Adopted July 12, 2016

MEMBERS PRESENT: Chairman Michael Boyd, Robert Dickinson, Michael Duggins, and Mark Langello

MEMBERS EXCUSED: Laureen Kornel and Arthur Barr

STAFF PRESENT: Adam Mengel, Planning Director; Wendy Hickey, Planner; and Gina Lemon, Development Review Planner III

BOARD COUNSEL: Kate Stangle, with Broad and Cassel

Chairman Boyd called the meeting to order at 6:15 p.m.

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

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

3. Approval of Minutes.
   Approval of minutes of the January 12, 2016 and May 10, 2016 Regular Meetings
   Mr. Duggins noted a correction on page 5 in the May 10, 2016 minutes, changing public road to private road.
   Motion to approve the minutes as amended made by Mr. Langello, seconded by Mr. Duggins. Motion carried unanimously.

4. Quasi-judicial requiring ex parte communication and disclosures:
   Application #3030 – APPLICATION FOR A VARIANCE IN THE R-1 (RURAL RESIDENTIAL) DISTRICT for a reduction in the minimum rear yard setback for swimming pool and pool screen enclosure from 10 feet to 0 feet on 0.23 acres located at 10 Pamela Parkway, Palm Coast, FL; Parcel #40-10-31-3900-00000-0270; Owner: John V. and Charlotte A. Dougherty, Husband and Wife; Applicant: Rich Smith d/b/a Hammock Communities, Inc.
   No ex parte communications were disclosed.
   Mr. Adam Mengel, Planning Director: presented a detailed staff report and PowerPoint which depicted the location, zoning and future land use of the subject parcel, along with background and ownership and building information, noting the subject parcel consists of lots 27 and 28 of

Page 1 of 6
These minutes are unofficial until adopted by the Planning and Development Board.
the Likens subdivision and that although the parcels were not purchased at the same time, they
do not have a unity of title and are only bound together for tax purposes.

Mr. Mengel then read into the record the staff recommendation. Based on the provided
application and supplemental information, the Planning Department recommends that the
Planning and Development Board make a finding that all criteria listed in the guidelines at LDC
section 3.07.03.E have been met and therefore recommends approval of a 10 foot rear yard
pool/screen enclosure setback variance for 10 Pamela Parkway.

Rick Smith agent for the applicant stated “under the current Land Development Code we can
build a block fence on the property line, and what we propose to build is a 3 foot stem wall
which would replicate a fence and put the pool within stemwall. The appearance from the
adjacent lot on the south side would be no different for the pool or if we put a fence up, or a
wall. So, at the end of the day as you can understand the criteria for a block fence is about the
same criteria as we have for this pool. So at the end of the day I think it would be the same if not
better.”

Mr. Langello asked staff if there was a typo in the staff report and proceeded to read into the
record the applicant response for criteria 3, “The proposed location of the pool will impair or
impede the use of the adjacent property”.

Mr. Mengel responded that is a direct quote from the applicant’s submitted response to criteria
3. He added we believed there was a typo made and we should have noted that in the report.

Mr. Langello asked what would be the reason for a setback for a swimming pool.

Mr. Mengel responded it would be buffering and drainage.

Mr. Langello asked if what you are trying to buffer is more of a physical aspect.

Mr. Mengel responded that it is both the physical aspect and the physical activity.

Mr. Langello asked if the lot was in the wetland isn’t there a wetland conservation easement that
is dedicated as a wetland so that no one can build on it. Do you have any official topo that is
showing the wetland?

Mr. Mengel replied I would have to hunt it down. I can say it is heavily vegetated.

Mr. Langello asked do we have wetlands in the Hammock? Have we ever?
Mr. Mengel replied I think we have had some isolated wetlands. The official record we use is the Wetland Mapper an application that is from U.S. Fish and Wildlife. We have had several surveys come up drilled down on a parcel specific basis have had wetlands. Typically they are isolated wetlands if they are not going to be on the intercoastal or on the coast.

Mr. Langello asked there has been no response from the School Board? Have they indicated if they intend to build or not to build.

Mr. Mengel responded that there has been discussion in the past and it is safe to say that the wetlands have impacted the future development of this parcel. There is no intended use for the property at this time. There is a provision within the Comp Plan that prohibits schools from being sited in a coastal hazard area I do believe this site has a portion of the property within the special flood hazard area, at least on the barrier island. So, there may be some learning center here in the future but it will not be a school.

Mr. Langello asked if the County sells this off to an individual developer and they would mitigate the wetlands if it is a conservation easement we would not have an issue if that was a wall.

Mr. Mengel replied that is right, in fact as Mr. Smith said it could be a wall today but so from that property if it developed you would not know there is a pool there unless you look over the wall.

Mr. Duggins stated that for Lot 28, you stated the pool couldn’t be built on lot 28 because of the drainfield. The drainfield not on lot 28 it is with the house on lot 27. They do have a few hundred feet of lot to work with. It just seems to me that something like this brings our variance and setback code to a point of nothing. It just seems to me that they have plenty of places to put the pool on that other lot. I do not think the entire area is a wetland I think it is a buildable lot.

Mr. Mengel replied I didn’t hint that lot 28 was a wetland at all. Where I was heading was when you look on their survey to the east of the home on lot 27 there is the septic tank and drainfield for me knowing what I want to do from a design standpoint I don’t want to have my pool beyond my septic tank there may be some rules with the Health Department for that separation requirements. What I was getting at was if you wanted to put the pool there you would have to relocate the septic tank and drainfield to lot 28 to have the pool in your side yard on 27 not to say it is not impossible. The other side of it is I did not want to penalize the owner because they have two lots. I thought you could meet all the criteria on lot 27. Who knows what their purpose is for 28? They may want to put another home there in the future or maybe their home in the future or maybe relatives or children or they want to sell it for now it is combined for tax purposes for convenience, I don’t want to take that away from them. I did want to acknowledge...
it was there but I did want to go though the design aspect. I just didn’t think you wanted to
leapfrog it over the septic tank.

Mr. Duggins stated I was just looking at a 200 foot lot and you can do a lot of things on a 200
foot wide lot.

Mr. Smith added, if I could respond to that it is their intention to one day expand on to that lot
with an in-law suite, an additional home or to sell the lot they do not have immediate plans for
that lot.

Mr. Duggins asked do they have to have it in the back? I don’t care if they have a sink hole
behind them it’s like putting a one story house right on the property line. It would still be a
concrete block wall of a house. Could they move the pool forward some? It is at zero now.

Mr. Smith noted that there is only 20 feet and at the end of the day a retaining wall through the
building department could be permitted on the property line without going to the Planning
Board. Which would be identical to the stemwall that holds the pool up the pool is setback by
the nature of the stemwall probably a foot and a half from that wall from the outside edge of that
wall there is no deck on that side so at the end of the day any entertaining would be 10 feet
from the property line so you don’t have the opportunity to sit up against that property line and
entertain. So, if you were standing behind the house you would not know there was a pool there
except for somebody’s head popping up over the wall not any differently than you would had
that retaining wall be built there for a deck on the back of the house.

Mr. Duggins asked will the pool be flush with the stemwall?

Mr. Smith replied yes, so in the big picture they could have a pool deck all the way out to that
stemwall or they can have a pool. So, at the end of the day it looks absolutely identical from
afar.

Mr. Duggins stated I just have a problem with a zero setback on any piece of property unless
you live in a zero lot line development.

Mr. Dickinson stated if I am looking at the detail on the site plan, there is 1.5 feet to the property
line; I assume that is going to be the retaining wall. There is not going to be a deck there; is
there going to deck to the east and the west and not to the south and up against the house?
Obviously it’s going to be pavers.

Mr. Smith stated yes, that is correct.
Adopted July 12, 2016

Mr. Dickinson asked if the screen enclosure is going to stand on top of the stemwall?

Mr. Smith replied that is correct.

Mr. Dickinson asked if there is a possibility in the 1.5 feet between the screen enclosure and the pool deck, could there be a hedge screen planting of some kind within the screen enclosure like podocarpus or something like that?

Mr. Smith replied I think we can make that arrangement to have landscaping; it is not a big area obviously.

Mr. Dickinson stated in 1.5 feet, there are some plant materials that can be put in a small space.

Mr. Smith replied we can use some kind of pots or some kind of planter boxes or something like that.

Mr. Dickinson stated I am not sure it has to be that elaborate, it can be planted between the pavers and the stemwall. It is not necessarily something that is going to be instant in its effect, but on the future buffer from the adjacent property not only the adjacent property but the homeowner it will be something that will grow into maturity and I say that inviting that option because there is no deck proposed for that location. The two lots are still independent of each other they have not been bound together officially with a binding lot agreement.

Mr. Mengel stated they were bought separately. They were purchased under separate deed and were combined for the convenience of tax collection parcel assessment purposes there is no formal binding for these two lots.

Mr. Dickinson asked about the 20 acre school site, if a developer came in and did something other than R-1, a non-compatible land use would require the standard buffering?

Mr. Mengel replied yes that was correct.

Mr. Dickinson stated looking at their photograph and in my experience, I do see quite a bit of cypress green plant material without having a wetland determination especially adjacent to this home site.

Mr. Langello stated I own a piece of property on the beach on A1A and I am encroached by ocean setbacks and I had limited space to put a swimming pool on my property and mine is among one of the larger ones on the beach. We wanted to put a pool in this was years ago and we went to our neighbor and got an agreement in writing to allow the pool from 7.5 to 1.5. So
Adopted July 12, 2016

we did put a pool in with the agreement from my neighbor this was like 30 years ago the 1½
was not big enough so we had to do it 2 feet. We found you couldn’t clean the pool, you
couldn’t walk around the pool, it was dangerous along the edge. Luckily, we found out before
we got too far and I put a little fake wall up you couldn’t stand or walk on; it was just too
dangerous, but we did have an issue like this and we went to the neighbor. I don’t know if that
goes on any more.

Mr. Mengel replied no, the closest we have come is an administrative variance where we have
the notice to the adjacent owners for 6 inches or whatever the percentage was; that is the closest
we have had.

Chairman Boyd opened public comments.

John Dunham, 15 Pamela Parkway, spoke in favor of the application.

Chairman Boyd asked the Board for a motion.

Motion made by Mr. Langello to approve, seconded by Mr. Dickinson.
Motion carried 3/1 with Mr. Duggins dissenting.

5. Staff Comments.
   None.

6. Board Comments.
   Mr. Langello asked if we were advertising for a new board member.
   Mr. Mengel replied yes we are. Pam Richardson’s seat was an at large seat; I don’t know if it was
   related to the Realtors profession it is my understanding we have an ad in motion right now.

7. Public Comments.
   None.

8. Adjournment.
   Motion to adjourn made by Mr. Langello at 6:38 p.m.

Drafted by: Wendy Hickey
Reviewed by: Adam Mengel