MEMBERS PRESENT: Chair Mark Langello, Michael Boyd, Timothy Conner (arrived at 6:07 p.m.), Jack Corbett, Michael Goodman, Laureen Kornel, and Anthony Lombardo.

MEMBERS ABSENT: None

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

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

Chair Langello called the meeting to order

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

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

3. Election of Chair and Vice Chair
   Chair Langello gave an explanation to the board on how succession has been handled for the last few years. Explaining that the Vice Chair usually moves up to the Chair position and since the current vice chair is not in attendance, he would like to postpone the election until Mr. Conner is in attendance.

4. Election of Vice Chair
   Postponed to the next meeting.

5. Approval of the December 11, 2018 regular meeting minutes
   Motion to approve made by Mr. Boyd, seconded by Mr. Goodman.
   Motion carried unanimously.

6. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3162 – APPLICATION FOR A VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for a Rear Yard Setback Variance from the required 20 foot rear setback in the Sugar Mill PUD located at 13 Audubon Lane (Lot 44, Sugar Mill Plantation Phase II Subdivision); Parcel Number: 37-12-31-5627-00000-0440; 0.54 +/- acres.
   Owner: Jennifer Dawson Allison/Applicant: East Coast Pools & Spas.
Chair Langello asked for ex-parte disclosures; no disclosures were made.

Mr. Adam Mengel, Planning Director, presented the staff report giving a brief history of the project and staff recommendation that the Planning and Development Board find that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met therefore approves a 1.1 foot rear yard setback variance from the minimum 20 rear yard setback for a pool, spa and pool deck at 13 Audubon Lane.

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

Jessica Maness, Office Manager, East Coast Pools & Spas, 300 Walnut Street, Ormond Beach, applicant gave a brief overview of the request.

Chair Langello opened the Public Hearing. Seeing no one approach the podium, he closed the Public Hearing.

Chair Langello asked if the Board had any questions.

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

Motion carried unanimously.

Chair Langello asked for ex-parte disclosures; no disclosures were made.

Mr. Adam Mengel, Planning Director, presented the staff report giving a brief history of the request and staff recommendation that the Planning and Development Board find that all the special exception criteria as listed in the guidelines at Land Development Code Section 3.07.03.F have been met and therefore approves the home occupation for a real estate office at 1240 Lambert Avenue.

Chair Langello asked if the applicant would like to give a presentation. Applicant responded no.
Chair Langello opened the Public Hearing. Seeing no one approach the podium, he closed the Public Hearing.

Ms. Kornel asked if there any objections or feedback?

Mr. Mengel responded no.

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

Chair Langello asked if this special exception goes with the applicant or runs with the land like other Special Exceptions?

Mr. Mengel responded he did not clarify that in the staff report. The condition that the home occupation Special Exception runs with the applicant and not with the land can added to the recommendation and the motion.

Ms. Kornel amended her motion to state this Special Exception runs with the applicant and not the land. Seconded by Mr. Boyd

Motion carried unanimously.

8. Quasi-judicial requiring disclosure of ex parte communication:

Application #3163 – APPLICATION FOR REVIEW IN A PUD (PLANNED UNIT DEVELOPMENT) TO AMEND AND RESTATE DEVELOPMENT AGREEMENT – request to amend and restate the Development Agreement for Huntington Villas at Hunters Ridge PUD. Owner: BADC Huntington Communities, LLC/Applicant: Mark Watts, Esq., and Michael J. Woods, Esq., of Cobb Cole P.A.

Chair Langello asked for ex-parte disclosures; no disclosures were made.

Mr. Mengel stated that the applicant has requested that the application be continued to the next meeting based on conversations and discrepancies between the applicant’s redlined agreement and the 2015 approved Exhibit 1 (applicant’s request for continuance is attached as Attachment “A”). The approved exhibit 1 was the basis of staff’s non-redline Exhibit 1 attachment to the draft Ordinance. Based on this, the applicant acknowledged they were working from a different Exhibit. So, for clarification and to avoid confusion, they felt it was best for the item to be tabled until the February 12, 2019 regular meeting of the Planning and Development Board at 6:00 p.m. in these chambers. He then went on to state that anyone who is in the chambers and would like to comment they can do so at this time. There will be no rebuttal since the applicant is not present: it will be only for a comment for the record.
Chair Langello opened the Public Hearing for this item.

Mr. Jack Bisland, 26 Shear Water Trail, stated he was concerned about the increase in the number of units in the Villas, the increase in the population, and the reduction in the size of the amenities which may be a significant impact to the area.

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

Motion made by Ms. Kornel to table application #3163 to February 12, 2019 at 6:00 p.m., seconded by Mr. Boyd.

Motion carried unanimously.

9. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3150 – APPLICATION FOR REZONING FROM R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT TO PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for rezoning from R/C (Residential/Limited Commercial) District to PUD (Planned Unit Development) District located at 4931 North Oceanshore Boulevard; Parcel Number: 40-10-31-5137-000H0-0000; 12.44+- acres. Owner: LRA RIO, LLC/Applicant: Atlee Development Group, Inc.

Chair Langello asked for ex-parte disclosures

Mr. Conner stated that he represents one of the neighboring properties, but he and his client had not had any discussions about this project; his client was a notified neighbor.

Mr. Goodman stated that he is Scenic A1A PRIDE committee board member and he asked if that is a conflict of interest.

Mr. Mengel replied no, that Mr. Goodman was acting in his capacity as a board member at the time he heard the information and there was recommendation that came out and that Mr. Goodman did not have a specific benefit from the outcome of the pending request.

Mr. Mengel advised the board that handouts given prior to the meeting have to do with the next two items: one is an email from Mr. Clark, which was read into the record and attached to these minutes as Attachment “B”. The second from Mr. Moylan with the County Attorney’s Office which is attached to these minutes as Attachment “C”. Staff is prepared to make a presentation on both Applications #3150 Rezoning and #3158 Site Development Plan in a PUD, also noted
that the applicant is in attendance and there are members of the public here to make comments. He went on to state that based on the memo from the County Attorney’s office staff does not feel comfortable proceeding with these items.

Ms. Kate Stangle, Nelson Mullins Broad and Cassel, Planning and Development Board Counsel, summarized the Attorney’s office memo for the board stating that as a TRC (Technical Review Committee Member) that the item does not meet the Land Development Code requirements and the A1A overlay district requirements in its current form; there is data and analysis that is not provided. Essentially the application is incomplete and we do not have enough information to evaluate it in its current format. They are requesting that this be postponed until the TRC can reevaluate the applications.

Mr. Mengel stated that the thought was the TRC had given their recommendation; however, if staff as a member of the TRC raises an objection we want to get that resolved.

Ms. Kornel asked if the recommendation request is to be tabled so it doesn’t have to be re-advertised.

Mr. Mengel explained to the Board their options: they can go forward with the item; they can continue the item to a time and date certain; or the Board can take no action at all.

Chair Langello asked if staff would be ready within one month for these items to come back to the Board?

Mr. Mengel stated that he believes the issues raised can be addressed by the applicant within the next month.

Chair Langello asked why the TRC member was raising their concern now.

Mr. Mengel stated the issue was brought up in September, and in writing in November and December.

Chair Langello asked if it was due to the density.

Mr. Mengel responded he believed it was a threshold question. It is the PUD language in Article III which references PUDs, more specifically the purpose and intent heading for the Article. The item raised by Mr. Moylan is a threshold question that the applicant is not providing the innovative urban design techniques, protection of natural resources, mix of uses, open space, etc., which is a prerequisite of a PUD. It is the cookie-cutter zoning that’s there that an applicant can’t
meet what they want to do so they’ll do something different. He stated that the density is not the
issue: the density is 7 units per acre. Density is not set by zoning, it is set by future land use.

Chair Langello questioned staff on the applicant’s presentation if the Board’s action was to table
the request.

Ms. Stangle responded that the applicant could state their opinion regarding the continuance,
along with allowing members of the public to speak regarding the continuance request.

Chair Langello asked the applicant if they wanted to speak.

John Kiddy, Atlee Development Group, Inc., 5851 Timuquana Road, Jacksonville, Applicant, stated this was the second time the item was postponed and that he came ready to
present his case but at the last minute was presented with the memo from the Attorney’s Office.
His advisors have recommended that they defer the public hearing to a time and date certain: at
some point and time, we need to get to the issues. We are willing to defer if everyone acts in
good faith.

Chair Langello asked staff who was paying for the public notice?

Mr. Mengel replied that the cost of the public notice was shared with the applicant when the
applicant has not been the cause of any delay in the process.

Mr. Kiddy asked if he could speak about the uniqueness of the project.

Mr. Mengel replied that that would not be appropriate at this time. Any presentation by the
applicant should be delayed until the public hearing. The public has the ability to review what
has been submitted.

Chair Langello replied that the Board has a couple of options available: postpone to a date certain
or postpone indefinitely, with the latter requiring public notice.

Mr. Kiddy stated they wanted to be on the next available agenda.

Chair Langello confirmed that the applicant wished to be continued to a time and date certain on
the next available agenda.

Mr. Kiddy responded yes.

Chair Langello asked for any questions from the Board.
Mr. Goodman asked if there had been a tree survey submitted.

Ms. Kornel asked if that was appropriate since the Board was not reviewing the item.

Mr. Goodman replied that it was something that we would want to see the next time it came in.

Mr. Mengel thanked the Board for the comment, stating that the tree survey was less important for the rezoning and more important for the site plan, the applicant has heard the Board’s request.

Chair Langello asked for any additional questions.

Motion to table Application #3150 until the February 12, 2019 at 6:00 p.m. by Ms. Kornel.

Mr. Boyd asked if the motion was for Application #3150 and #3158.

Ms. Stangle reminded the Board that they should ask for public comment before the vote on the motion.

Chair Langello responded that he wanted to make sure of the Board’s direction, if the item was to be tabled or if it was not tabled, then allowing the public to air all their grievances out.

Ms. Stangle stated that the motion to continue could be for both items if that was the intent.

Ms. Kornel replied that was her intent.

Second by Mr. Boyd.

Chair Langello asked for any Board discussion before he opened public comment. He stated that the request would be continued until the February meeting and that the Board would not engage in a conversation about the request at tonight’s meeting. The public was invited to return in February and to provide comments to staff prior to the next meeting. If anyone needed to speak tonight they could do so.

Janet Sullivan, 35 Nantucket Drive, spoke in opposition to the project and quoted excerpts of the Comprehensive Plan and the Land Development Code as it relates to the barrier island and the PUD. Stated that Beachwalk does not meet the minimum requirements for this type of development. The PUD is being used to circumvent the existing R/C zoning.
Chair Langello asked for any other public comments and again restated that the Board was not considering the merits of the request tonight, asking for substantive public comments to be made at the next meeting.

Dr. Lynn Bravo Rosewater, 200 Ocean Crest Drive #815, replied that she understood that the request would be continued. She spoke in opposition to the project, citing the extensive vegetation and the loss of the natural resources on the property. The Hammock is one of the last wooded barrier islands in existence in the United States. This is 54 three-story homes. They are counting the water retention as part of the acreage, making the lots smaller. She urged Board members to drive down Hammock Dunes Parkway: it is canopied all the way to the end. It is very important not to treat it like any other piece of land. You can’t put the trees back. She hopes the Board members go and look for themselves.

Chair Langello asked for other speakers.

Gregory Peugh, P.E., District Manager, Dunes Community Development District, spoke in limited opposition to the project and its proposed driveway onto Hammock Dunes Parkway, stating that the Dunes Community Development District does not support this or any other future development of any private or commercial entries or curb cuts along Hammock Dunes Parkway.

Chair Langello encouraged speakers to return for the next meeting, closed the Public Hearing and asked the Board for a vote.

Mr. Goodman stated that he had visited the property and gave his perspective of the foliage on the property.

Chair Langello asked Ms. Stangle if it is appropriate for Board members to make individual site visits on items that come before us? In the past something like that was discouraged.

Ms. Stangle stated that she will check on this and we can talk about it at the next meeting. She did not recall it being prohibited, but that decisions made by the Board should be made based on evidence presented and the collective decision of the Board at the meeting, where everyone has the benefit of seeing the same thing.

Chair Langello relayed that in the past site visits were discouraged.

Mr. Goodman said he was the new kid on the block.
Chair Langello acknowledged it was only Mr. Goodman’s second meeting on the Board. He asked for additional comments; seeing none, he requested the vote on the motion to postpone the requests to a time and date certain for next month’s meeting.

Motion carried unanimously.

Chair Langello advised the Board and the audience that these requests would be heard on February 12, 2019 at 6:00 p.m.

10. Quasi-judicial requiring disclosure of ex parte communication:

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: 40-10-31-5137-000H0-0000; 12.44+/- acres. Owner: LRA RIO, LLC/Applicant: Atlee Development Group, Inc.

[This agenda item was continued to February 12, 2019 at 6:00 p.m. through the Board’s motion for Agenda Item #9.]

11. Staff Comments

No comments.

12. Board Comments

Mr. Boyd asked if the Board could have the election of the Chair tonight since all Board members were present. There was no objection from the Board and consensus to proceed with the election.

Election of the Chair

Chair Langello opened the floor to nominations

Mr. Boyd nominated Mr. Conner for Chair and Mr. Lombardo as Vice-Chair, seconded by Ms. Kornel.

Following a brief discussion by the Board, Mr. Lombardo declined the nomination as Vice-Chair.

Chair Langello nominated Mr. Boyd as Chair and Mr. Conner as Vice-Chair, seconded by Mr. Lombardo.
Thanks, Adam. Following up on my call, we are okay with the continuance tonight so we can clarify any confusion. Howard and I will not attend, but will follow up with you to resolve the inconsistencies between the documents.

Hi Mark:

Those dates would end up being February 12th for the Planning and Development Board and March 4th (at 9 a.m., with public hearings starting at 9:30 a.m.) for the BOCC.

I'm checking with Sally through this email to see if she knows of any difficulties with this schedule.

Thanks,

Adam
Approved February 12, 2019

The vote for Mr. Boyd for Chair through a showing of hands was 6 in favor with one opposed
(Mr. Boyd). The vote for Mr. Conner for Chair through a showing of hands was one in favor
(Mr. Boyd) with 6 opposed.

The vote for Mr. Conner for Vice-Chair was unanimous.

13. 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

14. Adjournment

Motion made by Mr. Boyd at 7:10 p.m.

Prepared by: Wendy Hickey
Reviewed by: Adam Mengel
Adam Mengel, AICP, LEED AP BD+C

From: Dennis Clark <denrclark@gmail.com>
Sent: Tuesday, January 8, 2019 1:30 PM
To: Adam Mengel, AICP, LEED AP BD+C
Cc: Gregory Hansen
Subject: Beachwalk Planning Board conflict

Adam,

We have a critical community meeting with Commissioner Hansen tonight, preventing me and other interested parties from attending the Planning Board for the Beachwalk proposed rezoning and site plan review. I was hoping that the Beachwalk project could be rescheduled for another time, but I understand the noticing constraints.

If Beachwalk is discussed, I have just a few comments/questions I'd like to present:

1. **Density**: Why have a zoning district if it can be changed so easily purely for the benefit of the developer?
   - I believe that R/C zoning would allow about two thirds of the requested lots, or 34 homes with 75-foot wide lots. Of course they could implement multi-family dwellings or mixed-use, but that is not what they are planning.

2. **Tree Preservation**: In Section 3-P, the following statement has no real requirements to keep 40% of the index tree caliper inches.
   
   "...the developer shall make every reasonable effort to preserve existing Southern live oaks (Quercus virginiana) and Sand live oaks (Quercus geminata) with a diameter at breast height (DBH) of ten inches (10") or greater."

3. **Open Space** (page 2 of 3): The 25% open space requirement should not be removed because there is no longer a commercial component required in the R/C district. It is just as important to have open space whether there is commercial or not. Also, the stormwater retention pond is already counted as a component and should not be double-counted as open space.

As always, thank you for getting my message out.

Dennis Clark
TO: Adam Mengel, Planning Director  
FROM: Sean Moylan, Assistant County Attorney as Counsel to the TRC  
CC: Planning Board; Sally Sherman, Growth Management Director; Gina Lemon, Development Review Planner; Wendy Hickey, Planner; Susan Graham, Development Engineer  
DATE: January 8, 2019  
RE: Application #3150, Beachwalk Rezoning to PUD

This supplemental memo regards the application to rezone a parcel of land north of Jungle Hut Road between State Road A1A and Hammock Dunes Parkway from R/C to PUD (Beachwalk). Please add it to the record for this evening's Planning and Development Board meeting. (Apologies to the Planning Board, but I did not know this item was going to be on tonight's agenda. We had expected it to be further postponed because items from the TRC remain incomplete.)

The Technical Staff Report quotes Land Development Code (LDC) Section 3.03.20.A and attaches the Technical Review Committee (TRC) comments, which likewise reference this LDC provision. As I mentioned at the TRC meeting for this project on September 19, 2018 and in writing for the October and November 2018 TRC meetings for this project, LDC Section 3.03.20.A indicates that the purpose of a PUD zoning district is to provide innovative urban design, creative and flexible concepts, and protection of natural features and open spaces that a strict interpretation of zoning regulations would otherwise prohibit. This is a threshold legal issue that must be addressed in order to approve the rezoning to PUD.

As stated by the applicant at the TRC meetings, the desire to rezone the subject parcel to PUD is to allow for smaller lot sizes, thereby making the project more economically feasible. Without more, this does not meet the purpose of a PUD zoning under the LDC. A PUD cannot be used solely as a vehicle to gain a blanket set of variances. Ultimately, the applicant has the burden of demonstrating to the Planning Board's and the County Commission's satisfaction that the proposed rezoning satisfies the purpose outlined in LDC Section 3.03.20.A.

Charles Ericksen, Jr.  
District 1  
Greg Hansen  
District 2  
David Sullivan  
District 3  
Joe Mullins  
District 4  
Donald O'Brien, Jr.  
District 5
In addition, the density of a proposed PUD must comply with the Comprehensive Plan. In this regard, the Technical Staff Report compares the proposed development with the most intense possible development allowed under the Future Land Use Map (FLUM) for the subject parcel. While this is a relevant point, it does not end the analysis. Landowners are not automatically entitled to the most intense development allowed under the FLUM and, in fact, are often approved for something less based on compatibility with nearby uses and a variety of other planning considerations.

This proposed project adjoins two designated Scenic Byway corridors, State Road A1A and Jungle Hut Road. The proposed rezoning, therefore, should also be viewed in light of the Scenic A1A Overlay District and associated Management Plan. These are expressly applicable to developments along Jungle Hut Road. This was pointed out to the applicant in at least one TRC meeting with the applicant present. Further, the Growth Management Director, at the TRC meeting, directed that this analysis be undertaken based on judicial precedent applicable to Flagler County. I have not, however, reviewed the Management Plan to evaluate how its standards may apply, and I realize Overlay District requirements may be more relevant to analysis of the Site Plan, but nevertheless mention them to suggest that they be specifically addressed on the record where appropriate. There is no analysis in the Technical Staff Report of these issues.

Lastly, there was an internal meeting of County staff regarding this project, which meeting included the Growth Management Director, the County Administrator, the Planning Director, and myself. The instruction from the meeting was that the Planning Director was to stop drafting the ordinance for the applicant. The applicant had attempted to turn over this task to the Planning Director, which we do not think is appropriate. Even otherwise, this application is not ready to be heard. The applicant has not satisfactorily addressed a number of issues that arose during TRC review. For instance, the buffer along State Road A1A and Jungle Hut Road appear to be too small, as does the open space amenity for the number of potential residents, and the emergency secondary access needs to be identified.

Additionally, scheduling this item for the action of the Board of County Commissioners only six days after the Planning Board does not provide adequate time to address issues that may arise. The January 14th Board of County Commissioners meeting is expected to be a complex, contentious meeting, and we should ensure that the Board of County Commissioners has adequate time to review this proposed rezoning on the Scenic Byway. I do not believe that this item is ready to be heard and respectfully believe it should be postponed.