

**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 10, 2019 at 6:00 PM**

Adopted February 19, 2020

1 **MEMBERS PRESENT:** Chairman Michael Boyd, Timothy Conner, Jack Corbett, Mark
2 Langelo, and Anthony Lombardo.

3
4 **MEMBERS EXCUSED:** Michael Goodman and Laureen Kornel

5
6 **STAFF PRESENT:** Adam Mengel, Growth Management Director; Gina Lemon, Development
7 Review Planner III; and Wendy Hickey, Planner

8
9 **BOARD COUNSEL:** Kate Stangle, with Nelson Mullins Broad and Cassel.

10
11 **Chairman Boyd** called the meeting to order at 6:00 p.m.

12
13 **1. Roll Call.**

14
15 Attendance was confirmed by Ms. Lemon and a quorum was present.

16
17 **2. Pledge of Allegiance.**

18
19 **Chairman Boyd** led the Pledge of Allegiance to the Flag.

20
21 **3. Approval of August 13, 2019, September 10, 2019, and October 8, 2019 regular meeting**
22 **minutes.**

23
24 Mr. Langelo offered some remarks about the three sets of minutes.

25
26 **Motion to approve by Mr. Conner, seconded by Mr. Corbett.**

27
28 **Motion carried unanimously.**

29
30 4. Quasi-judicial requiring disclosure of ex parte communication:
31 Application #3190 – **APPLICATION FOR AMENDMENT TO PUD (PLANNED UNIT**
32 **DEVELOPMENT) TO THE SEASIDE LANDINGS PUD DEVELOPMENT AGREEMENT**
33 – request is for third amendment to the PUD Development Agreement for Seaside Landings PUD.
34 Parcel Numbers: 38-12-31-5445-00000-00A0 through -00E0, and 38-12-31-5445-00000-0010
35 through -0990; 250+/- acres; Owner/Applicant: Bulow Shores Homeowners Association, Inc.

36
37 **Chairman Boyd** asked for ex-parte disclosures.

38

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1 **Mr. Langello** provided his disclosure of having a conversation with his business partner who
2 is a lot owner within the development and the lot owner is at the meeting and intends to speak.

3
4 **Ms. Stangle** followed up on Mr. Langello’s disclosure to confirm that Mr. Langello’s business
5 partner is not the applicant and based on the outcome of the item there would not be a financial
6 benefit to either Mr. Langello or his business partner.

7
8 **Mr. Langello** confirmed that they have business property together, but not the property in the
9 item before the Board.

10
11 **Mr. Mengel** presented the staff report for the amendment to the PUD Development Agreement
12 for Seaside Landings. He summarized the proposed changes to the PUD Agreement for the
13 Board Members.

14
15 **Jim Roche, Esquire, McCabe | Ronsman**, Attorneys at Law, 110 Solana Road, Suite 102,
16 Ponte Vedra Beach, Florida 32082, representative for the applicant, Bulow Shores
17 Homeowners Association, Inc., gave a presentation to the Board and described the main goals
18 of the proposed change to the PUD Development Agreement.

19
20 **Mr. Langello** questioned the ability of the Board of Directors of a Homeowners Association
21 to apply for the change to the PUD; he questioned if anyone has presently built to exceed the
22 35% lot coverage, and questioned if driveways and sidewalks are included in the lot coverage.

23
24 **Ms. Stangle and Mr. Mengel** collectively responded to the ability for the Board of Directors
25 of the HOA to apply for the requested change. Mr. Mengel provided responses to the
26 remaining questions by Mr. Langello.

27
28 **Mr. Lombardo** questioned if there was anything in the association documents that describes
29 the inability of the lots on the west side of John Anderson to utilize the common area for tree
30 planting. He also questioned if there was a plan of the common area to locate the proposed
31 plantings. He questioned if there was a previous 1,000 s.f. limit in place.

32
33 **Mr. Roche** explained that the dock size is limited by the St. Johns River Water Management
34 District and being added to the PUD document with this amendment.

35
36 **Mr. Conner** questioned the legal authority of the Homeowners Association to negotiate
37 property rights of the individual property owners.

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1 **Mr. Roche** responded that the HOA could be the applicant to amend the PUD by virtue of the
2 documents encumbering the entire development including the parcels individually owned and
3 there being nothing in the Land Development Code that states that they are not a proper
4 applicant.

5
6 **Mr. Corbett** questioned if there was anything else planned for the common area where the
7 trees are proposed to be planted.

8
9 **Mr. Roche** responded that there are some stormwater ponds in the area, these plantings are
10 only available on first come/first served as long as space is available.

11
12 **Mr. Conner** asked staff about the procedure to amend a PUD Agreement without it being
13 associated with a plat; he referred to regulations within Article IV, Subdivision Regulations.

14
15 **Mr. Mengel** explained the differences between an amendment to a PUD document and a
16 subdivision plat.

17
18 **Mr. Langelo** questioned if the applicants are amending the lots they are bringing forward or
19 every lot in the place.

20
21 **Mr. Mengel** responded that they are amending the PUD Agreement which is the zoning for
22 the entire development.

23
24 **Chairman Boyd** opened Public Comment on this item:

25
26 **Mark Main**, owner of 107 Seaside Point, expressed concern about the increase in fees due to
27 the increased maintenance of the tree plantings on the common area. He spoke of the drainage
28 easements within the development and the requirement for placement of fill on an adjacent lot
29 at his cost. He asked if the Board could consider adding a requirement to the PUD Agreement
30 for the reimbursement to the developing lot owner by the adjacent vacant lot owners when fill
31 takes place.

32
33 **Les Abend**, Board of Directors Member and President of the Homeowners Association,
34 explained relative to membership consent that there have been numerous Board of Directors'
35 meetings talking about the proposed amendments and they have informed their members of
36 the proposed amendments. He explained that the areas for the proposed trees are surrounding
37 the existing dry retention ponds.

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1 There being no one else from the public to speak, Chairman Boyd closed public comments and
2 asked for Board comments:

3
4 **Mr. Langello** felt he could clarify the point that Mr. Main, was trying to make regarding the
5 side lot line drainage easements and the required placement of fill.

6
7 **Staff and Counsel** explained that this is an issue that took quite a bit of time and the
8 requirement is through a restrictive covenant and the County is not a party to it. It was a
9 mechanism put in place by the Developer to avoid having to incur the cost of filling the lots.
10 The covenant is not a part of the PUD Agreement.

11
12 **Mr. Conner** commented that he continued to struggle with the procedural approach.

13
14 **Ms. Stangle** agreed with Mr. Mengel that the amendment is not a plat addendum. She
15 explained that some jurisdictions have restrictions in place within their land development code
16 that limits who can be an applicant to amend a PUD Agreement. All owners have been
17 provided notice.

18
19 **Mr. Conner** through the Chair, asked the applicant if there was a reason that they could not
20 hold a special meeting of their membership and get an approval.

21
22 **Mr. Roche** responded that he was not so sure that they are required to, and asked what
23 percentage of approval he would be looking for. He continued his position that the Board of
24 Directors through the corporate entity of the owners association has the capacity to present the
25 application on behalf of the membership.

26
27 *Motion by Mr. Corbett to recommend to the Board of County Commissioners approval of*
28 *Application #3190, seconded by Mr. Lombardo.*

29
30 *Motion carried with four (4) votes in the affirmative and Mr. Conner dissenting.*

- 31
32 5. Quasi-judicial requiring disclosure of ex parte communication:
33 Application #3204 – **APPLICATION FOR A VARIANCE IN THE AC**
34 **(AGRICULTURE) DISTRICT** – request for a 13 foot side yard and 38 foot rear yard setback
35 variance for a detached garage at 76 Kentucky Avenue; Parcel Number: 32-12-29-2600-00000-
36 0760; 0.92 +/- acres. Owner/Applicant: Joshua T. Gaither. .

37
38 **Chairman Boyd** asked for ex-parte disclosures; none were provided.

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1
2 **Mr. Mengel** presented the staff report and summarized the Variance request as a 38' rear
3 setback Variance and 13' side yard setback Variance. The request is being presented before
4 construction.

5
6 **Josh Gaither**, 76 Kentucky Avenue and owner of the subject property, explained that he
7 moved to the area to be able to have a barn. He has spoken with his neighbor to the west
8 whom did not have a problem with the request as long as at least a 12' setback was
9 maintained. He likes the existing trees and does not want to damage them.

10
11 **Mr. Corbett** questioned the turnaround area, was it grass or pasture?

12
13 **Mr. Gaither** explained it is grass, perhaps in the future he would improve it with asphalt
14 millings.

15
16 **Chairman Boyd** opened the public hearing. There being no one from the public to speak,
17 **Chairman Boyd** closed public comments and called for questions from the Board.

18
19 **Mr. Langello** expressed that the lot is unique in that it has limited amount of area with tree
20 line. This is on the west side of the county and a large setback for a small lot. He stated that
21 he believes the request meets the requirements

22
23 *Motion to approve made by Mr. Langello, seconded by Mr. Lombardo.*
24 *Motion carried with four (4) votes in the affirmative and Mr. Conner dissenting.*

25
26 **6. Staff Comments**

27
28 **Mr. Mengel** advised members of the action filed by the Hammock Community Association
29 and discouraged members from speaking to anyone about the item.

30
31 **7. Board Comments**

32
33 **Mr. Conner** commented about the lack of procedural fixes included within the Land
34 Development Code and requested that the Board of County Commission fix the Code. He
35 asked if there was anything that the Planning and Development Board could do to cause this
36 to happen.

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1 **Mr. Mengel** explained that update of the Comprehensive Plan is coming due and the
2 completion of the rewrite of the Land Development Code should follow. He advised that the
3 Board of County Commission and County Administrator are both aware of the needed updates.
4 Prioritization is important and the Comprehensive Plan update should occur first to avoid
5 repeated amendments.

6
7 **Mr. Langello** suggested bringing back the rewrite of the Land Development Code by
8 committee.

9
10 **Mr. Mengel** advised that the Land Development Code Advisory Committee had finished its work
11 and the product had been provided to the consultant who produced the draft document, 12 chapters.
12 Staff was making a chapter by chapter review which halted when our administrative changes took
13 place.

14
15 8. **Public Comments** - Each speaker will be allowed up to three minutes to address the Planning
16 and Development Board on any item or topic not on the agenda.

17
18 None.

19
20 9. **Adjournment**

21
22 *Meeting adjourned at 7:33 p.m.*

23
24 Prepared by: Gina Lemon
25 Reviewed by: Adam Mengel