 feet (35’) in height;
   b. add the roadway tract to the listing of maintenance responsibilities for the Homeowners Association;
   c. delete fire services from the list of services provided by the City of Palm Coast and add Flagler County as the fire protection provider – Palm Coast will be the water and sewer utility provider, with Flagler County providing fire protection; and
   d. delete references to the minimum tree planting requirement of 1 tree for every 3,000 square feet of lot area and the tree species and size requirement – these are listed in the Land Development Code and the added notes are no more restrictive than the LDC so the inclusion of the reference here is redundant.

Other Recommendation Options also given to the board; approval, approval subject to conditions, denial and table the request.

Chair Boyd asked if the applicant would like to give a presentation.
Sidney Ansbacher, Esq., Upchurch Bailey and Upchurch 780 N Ponce De Leon Blvd. St. Augustine, counsel for the applicant, stated they asked for the continuance to respond to Boards questions about landscaping and materials supplemented by our landscape architect indicate what was and wasn’t within the buffer, adding a walking path around the pond. He also mentioned that prior to the last meeting at Mr. Hadeed’s request we had agreed to give $25,000.00 to the County to augment the buffers along Scenic A1A to protect the greenspace and to have continuity. Mr. Hadeed also provided us with a hand drawn sign we would agree to maximum of 6 feet in height maximum of 32 square feet of copy area which would be consistent with the Jungle Hut history.

Chair Boyd opened the Public Hearing.

Dennis Clark, 5784 N. Oceanshore Boulevard, Palm Coast, Scenic A1A Pride Committee Chair, speaking for himself spoke of his concern of the removal of over 500 inches of index trees and the challenge of replacing the trees after development. He also shared his concern of the proposed developments storm water management plan, and other development amenities that were not shown on the plan.

Chair Boyd asked if there was anyone else who wanted to speak; seeing none, he closed the Public Hearing.

Mr. Conner, asked if the applicant had requested relief from tree requirement.

Mr. Mengel responded no

Mr. Langello, asked about the location of the entry sign, and since it is a PUD it should be in the PUD. He also asked about the sidewalk requirement within the development.

Mr. Mengel, responded yes it should be shown and located within a tract or easement. He also stated that the Land Development Code does not require it but in other PUDs it was on one side of the street not each lot.

Motion to approve with conditions made by Mr. Corbett, seconded by Mr. Conner
Motion carried unanimously.

Quasi-judicial requiring disclosure of ex parte communication:

5. Application #3167 – APPLICATION FOR A VARIANCE IN THE R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT – request for a 25 foot rear yard setback variance in the R/C (Residential/Limited Commercial Use) District for a proposed building at 5047 N. Oceanshore Blvd; Parcel Number: 40-10-31-4050-00000-0270; 0.58+/- acres. Owner: Hammock Enterprises, LLC/Applicant: Brent Bruns.
Chair Boyd asked for ex-parte disclosures; no disclosures were made.

Mr. Mengel presented the staff report giving a detailed history of the project noting this site received board approval for a special exception #3122 with conditions on January 9, 2018 explaining the details he then proceeded to give staff recommendation that the Planning and Development Board find that the criteria as listed in the guidelines at Land Development Code Section3.07.03E have not been met and therefore denies a 25 foot rear yard setback variance for Lot 27, Unit 1, Magnolia Manor Subdivision as recorded at Map Book 5, Page 32, Public Records of Flagler County.

Other Recommendation Options also given to the board; approval, approval subject to conditions, denial and table the request.

Chair Boyd asked if the applicant would like to give a presentation.

Kimberly Buck P.E., Alann Engineering 880 Airport Road, Ormond Beach representing the applicant, gave an overview of the proposed improvement.

Brent Bruns, Owner, Hammock Enterprises 5047 North Oceanshore Boulevard, provided a handout to the Board attached to these minutes as Attachment “A”, he gave a history describing the property details showed photos of current conditions while describing his proposal in detail and his case for needing this variance.

Chair Boyd announced to the audience that the Board was provided 2 letters one in support and one in opposition to the variance which are attached to these minutes as Attachments “B” and “C”

Chair Boyd opened the Public Hearing.

James Garcia, 19 Magnolia Road spoke in opposition concerned with traffic and noise.

Kim Capicchioni, 21 Magnolia Road spoke in opposition concerned about noise, traffic and the emergency exit not being used for emergency services only.

Ronald Dean Moore, 22 Magnolia Road spoke in opposition concerned about the noise and access on Magnolia.

Mr. Mengel, stated that no commercial traffic will be allowed on the residential street as was covered during the Special Exception process in 2018. There will be a Knox Box and gate and only the Fire Department has the key.
Kate Stangle, with Nelson Mullins Broad and Cassel, Board Counsel, reminded the Board that the ability to have music and up until what time it was allowed which was up until 9:00 pm.

Emmitt Griffin, 20 Magnolia Road, spoke in opposition of the variance.

Sharon Braughman, 31 Magnolia Road, stating that the applicant knew he had size constraints why would he build such a monstrosity. Why can’t he scale it down, and he is causing his own problems.

David Capicchioni, 21 Magnolia Road, spoke in opposition that this is not compatible with a small residential area.

Stewart Smith, 7 Magnolia Road, spoke in opposition, stating the proposed wall will need maintenance and will require space to get behind it. The gate on the back has been open for the last few months, even though it has been stated that it should be closed.

Dennis Clark, 5784 N. Oceanshore Boulevard, Palm Coast, Scenic A1A Pride Committee Chair, noted that Scenic A1A did send a letter on his item and we defer to you for recommendation. In addition we noted that the applicant may need to return to the Board for valet parking approval. It is important to know where these cars are going to be parked.

Chair Boyd asked if there was anyone else who wanted to speak; seeing none, he closed the Public Hearing.

Chair Boyd asked if the Board had any questions.

Mr. Langello, stated that he feels Condition 1 the shape of the lot is unique and due to the location of the trees has been met. Condition 2 is of his own creating. He believes that the waterfall would work as a sound barrier but only at 8 feet the same height as the existing fence.

Mr. Conner, asked Ms. Buck if the design of the drain field is in consideration of saving the trees?

Ms. Buck, responded yes. She also went into detail about the design and how this plan came to be.

Mr. Langello Asked about the proposed location for the waterfall and if it can be moved somewhere else on the property.

Mr. Bruns, stated that the would be ok with 8 feet in height for the waterfall.
Mr. Mengel, stated that Board could take action amending the Variance to be for maximum of 8 feet in height for the waterfall, and 3 feet off of the property line and 30 feet long.

Mr. Corbett, asked for clarification about the access gate, and if there is to be a foot path going through there?

Mr. Bruns, no, zero access

Mr. Corbett, no access on Magnolia Road

Mr. Bruns, no, only access is from A1A. It will be locked by the Fire Department.

Mr. Mengel, the gate is already part of the conditions of the Special Exception.

Chair Boyd asked for a motion

Motion to approve made with the maximum 8 feet in height with a 3 foot setback from the property line and 30 feet long by Mr. Langello, seconded by Mr. Corbett.

Motion carried unanimously

6. 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.

None.

7. Board Comments

None

8. Adjournment

Motion made by Mr. Langello, seconded by Mr. Corbett.

Meeting adjourned at 7:45 p.m.

Prepared by: Wendy Hickey
Reviewed by: Adam Mengel
1. LIGHTING SHALL CONFORM TO SEA TURTLE LIGHTING REQUIREMENTS LOCATED IN ARTICLE 6 OF THE COUNTY LAND DEVELOPMENT CODE.

2. ALL WATER FEATURES TO BE CONSTRUCTED SHALL CONFORM TO REQUIRED MINIMUM 5' SEPARATION FROM SEPTIC SYSTEM.

3. MINIMUM DRIVE AISLE WIDTH 22 FT.

4. GRAVEL DRIVE SHALL BE PROPERLY MAINTAINED IN ORDER TO ENSURE ALL-WEATHER ACCESSIBILITY BY FIRE TRUCKS.

5. DATUM: NAVD 29.
Hi Adam

Hope all is well. I am not sure of protocol, as I am sending you my objections to an item coming before Planning Board while I am out of country. If this isn't the correct way to do this please advise. There is a special exemption applied for by Hammock Playground in the Hammock for special relief of rear yard setback. This property was bought by the present owner without doing his due diligence on the site. This firstly would set a bad precedence on all future commercial development in the County to approve a zero foot rear lot setback. The hardship they are claiming is of their own doing and not similar to other requests that have come before the Board. The other minor setback problems were caused by poor surveyor work or contractor being off by less than a foot. If I could have been present I would have voted against this special exemption. I have no idea what staff has recommended but if you can please take my thoughts into consideration I think it would be helpful in the determination of this request.

Michael Goodman
516-852-4229
Scott Enegren 3/12/2019
3 Live Oak Rd
Palm Coast, FL 32137
386-212-4258 cell

To Whom it may concern:

My Parcel number is 40-10-3i-4050-00000-0250

Re: Variance request for a waterfall and caves on the rear property line of 5047 N Oceanshore Blvd belonging to MrBruns.

Mr Bruns has shown me pictures and a model of the proposed cave and waterfall which is directly across the street from my property camouflaged by large bamboo trees 25’ deep. From what he has shown and told me, I feel that having these amenities and at a height of up to possibly 15’ feet would be an asset for helping to subdue any noise that might come from the a restaurant. In addition to having the tranquilizing sound of a waterfall even makes his ideas of the waterfall and adjoin cave for eating more enhancing. The idea that Mr Bruns wants to not only keep all the magnificent trees on the property but also putting planters on top of the waterfall only will make his property more enjoying to look at. Protecting the environment and even enhancing it, I think is a great idea.

Scott Enegren