FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, November 8, 2016 at 6:00 PM

Adopted January 10, 2017

MEMBERS PRESENT:  Chairman Michael Boyd, Arthur Barr, Michael Duggins, Laureen Kornel, and Mark Langello

MEMBERS EXCUSED:  Robert Dickinson, Troy Dubose

STAFF PRESENT:  Sally Sherman, Deputy County Administrator; 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 6:00 p.m.

1. Roll Call.
   Attendance was confirmed by Gina Lemon and a 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 September 13, 2016, regular meetings.
   Mr. Langello noted a typographical error on page 2 line 29 ninth word should be the and not he.

   Motion to approve the September 13, 2016 minutes with the above mentioned correction made by Mr. Langello seconded by Mr. Barr, motion carried unanimously

4. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3040 – VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT; request for a 12.5 foot setback variance from the required 15 foot rear setback for a deck over a screened enclosure at 134 Harbor Village Point South (Lot 201, Harbor Village Marina Phase 2 S/D, Map Book 33, Pages 39 through 44, Public Records of Flagler County, Florida); Parcel Number: 04-11-31-3119-00000-2010; Owner/Applicant: Larry A. Jones and Margaret Sheehan-Jones. Variance to also be provided for Lots 185, 186, 187, 188, 190, 193, 195, 196, 199, 200, 202, and 205, with written consent for the variance provided by lot owners: Wayne and Kimberly Forister; Stephen Stieneker; Thomas N. Cooke; Roger Louis Florentine, Sr., Trustee; 4 G’s Management, LLC; and Ulrec, LLC.

   No ex-parte communications were disclosed.
Mr. Mengel presented the staff report noting that this is a request for a rear yard setback variance for a 12 ½ (twelve and one-half) foot variance from the 15 (fifteen) foot minimum rear yard setback within the Harbor Village Marina Phase II, subdivision. This is part of a Planned Unit Development it has some unique situations that are mentioned in the staff report we have this stretch of 21 (twenty one) lots that have been reconfigured through a replat and their rear yards facing west abut a common marina tract. This particular lot is the only home developed within this stretch Phase II of the development. Showing a aerial of the lot showing the marina tract and pointing out the width that is involved from the parcel boundary and the rear portion they would have another 15 (fifteen) 18 (eighteen) feet before you get to the bulk head. So there is some extra area that is there. This differs from the other lots within the subdivision that are further to the north because they have a different situation they have their own docks and they are on a common waterway that is there that connects to the intercoastal so there are different situations with this whole range of these lots. I just want to show you a few things the zoning and the land use. The deck is on an existing patio the required setback is 15 (fifteen) feet the request to for the deck to extend to 2 ½ (two and one-half) feet from the rear lot line so you have a 12 ½ foot (twelve and one-half) foot variance. The original request we expanded we had our TRC meeting we wanted to receive written consent from other lot owners within Phase II so we had 12 lots that we added to this for a total of 13(thirteen) lots that have provided consent prior to our meeting. In justification for this all the lots within this Harbor Village Marina Phase II are similarly unique with the rear lot line of the parcel adjoining the marina. Other owners may still apply for a variance in the future. In a quick side bar we were discussing the 21 (twenty-one) lots.

Staff’s recommendation is the 12 ½ (twelve and one half) rear set back variance for lots 185, 186, 187, 188, 190, 193, 195, 196, 199, 200, 202, and 205 all within the Harbor Village Marina Subdivision Phase II as all the guidelines in section 3.07.03(e) have been met. You may want to consider to add to this motion to be specific for the porch so that does not consider a second floor for consideration the potential worry here is the 12 ½ (twelve and one half) rear set back variance would apply to all lots that I mentioned there are 13 (thirteen) lots in total that we will be conveying a right that wasn’t intended here today this was prompted by a single home that is there already lot 201 and while we were doing this one we wanted to extend it to the other lot owners who sent back the consent the 12 (twelve) other owners. We think this will be incentive for some development to happen within Phase II which has been a hindrance because of the marina frontage on the rear lot lines you still have that common area that is there. The applicant is present and would like to clarify some of the statement I have made here.

Mr. Larry Jones, 134 Harbor Village Point South, property owner /applicant, stated Mr. Mengel did a very good job of describing the situation the only thing I would add to that the request we are making is consistent with the developers master plan and in fact the master plan would have provided what we are requesting tonight was approved by Flagler County in 2001 and the circumstances described in the document provided by the builder developer of Yacht Harbor
Village that provides the explanation of what leads to what is considered a nuisance to the people who own property on the south end. The proposed porch and deck that we are requesting would not extend beyond the existing patio. It will sit 23 (twenty three) feet back from the bulkhead. I contrast that with the north end of the property where the back lanai can be within 3 (three) foot of the bulkhead. Where they would be in line with the porch and the open deck. We would still be substantially farther back then our neighbors on the north end. I would also share with you we have the support of the Flagler Planning Staff we have the support of the original developer we have the support of the architectural control board they control the front door for all construction in Yacht Harbor Village. They approve all the builders they review all the plans and they supervise all the construction. The property Owners Association supports this proposal. One of the reasons they do and by the way they all live on the north end is because this imposes a fiscal impact in two ways, (A), it impacts the property values and ( B)”, it impacts our operating budget in since we have not had a home built on the south end since 2015 we cannot enjoy the improved lots on the south end that are enjoyed on the north end where some 27 (twenty seven) homes have been built in the last 2 (two) years. Homes are not being built on the south end because of this nuisance and hardship. I am here to answer any questions.

Chairman Boyd, asked if anyone on the Board had any questions?

Mr. Langello, responded this question is for Mr. Mengel, Mr. Jones eluded to something I read in here about the HOA and a previous approval of a design in the PUD to allow this setback and I am assuming that is all correct. So, if we are doing a whole bunch of these but not everyone and this seems a little odd I don’t know if it is a time element that we are going through the variance verses just amending the PUD to allow this as a matter of fact and not a variance.

Mr. Mengel, the declarent had mentioned in his letter the mechanics of this we have talked about this with the applicant and the declarent that this was in the era of when we were doing plat addenda so this is a little different or unique of what we would have if we just more routinely or as we have on this agenda this evening amending a PUD development agreement this would actually require the consent of all the land owners potential lien holders within that development and potentially we grew it larger because the plat addendum included the parcels to the north also it became a much larger group of lots.

Mr. Langello, the numbers you gave were not sequential.

Mr. Mengel, Yes sir,

Mr. Langello, and that is because you couldn’t reach these people

Mr. Mengel, Yes sir,
Mr. Langello, will this cause an issue that we have some that are setback further and some that are forward and will they be able to come if this is granted to get this all straight. I guess you are saying the reason you are not doing the PUD is because all the property owners within this unit would have a say so and it may affect their value and could put this request in jeopardy so I get that if that is the concept. So are you saying you need the permission of the owners to put it in this variance from?

Mr. Mengel, when we first discussed doing it just after our Technical Review Committee meeting we decided we needed written consent from all owners we sent it out giving sufficient time and now with the extension because of the hurricanes I think we close to doubled that time that we had and the ones we listed in the staff report are those who we received a written consent from. There would not be any prohibition on others or those folks coming back in a seeking their own variance. We did want to do this in mass, as many as we could.

Mr. Barr, asked the photograph of the screen lanai is that just a typical?

Mr. Jones, that is a north end house so that is typically what you would see on the north end. You would see the lanai is within 3 (three) feet of the bulkhead.

Mr. Barr, Is that what you intend to build?

Mr. Jones, no sir, on the south end our lots are a little unique that we have a 15 (fifteen) foot buffer and a 8 (eight) foot walkway that abuts the bulkhead. We will be 22 (twenty two) foot back with the porch. It is still a substantial setback.

Mr. Mengel noted Mr. Jones put that in as an example of how the two (2) situations are different the north and the south. The north you have much closer to the bulkhead this is not an unreasonable request that he is trying to put in there and still then have a difference between the north and the south lots you have the extra distance adjoining the marina parcel that you do not have on the north side.

Mr. Barr, asked is this holding up a photo that was part of the applicants submittal?

Mr. Jones responded we would like to build a covered lanai with an open deck on top there will be a deck off the second floor.

Mr. Barr asked there will be a structural deck on the second floor?

Mr. Jones responded open deck.

Mr. Mengel added screened below
These minutes are unofficial until adopted by the Planning and Development Board.
Adopted December 13, 2016

Mr. Mengel, responded yes sir.

Motion to approve made by Ms. Kornel, Seconded by Mr. Duggins
Chairman Boyd called the question, motion carries unanimously

6. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3053 – VARIANCE IN THE R-I (RURAL RESIDENTIAL) DISTRICT;
   request for a two foot rear yard setback variance at 19 Westmayer Place (Lot 23, Seaside Manor
   S/D, MB 5, Page 10, Public Records of Flagler County, Florida); Parcel Number: 26-11-31-5450-
   00000-0230; Owner/Applicant : Linda Brittain.

   No ex-parte communications were disclosed.

   Mr. Mengel presented the staff report noting that this is a home under construction within the
   Seaside manor subdivision. The lots are angled and is challenging when placing a home on the
   property. The zoning and future land use and aerial maps were displayed depicting the subject
   parcel. The variance is for a 2 (two) foot rear yard setback variance for a cantilevered third
   floor. Construction is underway so it is an after the fact variances, it is a cantilevered situation
   that we missed in our staff review and was caught during inspections which does create a
   hardship for the property owner.

   Staff’s recommendation the guidelines of the LDC Section 3.07.03 have been met and
   recommend approval of the 2 (two) yard rear setback variance for the third story cantilevered
   area at 196 Westmayer Place

   I would like to submit the staff report and testimony for the public record as part of the decision
   making.

   Chairman Boyd opened the hearing to public comment seeing none he closed public comments
   and opened it up to Board comments.

   Mr. Langello, pointed out that the way the lots sit the cantilevered is only on a fraction of the back
   and not the entire back of property which is even less intrusive. I am sure staff looked at this does
   the LDC talk about the foundation wall or all the way up the wall? This may not even be a
   variance situation at all. I think this is a minor issue and I can see how staff could miss this we
   don’t affect overhang
Mr. Mengel responded it refers to the furthest projection of the wall of the structure is what we have always considered it so we would omit the overhang unless a PUD specifies some of our PUD’s do specify measuring from a extension or overhang that is allowed but we would take the furthest extent of any living area.

Motion to approve made by Mr. Langello, Seconded by Ms. Kornel
Motion carries unanimously

7. Quasi-judicial requiring disclosure of ex parte communication:
Application #3051 – SPECIAL EXCEPTION FOR GUEST/SERVANT QUARTERS IN THE AC (AGRICULTURE) DISTRICT; request for a Special Exception for Guest/Servant Quarters at 2050 State Road 100 West (Tract 3, Block 15, and Tract 1, Block 16, Section 8, Township 12 South, Range 30 East, St. Johns Development Company’s S/D, MB 1, Page 7, Public Records of Flagler County, Florida); Parcel Number: 08-12-30-5550-00150-0030; Owner/Applicant: Alan K. and Catina D. Russell.

No ex-parte communications were disclosed.

Mr. Mengel presented the staff report providing an aerial future land use and zoning map of the site noting that there were a half dozen structures on the left side of the property that have been removed that can be seen on the aerial. The request is for a guest house a single wide mobile home in the far northwest corner. The purpose of that is to enable the owner of the home that is under construction to remain residing on the property through construction and CO of the new home. There is a provision in the Land Development Code that you have one home per parcel. We have no issue while the home is under construction when you get closer to CO the mobile home would have to be vacated or have the kitchen removed to render it uninhabitable with approval of this guest house application they would be able to retain the mobile home.

Staff’s recommendation is the Planning and Development Board find based on all the testimony and evidence presented the Special Exception guidelines have been met and approve application # 3051 for a Special Exception in the AC zoning district for a Guest/Servants quarters at 2050 State Road 100 West subject to conditions:

1. Special Exception runs with the land

2. All development to be consistent with the submitted siteplan and subject to changes approved by staff based on outstanding agency review comments

Submitting the staff report and along with any question to applicant that you as a basis for your decision.
Chairman Boyd opened the public hearing to public comments seeing none he closed public comments and opened Board comments.

Mr. Langello asked the applicant was interested in doing this on a temporary basis or a permanent situation? And does this mean the kitchen stays in it as well?

Mr. Mengel, responded temporary was the immediate need due to the home being under construction. We have not discussed beyond this but it is their prerogative.

Mr. Langello, asked the approval would allow it to stay there?

Mr. Mengel responded it would. Indefinitely and be replaced.

Mr. Langello asked and the kitchen would stay?

Mr. Mengel responded yes for this approval. We have had a few of these the underlying thinking of staff is the parcel size I did want to make note of that there were other structures mobile homes that were taken off of this property so there could have been an argument made that made for a larger vested right to maybe more dwelling units on this site. I think this consolidates that operation this also prevents that guest quarters to be cut out on its own as a separate unit though that is a possibility based on the parcel size five (5) acres by right in the agriculture zoning district.

Mr. Langello asked this is two separate permits two power permits?

Mr. Mengel responded yes sir it is to the best of my knowledge because of the distance between the two units.

Motion to approve made by Ms. Kornel seconded by Mr. Duggins

Motion approved unanimously

8. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3048 – APPLICATION FOR AMENDMENT TO A SEMI-PUBLIC USE;
   request to amend the Semi-Public Use in the General Commercial (C-2) District for God’s Family Bible Church, Inc., at 256 Old Brick Road (Lot 17, Briarwood Acres S/D, MB 5, Page 75, Public Records of Flagler County, Florida); Parcel Number: 12-12-30-0900-00000-0170; Owner/Applicant: God’s Family Bible Church, Inc.
Mr. Mengel presented the staff report noting this is a request for an amendment to an existing Semi-Public Use. This had come through just a few months ago. It had some clarification that happened after the approval came in. We have this building at 256 Old Brick Road that is going through some permitting processes for us, there was some parking that was approved. There is an operation to the north still going on the adjacent parcel across Old Brick Road adjacent through the roadway connection to the north. Mr. Mengel showed the area map noting the location of the 3,600 sq. ft. metal building. A permit has been submitted to convert that 3,600 sq. ft. building from a storage use to a church sanctuary. That permit has been signed off awaiting this process that we are going through now.

So this is linked very closely to the Semi-Public Use and the site plan so much so that when much to our resistance there has been occupancy that has been occurring within this building, we are aware of it we are monitoring the situation but prior to the permit going through we have had some limited occupancy occurring and we have had a situation where over occupancy has occurred. Even since that time of approval of the original Semi-Public Use so hence the amendment to add some additional parking to create greater single event occupancy. We have talked to the church members and the pastor about having multiple services. Wanting to encourage that to happen so if you do have a large event or you have a large congregation what you do is you work the best within the situation you have you then have multiple services maybe across multiple days in order to accommodate your congregation so we are seeing this as a quick remedy to a problem. It is a good problem to have if you are a church you want to have a congregation that is growing you want to have that ability for extension and for this is probably what everyone wants to have the ability to have that traffic that you need to continue your operations on the north end you still have that construction that is happening. A previously approved Semi-Public Use that will be developed with their Family Life Center along with the permanent parking we think that will kick in you will have twenty parking spaces and one handicapped space to us that is going to create the situation of up to eighty occupants within the building. I want to have a representative from the church I spoke with them and I want to have someone come up and make that statement on the record not only here but also at the Board of County Commissioners Meeting that the church agreed to that 80 (eighty) maximum occupancy condition so that we are clear on all sides. Realizing that certain situations will occur and we know that weddings, funerals those things when you have those events, we are going to be the ones outside going you are at 85 (eighty five), you are at 87 (eighty seven) you have exceeded that we realize that is going to happen on a somewhat temporary basis we do not want it to become the rule we want that to be the exception. So this arrangement we have got in this amendment with these additional parking spaces allows the occupancy to go up to 80 (eighty).

With that I would like to show these details the plans that were submitted you have the additional parking spaces that are shown, all this being amendments to that plan you had previously approved through the earlier application with this. I will conclude my comments and give the
recommendation. This recommendation is identical to the previous recommendation that was provided for the Semi-Public Use with the only exception and you saw it in your revised staff report. So I will only read this part into the record.

1. This amendment to Semi–Public Use should be binding upon the applicant subject to all conditions as included within the applicant’s submittal package including application and site plan and shall limit the occupancy of the 3,600 sq. ft metal building to no more than 80 occupants.

The following additional conditions are identical to what we had previously which are provided within your packet for the earlier Semi-Public Use application. With that I will conclude my report. I would request my report be submitted for the record and along with any answers and questions and certainly the applicant testimony all being the basis for your recommendation to the Board of County Commissioners relating to this amendment to the Semi-Public Use. That would conclude my comments Mr. Chair.

Chairman Boyd asked would the applicant like to make a statement please come forward.

Dennis Bayer, 109 6th Street S. Attorney for the applicant God’s Family Bible Church. We agree and we understand that the occupancy will be limited to 80 (eighty) people the way our goal is right now is to be open by the end of the year we are shooting for a Christmas target date as far as having the Certificate of Occupancy and things of that sort and we will be going to 4 (four) services, 6 (six) o’clock on Saturday, 8(eight) o’clock, 10(ten) o’clock on Sunday morning and a spanish service at 11:30 (eleven thirty) on Sunday morning. So we understand the need to have more than one service and again this is, I don’t know how much we talked last time we were here but we own the property across the street. Where ultimately they will have their large sanctuary there and the only reason they are in the place they are now is because they were occupying as tenants and they were asked to vacate the premises on fairly short notice. So we agree the 80 (eighty) seating. Parking for 80 (eighty) spaces we agree with staff as far as recommendation of approval we would ask you give us a recommendation of approval as well.

Mr. Barr asked Mr. Mengel are they already approved for 60 (sixty).

Mr. Mengel responded we were up to 49 (forty-nine) people with 13 (thirteen) spaces that was 12(twelve) plus one handicapped for a maximum occupancy of 49 (forty-nine) and that was one space for every 4 (four) seats.
Mr. Barr asked is that how you backed into the 80 (eighty) because the building is certainly large enough to handle more.

Mr. Mengel stated for the record: “I would like to mention there are three pieces to this the building occupancy determined by the Fire Marshall, the determination by the Health Department on the limits to the septic tank which is connected to an onsite disposal system for sewage, and our limitations on parking. Those three work together in concert”.

Mr. Barr asked so; if they had unlimited parking what would be the occupancy?

Mr. Mengel responded there would still be some limitations I think of all those Fire was the least restrictive in their regulations there is that potential that one you reach their threshold there is some building configuration you can do differently even have 2 (two) hour separation you can have sprinklers so that can elevate your occupancy even more so. I would say the next one is 85 (eighty-five) I think with the existing septic system, there wasn’t much of a cushion here with the 80 (eighty).

Mr. Langello asked what is the method of monitoring occupancy other than the Fire Marshal walking in and taking a head count.

Mr. Mengel stated that is the typical thing and obviously complaint driven for us but that is the typical reaction.

Chairman Boyd opened the hearing to public comments, hearing none he close public comments and opened Board discussion.

Motion to approve made by Mr. Barr, seconded by Mr. Duggins.

Motion carried unanimously.

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

Application #3049 – APPLICATION FOR REZONING FROM AC (AGRICULTURE) TO PLANNED UNIT DEVELOPMENT (PUD) DISTRICT; request for rezoning from Agriculture (AC) to Planned Unit Development (PUD) located at 10406 State Road 11; Parcel Numbers: 31-13-30-0000-01030-0000, 0010 and 0040; Owners: Richard Daniel Cody, John Walter Cody, Melanie Ruth Bennett, and Kendrick Dewitt Cody; John W. and Linda Cody; and John Cody, respectively; Applicant: Charlie Faulkner, on behalf of John and Linda Cody.

No ex-parte communications were disclosed.
Mr. Mengel presented the staff report noting that this is a rezoning from Agriculture to Planned Unit Development (PUD) providing the aerial, future land use, and zoning maps depicting the proposed site. This site had gone through the a land use change about 2 (two) years ago and this is the next step. The site is approximately 10(ten) acres this is for a PUD for the Pest Control and related uses this will enlarge the existing pre Land Development Code non conforming use. This rezoning is consistent with the Land Use the reasoning for all this is that Mr. Cody was looking for an extension to his office but was unable to do so because the land use would not allow that we had a non conforming land use. This was one of the administrative amendments we brought forward and of that only two of them were eventually approved we had this one and Santore if this is successful we will come forward with Santore’s PUD agreement and site development plan some later time we may use this as the template to move forward. We worked with the applicant throughout the drafting of both of those documents the site development plan and agreement and they are fulfilling the requirements of the policy we are setting out the uses including the ancillary uses to the pest control and not extending beyond that or other commercial use that would be deemed noxious or deemed inconsistent with our parcel specific limited policy.

Staff’s recommendation is to recommend to the Board of County Commissioners approval of application #3049 for the rezoning from AC to PUD the change is consistent with the Comprehensive Plan and the Land Development Code. And further I would like to submit the staff report along with all comments for the record.

Chairman Boyd opened up the public hearing to public comments; hearing none, he closed public comments and opened up Board comments.

Chairman Boyd asked if this is something to grow the business.

Mr. Mengel responded it is a two prong approach even to the degree if we had a building permit that could potentially come in for a reroof or something like that in our Land Development Code in concert with the Building Code it would have required us to do both of these steps so the short answer is it is to eventually grow the business. The immediate need is to increase his office space that is the extent of his present expansion. The other phases if they happen at all will happen in the long term and is for the potential for his business to expand.

Chairman Boyd asked, the long term goal is not any other kind of development just grow his business.

Mr. Mengel responded, yes sir.
Mr. Langello asked is this limiting. Can they put a residence on this property?

Mr. Mengel responded there is a home already there historic kind of family homestead and I understand that it is used occasionally as a residence.

Mr. Langello asked in this particular PUD zoning would this then take away the right to have a residence on this property?

Mr. Mengel responded it is not a specifically listed within the permitted uses and you are correct and while there is a residence on the property we have not included it within the list of uses.

Mr. Langello, do you know if the applicant had intentions for that use continuing.

Mr. Mengel responded you are providing a recommendation but you are correct your recommendation does not include a single family residence. A residential unit on the property is a permitted use.

Mr. Langello asked the cell tower was next to this?

Mr. Mengel responded the cell tower was to the north east about a half a mile.

Mr. Barr asked the driveway access does DOT get involved with driveway access and decel lanes?

Mr. Mengel responded they will in future phases not at this point the addition of the office would not prompt a DOT review. The future phases would also include water management approval and the applicant would have to secure any other agency permits for any future expansion. The office would be deminimus and not require any DOT review or water management review.

Mr. Langello asked if we do recommend approval would you be notifying the applicant of the residence before it goes to the BOCC so it there is a chance to change it to add the residence.

Mr. Mengel responded I believe that it was just overlooked

Motion to approve made by Mr. Langello seconded by Ms. Kornel.

Motion carried unanimously.

10. Quasi-judicial requiring disclosure of ex parte communication:
Application#3037 – APPLICATION FOR REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT; request to amend the PUD Development Agreement for
Harborview Marina PUD; Owner: WGA Investments, LLC and Great Star Investors VIII, LLC; Applicant: Parker Mynchenberg & Assoc., Inc.

No ex-parte communications were disclosed.

Mr. Mengel presented the staff report noting that application #3037, 3038 and 3039 are all related they are amendments to the previously approved Harbor View Marina Planned Unit Development (PUD) I am going to spend some extra time for the people in the gallery here this evening.

I would like to ask that the comments be specific for each application # 3037 is for the PUD Development Agreement #3038 is for the site development plan and #3039 is for the Preliminary Plat. I do realize there may not be a distinction to the public but there is within our processes. We have broken these out separately it is a good way show what is being done with this amendment.

Aerial maps of the area were displayed showing the location of the subject property north of the McKenna yacht basin, north of Roberts Road east of Colbert Lane and adjoining to the east is Palm Coast Plantation a plated development. Also displayed was the Future Land Use, and Zoning maps for reference. The request is to amend the approved PUD agreement for approximately 109,(one hundred nine ) 21(twenty one ) acres to request in a large part and the 2 (two) remaining items the sole purpose is to reconfigure the single family portion of the development and that is the portion to the far west side adjoining Colbert Lane. The part of the agreement deletes several sections of the agreement and I will bring to your attention. There is a portion of the traffic study that I didn’t include here because this is all verbiage within the development agreement. I wanted to make sure I brought these 2 (two) pieces to you the portion of the traffic study language within the Development Agreement committed to participation in fair share program referenced in the Development Agreement to finance offsite transportation improvements Colbert Lane from State Road 100 to Roberts Road and was based on large part a 2006 Traffic Impact Study prepared for Landmar Group by Lassiter Transportation Group it was never fully ratified it was in the heyday of development that was occurring in this area. We had several parties Landmar being the major player that was doing this Harbor View Marina that was part of that so you had these contributions that were provided within that totaling over $500,000.00 towards future improvements to occur but that was never agreed upon we never had all parties come forward the development all went stagnant Landmar went defunct. The parcels Grand Reserve West and Grand Reserve South are being offered for sale. There are annexations happening at least the pressure to do so from Palm Coast. You also have Grand Swamp on the western side of Colbert lane you have a lot of these pieces that have picked up since then and not a lot of conclusion. For the record I wanted to make sure you were aware of it for that and I didn’t bring enough clarity to that within the PowerPoint but I will read it out loud To you which will be more dull. From 2008 we had comments that came back from the applicant because we kept coming around this traffic idea so their assertion their basis for them omitting it from the Development Agreement this time is in large part is that it is not needed. So, we had this evaluation from Traffic Planning Design from April 2008 and I will quote “Traffic study for the Harbor View Marina identified a requirement to improve the intersection of
Colbert Lane and State Road 100 with an additional east bound left turn lane and associated receiving lane the projects total trips of the deficient movement are projected to be 145 vehicles peak hour the total traffic volume of the approach of 514 vehicles at peak hour the project share of traffic of the east bound traffic with a left turn movement at 28 percent. The intersection of Roberts Road and Colbert Lane is not included in the analysis because the project is not expected to add traffic to its minor movements. Traffic from the Harbor View Marina Village will be traveling north and south on Colbert Lane. In the past this proposed intersection will not directly impact the critical minor approaches or turning movements." This from the letter dated April 17, 2008. Along with that there was a signalization plan for the signalization of Colbert Lane and Harbor View Drive an intersection was included within that response to staffs comments at that time. So we had those pieces coming in an attempt to resolve our ongoing questions related to the traffic mitigation. Now fast forward to this time and what we are facing is really not a whole lot of difference of what we had at 2006. We have had some more infill development that has happened. We have had some more plats for development certainly in Palm Coast Plantation but we have had those larger developments as part of that study back in 2006 it just never happened. So here we are we call these ghost trips you have a reservation happen some idea in 2006 you pay to play come forward with your mitigation amount for your off site traffic improvements and you will be able to advance forward on these projects and remember at that time we were always being right at or just below the Development of Regional Impact (DRI) threshold so the idea was that we weren’t getting those regional focused impacts coming in that fashion effectively what we had done was we had gone through and said in lieu of the DRI type analysis we are going to create our own sector plan. We are going to look at this as its own unique situation with this group of developments and have them come in and propose something unique to traffic more than anything else where it has left us now. I would say we really don’t have much of a situation than what we have as real world impacts in 2006. We still have a situation where we have a level of service probably at worst a level of service of “C” on Colbert Lane. We have a 2 (two) lane configuration that can be widened to4 (four) but I don’t see that happening any time soon. The more realistic option to us for consideration is signalization that will happen prior to that from a safety standpoint. You will have those traffic movements as the developments get larger as they do develop then you will have these left turn movements that will be the consideration because you will have stacking happening in places you don’t want it to happen so the is where your signalization will kick in or your 4 (four) laning happens as my prediction as a no traffic guy I will give you that expectation at least on my side. The other deletion we have on note in the agreement is we have the deletion of the conveyance of our parcel the language conveying lot 157 which has happened that obligation has been met for us as it stands now we don’t necessarily want to be part of the PUD or part of the plating so that language was inserted in there. It was forward looking at the time and it said this is being reserved out this going to be conveyed now has been conveyed the intent remains to be developed as the fire station site will likely be necessary for that as the development occurs and get more substantial in this area. You have a fire station on the north end at Palm Coast Parkway a City station site and we have the reserve site on John Anderson that was part of the Ginn
Development on John Anderson some 2(two) to 3(three) miles to the south. So you have some other reserved areas approximate to this that may need some consideration by us before committing to a fire station site here but that language will be deleted specifically from the agreement that is the 2 (two) pieces that we pulled out with recommendation here along with that. What we started with is that this accomplishes the text amendment the document itself reduces the number of lots by 7 (seven) from 161 to 154 single family lots then you have the renumbering then for the multifamily unit count 155 to 159 those multifamily pads for the condominiums that were part of this larger approval that all happened previously and again that part is not being amended. This limited request being the Development Agreement and your recommendation then on this application would advance to the Board of County Commissioners specific to the Development Agreement only.

Staff’s recommendation is approval of application #3037 amendment of the Development Agreement of a PUD for Harbor View Marina consistent with the Comprehensive Plan and the Land Development Code subject to the following condition:

1. Text to be added to the Development Agreement to provide for subsequent traffic studies to be completed prior to site plan approval and or issuance of a land development permit whichever occurs first of any multifamily condominium lot and those numbers 155 to 159 as shown on the plans with any adverse off site traffic impacts to be subject to payment of proportionate fair share contribution.

I may have used some terminology that may be foreign to some folks here. In 2008 we had this discussion at the Board level we have a Proportionate Fair Share Ordinance, it is on the books and at the time the Commission was very cognizant of that and had a discussion with the applicant on that particular point and when that kicks in is when you have a deficiency on your roadway. Like you have those traffic impacts that have been determined there is no other capacity and that is when your proportionate fair share kicks in I will submit to you we are not at that situation. The intent of this language within the comment and I will also defend the applicant here somewhat we have not talked about this and run this through any kind of vetting to see if they are satisfied with it. They are being hit unaware with this comment they know it is out there they tried to reach out to us but we didn’t have enough time with the hurricane and everything else that is going on. So this is hitting them pretty cold but what we want to do with this is ad I am holding to this is that the single family I believe there is sufficient capacity for that and what I understand thatch is what is moving forward here that is the push right now to final plat but this is for subsequent permitting as those condo pads develop and when and if they do they will have to come through individual traffic impact analysis and if there is adverse conditions found that would be address by the
Chairman Boyd asked the board if they had any questions.

Mr. Langello, I remember this application. If I can just set the stage: this property has not been developed. First thing the fair share money that we are talking about does this mean that there is not a traffic impact fee to be paid by the single family resident? Is this in lieu of or addition too?
Mr. Mengel responded I hope I mentioned this and I thought I did in the staff report the transportation impact fee is currently in a moratorium The Commission can reinstate that at any time. I did not intend that to be in lieu of the Proportionate Share contribution to be in lieu of.

Mr. Langello asked that if the traffic impact fee comes back on line is this on lieu of or addition too?

Mr. Mengel responded it is in addition too. This does kick in very specifically and my intent was to track that language that we have within our Proportionality Fair Share Ordinance to the extent I have paraphrased it here where there is a specific where the transportation impact fee is argumentatively broad in scope is based on a rational nexus so the rational nexus test says that there should be some linkage between what you are approving where you are paying the fee and where you can demonstrate some benefit from the usage of that fee by a capacity improvement. The Proportionate Fair Share contribution is specific in that it is related to that specific geographical off site improvement adjoining the property of where the contribution was necessary.

Mr. Langello, asked when you called it a rational nexus I thought it was going to effect the heart of the impact fee was that it was to offset the impact of that development and the monies were spent to improve the situation related to that impact and not somebody else’s impact isn’t this kind of double dipping?

Mr. Mengel responded the impact fee would be broader in its scope.

Mr. Langello stated “the impact fee could be used for other things but in addition to this but if you have an impact you are double dipping on this Fair Share thing, because it could be used specifically for one part of it but that impact fee is for all of it. The idea of the impact fee was supposed to capture this type of an impact and I am just wondering what is tripping this to this Fair Share I don’t want to get into a long discussion but I was just curious. I know you mentioned the moratorium but I didn’t know if you were omitting that part of it. My other comment was that when we did this before you talk about the multifamily

Because of the number of people the site anticipated you had to have two (2) exits and we had to go through Palm Coast Plantation and have a breakdown barrier If I remember anyway we had to make that second entrance If they keep doing the single family and they trip the number of residents they would need for the second exit and are they going to have to develop that road to that second exit which would be part of what you are asking for in the multifamily phase and you are over lapping those two (2) things.
Mr. Mengel, responded the second entrance and that specific requirement you will see us talk about at the time of Preliminary Plat which is one of the remaining two (2) items for project tonight. It was contemplated since 2006 it was discussed in 2008 and as the plat advance there would have to be a waiver specifically approved by the Board of County Commissioners this does have the greater than 50 lots which is the number that requires two (2) points of entry, paved access correction there is two (2) considerations there two (2) access points and the secondary emergency egress. So, what you have happening here is effectively a waiver of that and we will talk about it more when we get to the Preliminary Plat I don’t see that as something necessarily related to the traffic to the transportation side of the house.

Mr. Langello asked so do you have to develop the road paving into second site development to achieve that is not going to trip this Fair Share part because they are trying to use the other part.

Mr. Mengel, responded what you actually have you do have that secondary egress you have Harbor View Drive and Heron Drive Riverwalk Drive and if I am remembering correctly in the Palm Coast Plantation approval there was some unmanned gates provided I will let the applicant speak more directly about the parties to cross those. It is my understanding with this development advancing there will be a waiver needed but ultimately emergency egress will be provided out through Palm Coast Plantation in order to reach that second access point further to the north on Colbert Lane so there is a secondary egress provided it can either be provided if Harbor View Drive and Colbert Lane intersection is blocked for whatever reason folks can egress here through Heron Drive or Riverwalk Drive.

Mr. Langello, asked that wont trip the Fair Share thing.

Mr. Mengel responded, no sir.

Chairman Boyd opened the public hearing to public comments.

Ms. Edith Ferrena, 282 South Riverwalk Drive, Palm Coast, which is about 100 feet from the two (2) eastern most proposed condo towers. When I bought my house back in 2011 I could never have imagined 95 foot tall buildings behind my house. In fact my real estate listing described the area behind my property as a preserve as did the listing of my neighbors. I am here today because I am putting my faith in my local government to uphold and enforce the laws of the Municipal Codes and the Comprehensive Plan of Flagler County. Flagler County Comprehensive Plan objective 13.3 states “New development is compatible with the design and environmental character of the area in which it is located.” Multistory towers clearly are incompatible with the design which the
area is located. In fact Palm Coast Plantation slogan is “Living in harmony with nature” it is not living in harmony with 95 foot tall condominium towers. In fact there is only one other building this tall in the entire county that is the Aliki. Municipal Code 3.04.02 F(2) states “the proposed PUD will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood. 95 foot tower directly behind our home would certainly be detrimental for so many reasons; first of all we would have a loss of privacy in fact one of the reasons I bought my house was when I walked in I saw the beautiful family room with a fourteen (14) foot ceiling and a lovely transom window right up on the top with a beautiful view that view will be no more if phase II is implemented with these condominium towers. In addition the Harbor View community pool will be right behind my house that will likely create noise problems the parking garage will emit fumes and will there will certainly be noise a parking lot, car alarms etcetera 95 foot towers leaning over our home will most certainly lower our property values. Homes are usually are biggest investment there are a lot of people whom have invested within a couple hundred feet of what is being proposed. It is wrong to negatively impact our nest egg such as this unnecessarily. I know some people are saying this has already been approved but Municipal Code 3.04.02.H (2) deals with the expiration of a PUD and it says “The applicant must begin and substantially complete of the Planned Unit within 2 (two) years of the time of final approval: this PUD was not substantially developed and complete within 2 (two) years according to our law this PUD should have expired in 2008. I hope you will give this matter careful consideration it affects the quality of life for many residents who already own homes in the area. Thank You.

Ms. Gail Cornis, 286 South Riverwalk, Palm Coast, I am actually 2 (two) lots away from the lady that just spoke and if time permits I would like to show you a picture or two (included with these minutes as part of the official record). My husband and I are concerned about the 2 (two)90 foot towers directly behind our house. In fact if you would take our lot and flip it over you would be hitting the footprint of one of the towers that is how close it is. The impact is really harmful not just to us but the owners of lots 67-72 I know that there are only 6 (six) lots directly impacted and we are really impacted. My husband and I purchased our lot 69, in 2009 and built our home in 201, the total value of our home is $420,000 my husband and I are retired civil servants it is not like we are wealthy people this was our retirement home we wanted to live in peace in this community. We knew nothing about the Harbor View PUD until 2014 when the gotoby.com article came out. We will be directly and adversely affected by the planned location of these two condo towers so close to our property line these are the ways we feel we will be impacted, #1. lack of privacy and I have a picture to show that as our home is a courtyard home anyone in the units facing east will
have a direct view into our courtyard, and depending how high the unit is perhaps a direct view into our living room. #2 Noise, noise from the balcony noise from the pool noise from the parking garage car emissions there is so many cars in such a close proximity to our house we are concerned about air quality. My husband has COPD (chronic obstructive pulmonary disease) as a result of military combat service. Sadly we will not see the afternoon sun those towers behind the house will totally block out the sun I am estimating probably about one o’clock in the afternoon and it is all due to the fact the condos are abutting each other like the Great Wall of China.#3 Security risks we are concerned about condos are often rented out we anticipate an influx of transients at very least trying to actively get into the Palm Coast Plantation property and the worst maybe our house both are quality of life issues. Finally what concerns us the most is the loss of property value if the towers are built and we decide to sell we believe the value of our house will be severely degraded creating a financial hardship which may carryover to other homes in the area. As I said earlier we had no knowledge of this development prior to 2014 and we are not alone in that others in our immediate vicinity also didn’t and I would just like to bring up a point of interest that says In a earlier staff report from the Planning & Zoning Department from June 2006 said “the justification of 110 foot building next to existing single family lots is not an example of superior design it can be argued that the purchasers of the individual lots within Harbor View know or should know of the design they are buying into but the same cannot be said for the purchasers within Palm Coast Plantation Unit . So back in 2006 they knew that people like me and my husband were going to have this problem. We believe that the proposed PUD may not adversely the entire Palm Coast Plantation community it will directly affect the residents in unit 4 and it will be detrimental to the use of our properties and our neighborhood we will be severely affected in terms of quality of life and financial hardships. If I may I would like to show you what our view is now and what it will be If I could just describe it our home is built around the pool there is an eight (8) foot wall on this side with the screen enclosure over the top and the back of the house is the bedroom the living room and the dining room it is all open there with the screened in lanai behind it. We don’t have much in property behind the house structure itself it is only about 20 feet so the house is 100 feet long so what is behind it is trees there are cypress trees probably 50 feet tall something like that so part of it arguably could be our view would be obstructed as far as the trees but beyond the trees there is that Great Wall of China. It is extremely upsetting for us I understand the PUD has been approved but like the lady before me I would like to prevail on your I don’t know your sensibilities sense of fairness and we are the little guys doe if you have any questions I would be happy to answer them.
Ms. Stephanie Contrada, 166 Heron Drive, in Palm Coast Plantation, and it is on the south end of Heron Drive, I would not be directly affected but I am close enough. My husband and I bought the property in 2004 for our retirement home we had a house built in 2006 and the reason we built it was the beautiful surrounding area the park across the street the lake behind our home the conservation area the natural beauty and just the whole area it is just beautiful. Now we are talking about these proposed condominiums that are practically in our view it is completely out of character with the whole area there is nothing like that along Heron or in the development that is going to be anything like that and even in Grand Haven it’s going to severely affect our property values. To be honest I would just want to sell my house tomorrow if these condominiums go up it is just not my idea of why I bought this beautiful home and like I said it was our forever home. I am not a public speaker I am just horrified that 90 foot condominiums are going to be there that don’t belong there they are completely out of character with the whole area. I am really unhappy and I would never do it again if I know this was going to happen. Thank You for your consideration.

Mr. Jim Ludwig 210 Heron Drive Palm Coast I am directly across from Harbor View Drive across from another set of the condos proposed. There is nothing much I can say the ladies have not already said I hold the very same feeling they do a 7 (seven) 8 (eight) story condominium is completely out of place. When we were searching for our house in 2013 we searched all over Palm Coast and came upon Palm Coast Plantation and found that was exactly where we wanted to be all the houses are single level even our Community Center is a single level sorry most of the houses are single level there are some two story homes, but the is no giant high rises or anything else That is what we set out for the quality of life and for us and our kids and certainly never anticipated there would be a 7(seven) 8 (eight) story building would end up in that place. There is only one other building in Flagler County even that tall and that is over by the beach where you have other commercial buildings. So I hope you would take that into consideration. As previously stated the Plat has long been expired So yes I understand it was proposed planned 10 (ten) years ago that has long since expired We are just looking for similar buildings none of us would be against single family homes or single family housing development it is the big towers all of us are concerned about. We are also concerned about our financial well being as well we all have mortgages or at least most of us have mortgages should we decide to move we would need to pay those as well. Thank You.

Chairman Boyd closed the public comments and opened up Board comments.

Mr. Barr, asked Mr. Mengel to clarify the status of and the Continuity of the PUD.
Mr. Mengel responded you do have the time line provided in the packet I didn’t want to go and read it to you all but. You did have a mix of land uses on here and this did have some industrial on it I think that was the basis for in a large part for the density that was assigned to this you can see also in that application from September of 2004 it would have allowed the maximum density of 10 (ten) units per gross acre or at least in the portion that was intended to have some residential development that was assigned to this it The Planning Board from that history has recommended denial the applicant had amended their application then remembering then in some former industrial site as the justification as I remember reading it they reduced it down from the maximum 10 (ten) units per gross acre to a maximum of 7 (seven) units per gross acre you have a transmittal that happens I think a year later of that Land Use Amendment which is not uncommon on how our process have progressed and by December of 2005 the Land Use Amendment goes through June 2006 you have the rezoning from Industrial to Planned Unit Development subject to the conditions that were specific to this proposal July 2006 the PUD comes into effect Ordinance 2006-20 recorded in the public records and then August 2006 very close to my first meeting with the county. Ernie Caldwell on behalf of this developer and a presentation he had made to the Commission at the time regarding the gopher tortoises and there would not be an incidental take permit even though I think one had been issued as they were perusing that our goal was to save the tortoises. February 2008 PUD site development plan advance again some gaps with this 2008 BOCC approval of the Harbor View Marina Site Development Plan and PUD and Preliminary Plat. So, at this point you have all those pieces together where we had a subsequent land development permit that was issued in 2008 permits from other agencies that came into play you had the water Management District, Army Corps of Engineers and others I am not recalling at this point and those permits remained in effect to the extent that a new development was underway they had some compliance issues with the Corp of Engineers not the fault of the developer but because the County had not adopted its Manatee Protection Plan as the state and come back wanting us to do so and that translated that heavy hand of injustice In my opinion the Army Corps of Engineers that it was the biggest secret that was kept by them that they revoke the permits without a lot of notice to those permit holders so it was a surprise to this developer when they then commenced work and the Corps had in fact revoked their permit. We are just settling those issues as our Manatee Protection Plan is now in effect and we are moving forward with those projects and those permits coming back on line so with this the Land Development Permit has no expiration and we do have some projects and this is certainly one of those that has a longer progression than others certainly because the substantial economic downturn movement probably the largest push on all of these similar projects others that are similarly situated. To state this one more time the comments that you have heard I would certainly encourage those speakers maybe not directly to
each of them but make those comments that they have because this the avenue to make those comments this is appropriate time, venue this and the Board of County Commissioners this is their chance to state their feelings on this but at the same time though I am realistic and certainly empathetic to the situation but they are not alone. I now have had 3 (three) projects that have come back from this era who then had a group of owners who were not present when that original development came through and now are conveying to our bodies that we were caught unaware. So we have these rights this bundle of sticks that planners talk about the entitlements that have been conveyed to the developer. More so you have permits that have been issued if we do nothing today. They can proceed with the development as approved at this point there will be no affect to the condos. The problem for the developer then is how to make the canal system work and not build the dry Stackhouse that is proposed those are the substantial changes seen with this. Let’s look forward on these 3 (three) applications and assume none are approved our land development permit remains still in effect and they can proceed with the development as it was approved in 2006 and land development permit issued in 2008. That is the bad side to this and our goal in land use decisions, land use deliberations of this type certainly puts you in the position though it is not unique for you to balance those issues I certainly think this venue is appropriate for those folk that have been provided notice to state their concerns on the record and to have those known and for us to move on from there to every extent that is appropriate and your consideration as a recommending body to the BOCC for these 3 (three) items.

Mr. Langello asked Mr. Mengel this Riverwalk and Heron Drive are they Palm Coast or Flagler County?

Mr. Mengel responded, that is Flagler County

Mr. Langello, stated so this is all was all zoning in Flagler County and I do remember the Heron Drive issue and that was there was Riverwalk Drive there in 2008

Mr. Mengel responded yes it was.

Mr. Langello asked these lots that some of the people here talked about. I don’t remember anything about Riverwalk Drive. That had existed then and at the time they were undeveloped but the developer of those lots had the chance to come into the Planning Board that is why I say I don’t remember any comments coming in back in that era.

Mr. Mengel responded the other part I think is important to mention is there is commonality between the developments there was and I will let the applicant talk about this if not now the next
FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, November 8, 2016 at 6:00 PM

Adopted December 13, 2016

application at least common partners some common that is why you see the roads are connected
these were not 2 (two) disjointed projects these were interconnected so there was this idea to have
this single family within this component a multifamily within other component this site clearly
more intensely impacted than the Palm Coast Plantation portion remember we had the history here
it was all part of that Lehigh cement operation had that industrial characteristic for years and that is
the justification I think it is pretty clear in the record when you look back.

Mr. Langello the comment about the property value and someone spoke about the Aliki and the
other one down in Flagler Beach has anyone ever looked at the values of the land immediately
surrounding.

Mr. Mengel responded no I have not. In the quasi-judicial hearing point that we are at if there was
evidence presented professional testimony to would have had to be provided subject to cross
examination there has been a opinion that has been asserted and for what it is face value I am not
aware of anything any adjustment from the property appraiser provides for single family lots that
adjoin those 2 (two) developments

Mr. Barr asked I have a question about the intersection of Colbert Lane. Is there a dedicated
southbound left turn lane into the project and a northbound right turn decel lane as well?

Mr. Parker Mynchenburg responded yes

Mr. Langello asked Mr. Mengel as a recommending body here your comment was well placed you
said that if we did nothing these could go forward anyway

Mr. Mengel responded yes

Mr. Langello stated “this is a time they are asking for something they are reducing the number of
units by 7(seven) but there was a change in the height of the building ?

Mr. Mengel responded no sir if you look specific to this item the Development Agreement you
have that redline strikethrough version it shows up on page 4 (four) it has maximum building
height both the A- single family 45 (forty five) feet and B-multifamily net 80 (eighty) feet
maximum building height 95 (ninety five) feet seven residential stories over residential parking
both have stayed consistent since the 2006 approval and the only addition that is made as part of
this request is a subpart C-stackhouse at 70 (seventy) feet.
Mr. Langello asked so there wasn’t any thought to any reconsideration of the heights and the
proximity for the lot.

Mr. Mengel responded we had not provided any comment on that.

Chairman Boyd hearing no more board comments entertained a motion from the board.

Mr. Jim Ludwig 210 Heron Drive Palm Coast You were talking about the property value whether
or not if it had an impact just put yourself in the shoes of any buyer if you went to look at one
house that is X dollars and behind it you have nothing but a beautiful wooded area very private
natural preserve. Then behind another house you are looking at for the same price there is a large
tower lots of traffic lots of noise which house are you going to buy there is no question and
everybody on the is room would buy the one on the preserve. So there is no doubt that it is going
to impact values. I don’t have documentation for that but just naturally think about it.

Mr. Langello addressing the public this is a recommendation to the Board the elected officials and
if some of my comments gave you some information to bolster your argument and I think you gave
a good presentation.

Chairman Boyd again entertained a motion from the board Hearing no motion asking Ms. Stangle
for guidance. Do we need to have a motion one way or another?

Ms. Stangle responded the rules do not contemplate this. This would be a first

Mr. Langello stated “one of my problems is based on what I heard from the audience I was
oblivious to the fact of that subdivision I don’t remember it from back in the day either. I am
probably looking at this from one angle and I am hearing another angel and I don’t have enough
information and I think that they can proceed without anything tonight should give the people in
the audience some pause there was no victory one way or another. However I don’t know if the
applicant is in a big rush and I would like to know if you guys are trying to push this thing through
right away or on a time line.

Mr. Jim Morris attorney for the applicant I want to respond to your question but I also want to give
you some additional information because I didn’t get backup we intend to move forward and we
are trying to do that as promptly as we can. So from the perspective you find yourselves in as a
Quasi Judicial Board it seems to me there is evidence to support a recommendation in support of
staff or there is not and the staff recommendation is competent substantial evidence and you don’t
have anything to repute that what you have is lay opinion in relation to what some people think as
a comparison value next to a preserve or something like on that in that order. When we talk about
property rights it is always a two-way street. My client has vested rights and development rights
that has been there since 2006 the approval has been there since 2006 and it was previously
explained to the board it was previously industrial property. And out of curiosity I wondered how
Lehigh canal got created in the first place and I talked to some people that have been here for a
long time apparently it was dug in the 1940’s and once upon a time that plant worked 24 hours a
day making cement pilings that is why you have what you have out there. What you have now is
the evolution from that time period. If you look only to the east towards the 4 (four) or 5 (five) lots
you heard from It is easy to come from one perspective but if you back up further and look at what
Mr. Mengel pointed out to you earlier which is a large industrial piece of property. The conversion
of that to residential activity is part of Palm Coast Plantation, you also have to look to the south
and to the southwest immediately to the south you have Sea Ray it is not going anywhere as far as
I can tell and kind of behind Sea Ray to the southwest you have a much more intensive
development owned by Jim Cullis and his group. What we have before you tonight I want to use a
couple of exhibits and a power point This is the 2006 development plan and we have an orange
line showing where the changes are being made nothing in here is changing. The characterization
of if we build this development which is before you tonight. What is before you is the stackhouse
which is roughly which is opposite of Sea Ray a new lot configuration and the absence of the canal
system and a lift that was going to bring boats down to a lock to go out so what we are doing we
are changing the approach to an approach which recognizes the way development happens today
and wants the people who buys these lots to have space in the stackhouse you got that as well as
you have wet slips here for sale. Nothing over here by the condominiums is proposed to be
changed. if we take the hypothetical and nothing happens and the County Commission says we are
not doing anything nothing changes to the condominium project. What you get a development
pattern that may not be as acceptable as I today’s market as when it was originally proposed for the
single family homes. I understand the point of view of the neighboring homeowners and they gave
the dates that they purchased their properties after the 2006 approval of this development. This
development agreement has not expired it is not out of date it can be acted on today even though
the arguments are emotional and persuasive but more appealing from an emotional perspective as
the quasi-judicial component by basing a decision from the evidence they have not won their case
the staff report has a persuasive point in this it isn’t an expired agreement and I respectfully think
you should make a decision one way or the other whatever the sentiment of the Board is but as you
take your position and look at the evidence to determine what side will prevail then I think you
have to make an recommendation for approval. I cannot tell you what to do you are the fact finders
you are the judges I can’t tell the judge what to do. I will answer any question if you have any.

Thank you.

Chairman Boyd again asks for a motion

Mr. Barr asked since there was additional evidence presented can we reopen discussion?

Chairman Boyd responded yes

Mr. Barr asked the 2006 exhibit and approval was that done by the original developers of Palm Coast Plantation. So Palm Coast Plantation sold the lots to the folks on the east side was also the developer of this property that planned that multistory condominium.

Mr. Morris responded they had developed this plan before selling the lots to the people you heard earlier tonight and those people who bought those lots bought with constructive notice of what the plan was but if they had actual notice I can’t tell you what their real estate agents told them we have all heard stories like that throughout our lifetime. The point is in 2006 the development plan was there and it was able to be identified at that time the Commission has been aware of it and approved as it was explained in the chronology presented by Mr. Mengel.

Mr. Langello asked having sat on this Board during that application don’t recall the back lots. Do we have any separation requirements and of the developer can you move the buildings further to the west you have some grassy area there?

Mr. Morris, responded that is conservation area

Mr. Langello so there is no easy movement of the buildings

Mr. Morris responded yes sir. Let me tell you have an east west access a straight line you know we have come into the winter months you know how much the angle of the sun has changed it is not a straight shadow line.

Mr. Langello just trying to have a little gave and take but there is no easy solution

Mr. Morris responded and from the perspective of give and take and I don’t mean this in a smart way this isn’t even on the table this is what has been approved.

Mr. Langello responded it can be to the table if we wanted it to be meaning you the Board or whatever.
Mr. Morris responded yes sir

Mr. Langello asked Mr. Chairman is it the hope tonight is that we come up with a solution or do you want to table it. I understand where the property rights are I don’t know if there was any further information that they needed.

Chairman Boyd, stated I don’t think there is any more information that would bear on the subject. But I would say making a motion would move this particular item along If a got a second or if it didn’t get a second if it got approved or not approved but the motion would move the item along. I would like to entertain a motion

Motion to approve made by Mr. Barr seconded by Ms. Kornel

Ms. Kornel stated the application essentially we are not changing what was previously approved as far as the towers go. The application before us tonight deletes the conveyance of the property to the County for the fire house its already done deleted the section on the Fair Share Program for the transportation that is essentially what I see the changes are and it’s been approved repeatedly as we have gone through the process My questions have been answered.

Mr. Duggins stated he sat through most of the meetings ten years ago I didn’t like the project then I like it better now with the part they are proposing on the single family part I thought it was stupid to do a canal lake and lift system. This is now gone I don’t like the condo part of it I didn’t like it back then and I don’t like it now I wondered what would happen to the lots on Riverwalk they were just starting to sell lots out there and they thought it would all be built by 2008 economics stopped that. What we are looking at tonight is a far better project at least on this little part of it of what was proposed. Mr. Mengel because of the downturn in the economy did the legislature passed a rule that all these developers kicked their projects down the road even if they had a sunset am I right in my thinking?

Mr. Mengel responded there were more extensions that were aimed toward natural disaster declarations from the Governor. There were 5 or 6 legislative extension of development expirations and the developer tool advantage of at least 3 of them.

Mr. Duggins reiterated what we are looking at is only the single family section not the condominiums.

Chairman Boyd state I have a motion and a second I will call the question all
11. **Quasi-judicial requiring disclosure of ex parte communication:**

   Application #3038 – APPLICATION FOR REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT; request to amend PUD Site Development Plan for Harborview Marina PUD; Owner: WGA Investments, LLC and Great Star Investors VIII, LLC; Applicant: Parker Mynchenberg & Assoc., Inc.

   No ex-parte communications were disclosed.

   Mr. Mengel presented the staff report noting that this is the Site Development Plan of the three applications. He again showed the aerial, zoning and future land use map reiteration that what this application is doing is only reconfiguring the single family lots and then showing the old plan and the proposed plan. Describing the breakdown of the overall development 23.4 percent is single family lot area 11 percent is roadway tract 21.5 percent is conservation and 15.8 percent is multifamily and 3.2 percent is commercial additional information is within the staff report.

   Staff recommendation application# 3038 a amendment to the Site Development Plan for Harbor View Marina provided findings that the development is consistent with the Comprehensive Plan and the Land Development Code. I would like to submit the staff report along with my testimony and the testimony of the applicant for the record.

   Mr. Jim Morris for the applicant, I would like to incorporate Mr. Mengel’s findings and conclude this is a code compliant application meeting the standards of Flagler County and incorporating them by reference and stand on his expertise and testimony to the Board.

   Chairman Boyd opened the public hearing to public comments.

   MS. Edit Ferrena, 282 South Riverwalk Dr, “one little piece of the time line missing from earlier this evening is back in 2014 when I read about this PUD on GOTOBY.com, I met about 30 (thirty) of my neighbors with Mr. Mengel and Ms. Sally Sherman here at the County offices. At that meeting all of my neighbors shared our shock and dismay about this PUD. I brought it up to Mr. Mengel then that according to our municipal code as I mentioned before what I can understand that this PUD expired but Mr. Mengel and Ms. Sherman did not have that interpretation of the municipal code 3.04.02.H (2) which says that it must be substantially complete within 2 (two) years and I do understand that there have been some extensions granted by the state. But Mr. Mengel stated that the only way you can ever address this is or have this changed is if there is substantial changes in the PUD. That does not mean of the developer wants to make the condominiums a lower height that is not a substantial change but the PUD would have to be reapplied for if there were substantial changes. Well now that there is no canal system and no lift to take the boats over into the Lehigh
Cut and now there is a boat stack and the number of condominiums has changed and all that I would consider that a substantial change so I am not a lawyer but I would think this whole thing has to be re-approved. One more thing as far as the single family goes there is not a bigger proponent than me to have that developed because every day I have to drive by this terrible eyesore I don’t know if you have been over there but they dug that marina with their expired Army Corps of Engineers permit and it is a horrible mess Cline Construction had hulking rusting machinery all over that place there has been vandalism. I have calls from my neighbors about have I seen anything some kid is being accused of vandalizing a Cline crane it is a total mess and it has been that way for years there is supposed to be a silt fence that is down not to mention the gopher tortoises that were murdered but I want to see it beautified because it is really horrible so as far as the single family goes let’s get going on that. My interpretation is that this whole PUD needs to be re-approved number one it is expired and number two there have been substantial changes.”

Chairman Boyd asked for any other public comments seeing none her opened the hearing to Board comments.

Mr. Langello asked to have either Mr. Mengel or Mr. Morris address the substantial change that she was told.

Mr. Mengel responded I don’t remember saying that but there are provisions within our Land Development Code that talk about minor and major site plan amendments minor are administrative These are criteria that we would be allowed to approve a site development plan without bringing it to a Public Hearing, the same or greater amount of open space the same or fewer number of parking spaces the same or fewer number of dwelling units. That is the narrow focus we have and arguably without the stackhouse we would be looking at this administratively. As to the 2 (two) year expiration I am charged with interpreting the Land Development Code and we have developments that have had specific expiration dates these development within the heyday of our development processes when we were processing with the number we had coming in and with the pace that we had and in 2014 and any other time I my tenure I have shared this our dynamic at the time was we would not have thought 10-12-14 years later to even put an expiration date you would have been laughed out of the room if you put an expiration date on a PUD at the because it would have been how fast can I put a shovel in the dirt how quick can I get this going. At that time with that range a half dozen applications or more coming forward similar to this one coming to this Board and the Board of County Commissioners we never contemplated expiration. Certainly that language is in Our Land Development Code I am not going to say it isn’t we have intentionally at that time not provided an expiration and it is my opinion supported by a legal opinion that Ms. Ferrena is aware we discussed this we have documents we have supporting documents from the County Attorney to support this opinion I have provided that says that this and other similarly situated effectively have no expiration and as I mentioned in the time line of public hearings this has been vetted through multiple levels of reviews and Board of County Commissioners approvals that
came along with this all that leading to a land development permit and if I can put you back into that developers perspective that they mentioned. A developer with a permit in hand has those tools to come in and start the vertical development. I submit to you and the time frame will not be disputed here and what we have talked about here 2006 to 2008 2006 PUD approval, 2008 Site Plan approval and Preliminary Plat, enabling a developer to put a shovel in the ground followed in quick succession by the issuance of land development permit I would submit we all those things in line that shows that this was an active development as of 2008. Our land development permits do not expire we have an expiration date of 2109 I think it is put into our systems because we know these process take time should we address this in hindsight maybe we should but the developer had progressed as they had appropriately done so and within the time frames that the Land Development Code establishes for them to do what they are supposed to do in terms of zoning and land use so that then led to a land development permit being issued within that 2(two) year time frame I would say everything was met on this one and I will still hold to that opinion and still support it. I believe this is an active development permit that is out there for this development to commence as it has been previously approved now seeking that amendment for a portion of it and continue that development.

Mr. Langello asks so this application would help further help the single family portion of this development.

Mr. Mengel responded yes it will

Chairman Boyd asked if there were any more Board comments hearing none he asked for a motion.

**Motion to approve by Ms. Kornel and seconded by Mr. Duggins**

**Motion carried unanimously**

**12. Quasi-judicial requiring disclosure of ex parte communication:**

**Application #3039 – APPLICATION FOR REVIEW – PRELIMINARY PLAT;** Preliminary Plat for Harborview Marina PUD; Owner: WGA Investments, LLC and Great Star Investors VIII, LLC; Applicant: Parker Mynchenberg & Assoc., Inc.

No ex-parte communications were disclosed.

Mr. Mengel presented the staff report nothing that this is the final of the series of three amendments and with your recommendation all three of these will be advanced to the Board of County Commissioners to the next available meeting where public notice be provided. This follows in line with the PUD Site Plan the development plan has a decrease in the single family lot count from 161 to 154 lot the renumbering of the multifamily lots due to that the elimination of the canal system in the single family portion of the development and adding in the dry boat
storage of building within the common area. All other portions of the preliminary plat remain as previously approved. In our processes this advances as preliminary plat and as you can imagine in our 2008 approval this along with it has the construction plans and we have posted them on line and that provides the foreshadowing of the land development permit. One the preliminary plat is approved by the Board of County Commissioners the developer can commence with that particular step and consistent with the construction plans that are effectively being amended here with this amended preliminary plat. Singular to that single family portion of this now we have the Development Agreement Site Development Plan and the Preliminary Plat all being consistent with the single family portion of the development and have the construction plans go along with it.

Staff’s recommendation is approval of application # 3039 amendment to the Preliminary Plat for the Harbor View PUD the plan is consistent with the Comprehensive Plan and the Land Development Code subject to the following conditions:

1. All development to be completed consistent with approved construction plans.
2. Final plat approval subject to Board waiver for 2(two) points of ingress/egress to a paved County road system requirement. 4.06.02.A (4)

Mr. Jim Morris for the applicant I would incorporate Mr. Mengel’s comments into the record. In regard to the discussion about access we have 2 (two) connection points to get to the primary road that goes to Colbert Lane. He went on to add additional traffic management information for the record.

Chairman Boyd opened up the public hearing to public comments seeing no one he closed public comments and opened Board comments.

Motion to approve made by Ms. Kornel seconded by Mr. Langello.

Motion carried unanimously.

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

Application #3046 – APPLICATION FOR REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – PUD SITE DEVELOPMENT PLAN; request to amend the Hunter’s Ridge Temporary RV Storage Planned Unit Development (PUD) (Ordinance No. 2010-07). Parcel Number: 22-14-31-0000-01010-0110; Owner: U.S. Capital Alliance, LLC; Applicant: Kimberly A. Buck, P.E., Alann Engineering Group, Inc.

Chairman Boyd asked if anyone had any disclosures to report for this item. None reported.
Mr. Mengel presented the staff report noting that this is an amendment to the Hunters Ridge Planned Unit development (PUD) for RV Storage. Maps were shown of the location of not only the PUD but the proposed area for the RV storage. The parcel consists of 10.41 acres the request to amend the site development plan from originally fourteen (14) RV storage spaces to nine (9) depicted on the current plan. This item and the item following had come before Board of County Commissioners Meeting (BOCC) where it was discussed to grant a two (2) year extension on these PUDs. We had taken forward even before this application was forwarded to you. So you will see we have added that into the conditions. So the temporary nature of this unless the time is extended by the Board would expire in 2018 and it would have some previsions for extension if needed.

Staff’s recommendation to the Planning and Development Board is to recommend approval to the Board of County Commissioners application #3046 an amendment to the Hunters Ridge site plan for RV storage PUD finding the change is consistent with the Comprehensive Plan, Land Development Code subject to the following conditions prior to development on this site:

1. This PUD will expire on September 8, 2018 unless an extension is approved by the BOCC.
2. Final Site Plan approval not to occur until or in conjunction with the dedication of Airport Road
3. Issuance of a stormwater management permit or letter of exemption from St. Johns River Management District.

Mr. Mengel concluded his presentation, submitting his report and testimony for the record.

Kimberly Buck P.E., Alann Engineering 880 Airport Rd. Ormond Beach, representing the applicant Hunters Ridge. Mr. Mengel did an excellent job and I am here to amend the PUD to provide temporary RV storage over the next few years. This site is slated for storage and would probably be some outdoor and indoor either controlled or mini warehouse storage in the future so it gives us time to do an amended application but in the meantime offer a place for our residents. R.V.’s

Chairman Boys asked if there were any public comments seeing none he closed the public comments and opened up to Board comments.

Mr. Barr, asked what is the Airport Road connectivity to this project

Mr. Mengel, responded, Airport Road is constructed on its west side passed the roundabout that connects to state road 40 there is utilization of the roadway it is open but it has not yet been platted the plat had been approved but not completely executed and recorded in the public records. During the September BOCC meeting during this item a representative of another development within Hunters Ridge and related to Airport Roads platting specifically requested that these items be tied together. When you look
at it there isn't that linkage we do understand, this being a request along with the next one from the
Master Developer more would complete an obligation that had been agreed to in the past but has yet to
be fully executed and so the other representative had requested that the BOC COMMITTEE place that condition. We
do not see that as an issue and everything is moving forward within Hunters Ridge. We have had
discussions with the Master Developer an overview of the issues some have been hanging out there for a
number of years and we think it is great step and the language included in this condition will not create
any difficulties to anyone.

Mr. Barr, asked it not being dedicated up until this point is there anything that we don’t know about?

Mr. Mengel responded no and it is probably good it happened this way. There were legal description
issues that were not consistent, ultimately there is going to be a change in the dedication for the
maintenance of Airport Road. We have had a mix of assumptions of maintenance of the Right of Way (ROW) so we have a couple of things to be ironed out. There also needs to be a Master HOA for Hunters Ridge itself. There is an existing CDD and potentially a second CDD that will be in play for the
maintenance of public ROW, common areas so in the end it is good. There has been some pushback from
the Master Developer for this representative and that particular development but I think we are all
moving in lockstep. We will get there.

Chairman Boyd asked for anymore comments hearing none. He asked for a motion from the Board.

Motion to approve made by Mr. Langello and seconded by Ms. Kornel.

Motion carried unanimously.

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

Application #3047 – APPLICATION FOR REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – PUD SITE DEVELOPMENT PLAN; request to amend the Hunter’s Ridge Office Park – Phase I Planned Unit Development (PUD) (Ordinance No. 2010-09). Parcel Number: 22-14-31-0000-01010-0120; Owner: U.S. Capital HR, LLC; Applicant: Kimberly A. Buck, P.E., Alann Engineering Group, Inc.

Chairman Boyd asked if anyone had any disclosures to report for this item. None reported.

Mr. Mengel presented the staff report noting this is an amendment to a Planned Unit Development (PUD) site development plan specific to the Hunters Ridge Office Park Phase I development. It is located on the southwest corner of the intersection of Airport Road and Hunters Ridge Blvd. at the southwest quadrant of the roundabout. Maps and photos were displayed, showing the area to the south, Huntington Woods Phase I a recorded plat and to the southeast across from Hunters Ridge Blvd you have Huntington Villas coming forward for final plating at least phase I as you can see construction
will happen very soon he went on showing the extension of Airport Road where it is finished but has not received its final plat recording as noted in the previous item.

This particular the site is 8.33 acres in size and it is limited to a temporary sales office. This also has a 2018 expiration date and the developer will be able to ask for an extension if needed. This Office PUD is to run the road from Hunters Ridge Blvd to Airport Rd. It will have an office park within that corner so you would have this connector road through this overall development that may happen in quick succession. The temporary Office will be accessible to the public it will not just be a construction trailer it will also be a sales office. There is a handicapped parking space and ramp for accessibility. It is a modular building and will have recycled asphalt for the regular parking. We have asked for some additional landscape to be added and it is shown on the site plan. The Health Department will determine if a holding tank for sanitary sewer will be sufficient for the temporary use.

Staff’s recommendation is for approval of Application # 3047 and amendment to the site development plan for the Hunters Ridge Office Park Phase I PUD the change is consistent with the Comprehensive Plan and the Land Development Code subject to the following conditions prior to development on this site:

1. This PUD will expire on September 8, 2018 unless a time extension is approved by the Board.
2. Final Site Plan approval not to occur until or in conjunction with the dedication of Airport Road
3. Approval and issuance of permits for potable water and sanitary sewer will be through the City of Ormond Beach the sanitary sewer alternatively subject to Health Department review for a temporary holding tank permitted
4. Issuance of a stormwater management permit or letter of exemption from the St. Johns Water Management District.

Mr. Mengel, added that the conditions added for the stormwater management permit instructs the developer not to commence development, but legitimately we cannot hold them to this and State Statute says that we cannot withhold any permit we have where we tell them they can’t commence development until these other things are in place.

Mr. Mengel concluded his presentation entering it into the record.

Kimberly Buck P.E. Alann, Engineering Group, 880 Airport Road, Ormond Beach, representing the applicant noting she didn’t have anything to add.

Chairman Boyd, asked if anyone from the public wished to comment.
James Hodak, 4219 Mayfair Lane Port Orange, FL I currently have a home under construction in the Huntington development directly behind this business section. My wife and I have a couple of concerns when you say business use what type of business use? It is not clarified anywhere.

Mr. Mengel, Responded this is an existing approved PUD it is intended for office commercial it is limited in scope within the PUD as it is presently crafted. He also invited Mr Hodak to come in or call the office where staff can talk specifically what the PUD would allow.

Chairman Boyd asked if there was anyone else from the public that would like to comment? Hearing none he closed the public comments section and opened it up for Board comments.

Mr. Langello asked staff this is called temporary and its going to sit is there a time limit or a build out? What is the nature of temporary in regard to this building? Is it till it is 100% built out? Does it have to go away five (5) years from now, or two (2) years from now? What is the nature of temporary?

Mr. Mengel, responded I would like to link it with the previous item the temporary RV storage. It was clearly temporary in its original approval and in the immediate request. This PUD is a permanent office park so this piece of it is temporary in nature this point it is approved through September 8, 2018 and subject to extension by the Board.

Mr. Langello, stated “you said the PUD was extended, what about the structure” When they get a permit or a CO time limit that we can tie to this assuming this is temporary verses a conventional building and the purpose of that so it wont be here forty (40) years from now and we are still have it instead of building a permanent building.

Mr. Mengel, responded not as it is structured in what you see before you. What we had discussed that at the 2018 date the Developer would come forward with an extension. We had discussed infomally for as long as ten (10) years this would be accomplished by an initial five (5) year extension and a subsequent five (5) year extension of the PUD.

Mr. Langello, asked once someone has a building permit having a CO is not the same thing.

Mr. Mengel, responded being a modular building and being temporary there is permanence with this and I understand where this is coming from.

Mr. Langello, We are calling it temporary and it is a temporary structure and therefore temporary has some sort of limit to it or do we just say temporary and whenever they feel like it they take it away this century or the next century.

Mr. Mengel, responded I can give some history of temporary sales centers that have had a longer duration we had the one at Matanzas Shores, Surf Club we have one here off of Huntington Place and I am not aware of a suspense date on that it is a modular building also I think it is appropriate from the applicant what the
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intent is and if you think there is a recommendation you would like to go forward to the BOCC please do so.

Ms. Buck, The intent of the Developer is to build out the office park and set up a permanent sales office within the office complex.

Mr. Langello, Do you have a trigger that your client feels comfortable with. Like units in the park to be developed or a certain amount of the business in the business park how would you define temporary.

Ms. Buck, responded it is difficult to say, I would suggest five (5) years.

Mr. Langello responded so this structure would remain no longer than five (5) years from CO. So if I made a motion with that language it would be acceptable to you with the opportunity to apply for an extension.

Motion to approve made by Mr. Langello with the additional language that the structure would remain no longer than five years from date of CO Seconded by Mr. Barr.

Motion Carried Unanimously.

15. Staff Comments.
   None

16. Board Comments.

17. Public Comments.
   None.

18. Adjournment.
   Motion to adjourn was made at 8:48 p.m.

Drafted by: Wendy Hickey
Reviewed by: Adam Mengel