

**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

1 **MEMBERS PRESENT:** Chairman Michael Boyd, Arthur Barr, Michael Duggins, Lauren
2 Kornel, and Mark Langelo

3
4 **MEMBERS EXCUSED:** Robert Dickinson, Troy Dubose

5
6 **STAFF PRESENT:** Sally Sherman, Deputy County Administrator; Adam Mengel, Planning
7 Director; Wendy Hickey, Planner; and Gina Lemon, Development Review Planner III

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

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

12
13 **1. Roll Call.**

14 Attendance was confirmed by Gina Lemon and a quorum was present.

15
16 **2. Pledge of Allegiance.**

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

18
19 **3. Approval of Minutes.**

20 Approval of minutes of the September 13, 2016, regular meetings.

21
22 Mr. Langelo noted a typographical error on page 2 line 29 ninth word should be the and not he.

23
24 *Motion to approve the September 13, 2016 minutes with the above mentioned correction made*
25 *by Mr. Langelo seconded by Mr. Barr, motion carried unanimously*

26
27 **4. Quasi-judicial requiring disclosure of ex parte communication:**

28 **Application #3040 – VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT)**
29 **DISTRICT;** request for a 12.5 foot setback variance from the required 15 foot rear setback for a
30 deck over a screened enclosure at 134 Harbor Village Point South (Lot 201, Harbor Village
31 Marina Phase 2 S/D, Map Book 33, Pages 39 through 44, Public Records of Flagler County,
32 Florida); Parcel Number: 04-11-31-3119-00000-2010; Owner/Applicant: Larry A. Jones and
33 Margaret Sheehan-Jones. Variance to also be provided for Lots 185, 186, 187, 188, 190, 193,
34 195, 196, 199, 200, 202, and 205, with written consent for the variance provided by lot owners:
35 Wayne and Kimberly Forister; Stephen Stieneker; Thomas N. Cooke; Roger Louis Florentine,
36 Sr., Trustee; 4 G's Management, LLC; and Ulrec, LLC.

37
38 No ex-parte communications were disclosed.

39

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1 Mr. Mengel presented the staff report noting that this is a request for a rear yard setback
2 variance for a 12 ½ (twelve and one-half) foot variance from the 15 (fifteen) foot minimum rear
3 yard setback within the Harbor Village Marina Phase II, subdivision. This is part of a Planned
4 Unit Development it has some unique situations that are mentioned in the staff report we have
5 this stretch of 21 (twenty one) lots that have been reconfigured through a replat and their rear
6 yards facing west about a common marina tract. This particular lot is the only home developed
7 within this stretch Phase II of the development. Showing a aerial of the lot showing the marina
8 tract and pointing out the width that is involved from the parcel boundary and the rear portion
9 they would have another 15 (fifteen) 18 (eighteen) feet before you get to the bulk head. So there
10 is some extra area that is there. This differs from the other lots within the subdivision that are
11 further to the north because they have a different situation they have their own docks and they
12 are on a common waterway that is there that connects to the intercoastal so there are different
13 situations with this whole range of these lots. I just want to show you a few things the zoning
14 and the land use. The deck is on an existing patio the required setback is 15 (fifteen) feet the
15 request to for the deck to extend to 2 ½ (two and one-half) feet from the rear lot line so you have
16 a 12 ½ foot (twelve and one-half) foot variance. The original request we expanded we had our
17 TRC meeting we wanted to receive written consent from other lot owners within Phase II so we
18 had 12 lots that we added to this for a total of 13(thirteen) lots that have provided consent prior
19 to our meeting. In justification for this all the lots within this Harbor Village Marina Phase II are
20 similarly unique with the rear lot line of the parcel adjoining the marina. Other owners may still
21 apply for a variance in the future. In a quick side bar we were discussing the 21 (twenty-one)
22 lots.

23 Staff's recommendation is the 12 ½ (twelve and one half) rear set back variance for lots 185,
24 186, 187, 188, 190, 193, 195, 196, 199, 200, 202, and 205 all within the Harbor Village Marina
25 Subdivision Phase II as all the guidelines in section 3.07.03(e) have been met. You may want to
26 consider to add to this motion to be specific for the porch so that does not consider a second
27 floor for consideration the potential worry here is the 12 ½ (twelve and one half) rear set back
28 variance would apply to all lots that I mentioned there are 13 (thirteen) lots in total that we will
29 be conveying a right that wasn't intended here today this was prompted by a single home that is
30 there already lot 201 and while we were doing this one we wanted to extend it to the other lot
31 owners who sent back the consent the 12 (twelve) other owners. We think this will be incentive
32 for some development to happen within Phase II which has been a hindrance because of the
33 marina frontage on the rear lot lines you still have that common area that is there. The applicant
34 is present and would like to clarify some of the statement I have made here.

35

36 Mr. Larry Jones, 134 Harbor Village Point South, property owner /applicant, stated Mr. Mengel
37 did a very good job of describing the situation the only thing I would add to that the request we
38 are making is consistent with the developers master plan and in fact the master plan would have
39 provided what we are requesting tonight was approved by Flagler County in 2001 and the
40 circumstances described in the document provided by the builder developer of Yacht Harbor

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1 Village that provides the explanation of what leads to what is considered a nuisance to the
2 people who own property on the south end. The proposed porch and deck that we are requesting
3 would not extend beyond the existing patio. It will sit 23 (twenty three) feet back from the
4 bulkhead. I contrast that with the north end of the property where the back lanai can be within 3
5 (three) foot of the bulkhead. Where they would be in line with the porch and the open deck. We
6 would still be substantially farther back then our neighbors on the north end. I would also share
7 with you we have the support of the Flagler Planning Staff we have the support of the original
8 developer we have the support of the architectural control board they control the front door
9 for all construction in Yacht Harbor Village. They approve all the builders they review all the
10 plans and they supervise all the construction. The property Owners Association supports this
11 proposal. One of the reasons they do and by the way they all live on the north end is because
12 this imposes a fiscal impact in two ways, (A), it impacts the property values and (B)”, it
13 impacts our operating budget in since we have not had a home built on the south end since 2015
14 we cannot enjoy the improved lots on the south end that are enjoyed on the north end where
15 some 27 (twenty seven) homes have been built in the last 2 (two) years. Homes are not being
16 built on the south end because of this nuisance and hardship. I am here to answer any questions.

17
18 Chairman Boyd, asked if anyone on the Board had any questions?

19
20 Mr. Langelo, responded this question is for Mr. Mengel, Mr. Jones eluded to something I read
21 in here about the HOA and a previous approval of a design in the PUD to allow this setback and
22 I am assuming that is all correct. So, if we are doing a whole bunch of these but not everyone
23 and this seems a little odd I don't know if it is a time element that we are going through the
24 variance verses just amending the PUD to allow this as a matter of fact and not a variance.

25
26 Mr. Mengel, the declarant had mentioned in his letter the mechanics of this we have talked
27 about this with the applicant and the declarant that this was in the era of when we were doing
28 plat addenda so this is a little different or unique of what we would have if we just more
29 routinely or as we have on this agenda this evening amending a PUD development agreement
30 this would actually require the consent of all the land owners potential lien holders within that
31 development and potentially we grew it larger because the plat addendum included the parcels
32 to the north also it became a much larger group of lots.

33
34 Mr. Langelo, the numbers you gave were not sequential.

35
36 Mr. Mengel, Yes sir,

37
38 Mr. Langelo, and that is because you couldn't reach these people

39
40 Mr. Mengel, Yes sir,

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

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

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

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

15
16 Mr. Barr, Is that what you intend to build?

17
18 Mr. Jones, no sir, on the south end our lots are a little unique that we have a 15 (fifteen) foot
19 buffer and a 8 (eight) foot walkway that abuts the bulkhead. We will be 22 (twenty two) foot
20 back with the porch. It is still a substantial setback.

21
22 Mr. Mengel noted Mr. Jones put that in as an example of how the two (2) situations are different
23 the north and the south. The north you have much closer to the bulkhead this is not an
24 unreasonable request that he is trying to put in there and still then have a difference between the
25 north and the south lots you have the extra distance adjoining the marina parcel that you do not
26 have on the north side.

27
28 Mr. Barr, asked is this holding up a photo that was part of the applicants submittal?

29
30 Mr. Jones responded we would like to build a covered lanai with an open deck on top there will
31 be a deck off the second floor.

32
33 Mr. Barr asked there will be a structural deck on the second floor?

34
35 Mr. Jones responded open deck.

36
37 Mr. Mengel added screened below

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1 Mr. Jones agreed yes, screen below.

2

3 Chairman Boyd opened the hearing to public comments, seeing none he opened up Board
4 Comments.

5

6 *Motion to approve made by Mr. Langello to include the language “open second floor deck*
7 *creating first floor porch which may be enclosed” , Seconded by Mr. Barr.*

8 Ms. Kornel. asked does it really matter if the upper portion

9 is open or closed?

10 Mr. Mengel, responded this being the second floor deck it would affect sight lines for adjacent
11 properties

12 *Chairman Boyd, called the question, motion approved unanimously*

13

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

15 **Application #3045 – VARIANCE IN THE R-1 (RURAL RESIDENTIAL) DISTRICT;**
16 request for a two foot fence height variance within the front yard setback at 4298 Old A1A (a
17 portion of Government Lot 2, Section 9, Township 11 South, Range 31 East); Parcel Number
18 38-11-31-0000-02610-0000; Owner/Applicant: Robert S. and Tracy B. Wall.

19

20 No ex-parte communications were disclosed.

21

22 Mr. Mengel presented the staff report noting this is the third request for a taller fence height
23 along Old A1. It has limited traffic and it will be a continuation of the variances. This would be
24 for a one (1) foot height variance for the sides and 2 (two) feet height variance along the front
25 for 6 (six) feet in the front and 5 (five) feet on the sides. He then went onto submit the staff
26 report for the record.

27

28 Staff’s recommendation is that all guidelines Section 3.03.7 (E) for a 2 (two) foot fence height
29 variance with in the front yard setback for the parcel located at 4298 Old A1A

30

31 Chairman Boyd opened the hearing for public comments, seeing none he close public comments
32 and opened Board comments.

33

34 Mr. Langello, we have done this already and it makes sense my only comment was they are
35 keeping the fence the same style can I assume that.

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1
2 Mr. Mengel, responded yes sir.

3
4 *Motion to approve made by Ms. Kornel, Seconded by Mr. Duggins*
5 *Chairman Boyd called the question, motion carries unanimously*
6

7
8 6. Quasi-judicial requiring disclosure of ex parte communication:

9 Application #3053 – VARIANCE IN THE R-1 (RURAL RESIDENTIAL) DISTRICT;
10 request for a two foot rear yard setback variance at 19 Westmayer Place (Lot 23, Seaside Manor
11 S/D, MB 5, Page 10, Public Records of Flagler County, Florida); Parcel Number: 26-11-31-5450-
12 00000-0230; Owner/Applicant : Linda Brittain.

13
14 No ex-parte communications were disclosed.

15
16 Mr. Mengel presented the staff report noting that this is a home under construction within the
17 Seaside manor subdivision. The lots are angled and is challenging when placing a home on the
18 property. The zoning and future land use and aerial maps were displayed depicting the subject
19 parcel. The variance is for a 2 (two) foot rear yard setback variance for a cantilevered third
20 floor. Construction is underway so it is an after the fact variances, it is a cantilevered situation
21 that we missed in our staff review and was caught during inspections which does create a
22 hardship for the property owner.

23
24 Staff's recommendation the guidelines of the LDC Section 3.07.03 have been met and
25 recommend approval of the 2 (two) yard rear setback variance for the third story cantilevered
26 area at 196 Westmayer Place

27
28 I would like to submit the staff report and testimony for the public record as part of the decision
29 making.

30
31 Chairman Boyd opened the hearing to public comment seeing none he closed public comments
32 and opened it up to Board comments.

33
34 Mr. Langelo, pointed out that the way the lots sit the cantilevered is only on a fraction of the back
35 and not the entire back of property which is even less intrusive. I am sure staff looked at this does
36 the LDC talk about the foundation wall or all the way up the wall? This may not even be a
37 variance situation at all. I think this is a minor issue and I can see how staff could miss this we
38 don't affect overhang
39

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1 Mr. Mengel responded it refers to the furthest projection of the wall of the structure is what we
2 have always considered it so we would omit the overhang unless a PUD specifies some of our
3 PUD's do specify measuring from a extension or overhang that is allowed but we would take the
4 furthest extent of any living area.

5
6 *Motion to approve made by Mr. Langello, Seconded by Ms. Kornel*
7 *Motion carries unanimously*
8

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

16
17 No ex-parte communications were disclosed.

18
19 Mr. Mengel presented the staff report providing an aerial future land use and zoning map of the
20 site noting that there were a half dozen structures on the left side of the property that have been
21 removed that can be seen on the aerial. The request is for a guest house a single wide mobile
22 home in the far northwest corner. The purpose of that is to enable the owner of the home that is
23 under construction to remain residing on the property through construction and CO of the new
24 home. There is a provision in the Land Development Code that you have one home per parcel.
25 We have no issue while the home is under construction when you get closer to CO the mobile
26 home would have to be vacated or have the kitchen removed to render it uninhabitable with
27 approval of this guest house application they would be able to retain the mobile home.

28
29 Staff's recommendation is the Planning and Development Board find based on all the testimony
30 and evidence presented the Special Exception guidelines have been met and approve application
31 # 3051 for a Special Exception in the AC zoning district for a Guest/Servants quarters at 2050
32 State Road 100 West subject to conditions:

- 33 1. Special Exception runs with the land
- 34
- 35 2. All development to be consistent with the submitted siteplan and subject to changes
- 36 approved by staff based on outstanding agency review comments
- 37
- 38

39 Submitting the staff report and along with any question to applicant that you as a basis for your
40 decision.

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1
2 Chairman Boyd opened the public hearing to public comments seeing none he closed public
3 comments and opened Board comments.
4

5 Mr. Langelo asked the applicant was interested in doing this on a temporary basis or a
6 permanent situation? And does this mean the kitchen stays in it as well?
7

8 Mr. Mengel, responded temporary was the immediate need due to the home being under
9 construction. We have not discussed beyond this but it is their prerogative.
10

11 Mr. Langelo, asked the approval would allow it to stay there?
12

13 Mr. Mengel responded it would. Indefinitely and be replaced.
14

15 Mr. Langelo asked and the kitchen would stay?
16

17 Mr. Mengel responded yes for this approval. We have had a few of these the underlying
18 thinking of staff is the parcel size I did want to make note of that there were other structures
19 mobile homes that were taken off of this property so there could have been an argument made
20 that made for a larger vested right to maybe more dwelling units on this site. I think this
21 consolidates that operation this also prevents that guest quarters to be cut out on its own as a
22 separate unit though that is a possibility based on the parcel size five (5) acres by right in the
23 agriculture zoning district.
24

25 Mr. Langelo asked this is two separate permits two power permits?
26

27 Mr. Mengel responded yes sir it is to the best of my knowledge because of the distance between
28 the two units.
29

30 ***Motion to approve made by Ms. Kornel seconded by Mr. Duggins***
31 ***Motion approved unanimously***
32
33

- 34 8. **Quasi-judicial requiring disclosure of ex parte communication:**
35 **Application #3048 – APPLICATION FOR AMENDMENT TO A SEMI-PUBLIC USE;**
36 request to amend the Semi-Public Use in the General Commercial (C-2) District for God's Family
37 Bible Church, Inc., at 256 Old Brick Road (Lot 17, Briarwood Acres S/D, MB 5, Page 75, Public
38 Records of Flagler County, Florida); Parcel Number: 12-12-30-0900-00000-0170;
39 Owner/Applicant: God's Family Bible Church, Inc.
40

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1 No ex-parte communications were disclosed.
2 Mr. Mengel presented the staff report noting this is request for an amendment to an existing
3 Semi-Public Use. This had come through just a few months ago. It had some clarification that
4 happened after the approval came in. We have this building at 256 Old Brick Road that is going
5 through some permitting processes for us, there was some parking that was approved. There is
6 an operation to the north still going on the adjacent parcel across Old Brick Road adjacent
7 through the roadway connection to the north. Mr. Mengel showed the area map noting the
8 location of the 3,600 sq. ft. metal building. A permit has been submitted to convert that 3,600
9 sq. ft. building from a storage use to a church sanctuary. That permit has been signed off
10 awaiting this process that we are going through now.

11
12 So this is linked very closely to the Semi-Public Use and the site plan so much so that when
13 much to our resistance there has been occupancy that has been occurring within this building,
14 we are aware of it we are monitoring the situation but prior to the permit going through we have
15 had some limited occupancy occurring and we have had a situation where over occupancy has
16 occurred. Even since that time of approval of the original Semi-Public Use so hence the
17 amendment to add some additional parking to create greater single event occupancy. We have
18 talked to the church members and the pastor about having multiple services. Wanting to
19 encourage that to happen so if you do have a large event or you have a large congregation what
20 you do is you work the best within the situation you have you then have multiple services
21 maybe across multiple days in order to accommodate your congregation so we are seeing this as
22 a quick remedy to a problem. It is a good problem to have if you are a church you want to have
23 a congregation that is growing you want to have that ability for extension and for this is
24 probably what everyone wants to have the ability to have that traffic that you need to continue
25 you operations on the north end you still have that construction that is happening. A previously
26 approved Semi-Public Use that will be developed with their Family Life Center along with the
27 permanent parking we think that will kick in you will have twenty parking spaces and one
28 handicapped space to us that is going to create the situation of up to eighty occupants within the
29 building. I want to have a representative from the church I spoke with them and I want to have
30 someone come up and make that statement on the record not only here but also at the Board of
31 County Commissioners Meeting that the church agreed to that 80 (eighty) maximum occupancy
32 condition so that we are clear on all sides. Realizing that certain situations will occur and we
33 know that weddings, funerals those things when you have those events, we are going to be the
34 ones outside going you are at 85 (eighty five), you are at 87 (eighty seven) you have exceeded
35 that we realize that is going to happen on a somewhat temporary basis we do not want it to
36 become the rule we want that to be the exception. So this arrangement we have got in this
37 amendment with these additional parking spaces allows the occupancy to go up to 80 (eighty).
38 With that I would like to show these details the plans that were submitted you have the additional
39 parking spaces that are shown, all this being amendments to that plan you had previously approved
40 through the earlier application with this. I will conclude my comments and give the

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1 recommendation. This recommendation is identical to the previous recommendation that was
2 provided for the Semi-Public Use with the only exception and you saw it in your revised staff
3 report. So I will only read this part into the record.
4

5 1. This amendment to Semi –Public Use should be binding upon the applicant subject to all
6 conditions as included within the applicant’s submittal package including application and site plan
7 and shall limit the occupancy of the 3,600 sq. ft metal building to no more than 80 occupants.
8

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

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

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

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

29 Mr. Mengel responded we were up to 49 (forty-nine) people with 13 (thirteen) spaces that was
30 12(twelve) plus one handicapped for a maximum occupancy of 49 (forty-nine) and that was one
31 space for every 4 (four) seats.

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1 Mr. Barr asked is that how you backed into the 80 (eighty) because the building is certainly large
2 enough to handle more.

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

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

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

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

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

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

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

21 *Motion carried unanimously.*

22 9. *Quasi-judicial requiring disclosure of ex parte communication:*
23 **Application #3049 – APPLICATION FOR REZONING FROM AC (AGRICULTURE) TO**
24 **PLANNED UNIT DEVELOPMENT (PUD) DISTRICT;** request for rezoning from Agriculture
25 (AC) to Planned Unit Development (PUD) located at 10406 State Road 11; Parcel Numbers: 31-
26 13-30-0000-01030-0000, 0010 and 0040; Owners: Richard Daniel Cody, John Walter Cody,
27 Melanie Ruth Bennett, and Kendrick Dewitt Cody; John W. and Linda Cody; and John Cody,
28 respectively; Applicant: Charlie Faulkner, on behalf of John and Linda Cody.

29
30 No ex-parte communications were disclosed.

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Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, November 8, 2016 at 6:00 PM**

Adopted December 13, 2016

1
2 Mr. Mengel presented the staff report noting that this is a rezoning from Agriculture to Planned
3 Unit Development (PUD) providing the aerial, future land use, and zoning maps depicting the
4 proposed site. This site had gone through the a land use change about 2 (two) years ago and this
5 is the next step. The site is approximately 10(ten) acres this is for a PUD for the Pest Control
6 and related uses this will enlarge the existing pre Land Development Code non conforming use.
7 This rezoning is consistent with the Land Use the reasoning for all this is that Mr. Cody was
8 looking for an extension to his office but was unable to do so because the land use would not
9 allow that we had a non conforming land use. This was one of the administrative amendments
10 we brought forward and of that only two of them were eventually approved we had this one and
11 Santore if this is successful we will come forward with Santore's PUD agreement and site
12 development plan some later time we may use this as the template to move forward. We worked
13 with the applicant throughout the drafting of both of those documents the site development plan
14 and agreement and they are fulfilling the requirements of the policy we are setting out the uses
15 including the ancillary uses to the pest control and not extending beyond that or other
16 commercial use that would be deemed noxious or deemed inconsistent with our parcel specific
17 limited policy.

18
19 Staff's recommendation is to recommend to the Board of County Commissioners approval of
20 application #3049 for the rezoning from AC to PUD the change is consistent with the
21 Comprehensive Plan and the Land Development Code. And further I would like to submit the
22 staff report along with all comments for the record.
23

24 Chairman Boyd opened up the public hearing to public comments; hearing none, he closed
25 public comments and opened up Board comments.
26

27 Chairman Boyd asked if this is something to grow the business.
28

29 Mr. Mengel responded it is a two prong approach even to the degree if we had a building permit
30 that could potentially come in for a reroof or something like that in our Land Development Code
31 in concert with the Building Code it would have required us to do both of these steps so the
32 short answer is it is to eventually grow the business. The immediate need is to increase his
33 office space that is the extent of his present expansion. The other phases if they happen at all
34 will happen in the long term and is for the potential for his business to expand.
35

36 Chairman Boyd asked, the long term goal is not any other kind of development just grow his
37 business.
38

39 Mr. Mengel responded, yes sir.
40

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1 Mr. Langelo asked is this limiting. Can they put a residence on this property?

2
3 Mr. Mengel responded there is a home already there historic kind of family homestead and I
4 understand that it is used occasionally as a residence.

5
6 Mr. Langelo asked in this particular PUD zoning would this then take away the right to have a
7 residence on this property?

8
9 Mr. Mengel responded it is not a specifically listed within the permitted uses and you are correct
10 and while there is a residence on the property we have not included it within the list of uses.

11
12 Mr. Langelo, do you know if the applicant had intentions for that use continuing.

13
14 Mr. Mengel responded you are providing a recommendation but you are correct your
15 recommendation does not include a single family residence. A residential unit on the property is a
16 permitted use.

17
18 Mr. Langelo asked the cell tower was next to this?

19
20 Mr. Mengel responded the cell tower was to the north east about a half a mile.

21
22 Mr. Barr asked the driveway access does DOT get involved with driveway access and decel lanes?

23
24 Mr. Mengel responded they will in future phases not at this point the addition of the office would
25 not prompt a DOT review. The future phases would also include water management approval and
26 the applicant would have to secure any other agency permits for any future expansion. The office
27 would be deminimus and not require any DOT review or water management review.

28
29 Mr. Langelo asked if we do recommend approval would you be notifying the applicant of the
30 residence before it goes to the BOCC so it there is a chance to change it to add the residence.

31
32 Mr. Mengel responded I believe that it was just overlooked

33
34 *Motion to approve made by Mr. Langelo seconded by Ms. Kornel.*

35
36 *Motion carried unanimously.*

37
38 10. Quasi-judicial requiring disclosure of ex parte communication:
39 Application#3037 – APPLICATION FOR REVIEW IN THE PUD (PLANNED UNIT
40 DEVELOPMENT) DISTRICT; request to amend the PUD Development Agreement for

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1 Harborview Marina PUD; Owner: WGA Investments, LLC and Great Star Investors VIII, LLC;
2 Applicant: Parker Mynchenberg & Assoc., Inc.
3

4 No ex-parte communications were disclosed.
5

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

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

13 Aerial maps of the area were displayed showing the location of the subject property north of the
14 McKenna yacht basin, north of Roberts Road east of Colbert Lane and adjoining to the east is
15 Palm Coast Plantation a plated development. Also displayed was the Future Land Use, and Zoning
16 maps for reference. The request is to amend the approved PUD agreement for approximately
17 109.(one hundred nine) 21(twenty one) acres to request in a large part and the 2 (two) remaining
18 items the sole purpose is to reconfigure the single family portion of the development and that is the
19 portion to the far west side adjoining Colbert Lane. The part of the agreement deletes several
20 sections of the agreement and I will bring to your attention. There is a portion of the traffic study
21 that I didn't include here because this is all verbiage within the development agreement. I wanted
22 to make sure I brought these 2 (two) pieces to you the portion of the traffic study language within
23 the Development Agreement committed to participation in fair share program referenced in the
24 Development Agreement to finance offsite transportation improvements Colbert Lane from State
25 Road 100 to Roberts Road and was based on large part a 2006 Traffic Impact Study prepared for
26 Landmar Group by Lassiter Transportation Group it was never fully ratified it was in the heyday of
27 development that was occurring in this area. We had several parties Landmar being the major
28 player that was doing this Harbor View Marina that was part of that so you had these contributions
29 that were provided within that totaling over \$500,000.00 towards future improvements to occur but
30 that was never agreed upon we never had all parties come forward the development all went
31 stagnant Landmar went defunct. The parcels Grand Reserve West and Grand Reserve South are
32 being offered for sale. There are annexations happening at least the pressure to do so from Palm
33 Coast. You also have Grand Swamp on the western side of Colbert lane you have a lot of these
34 pieces that have picked up since then and not a lot of conclusion. For the record I wanted to make
35 sure you were aware of it for that and I didn't bring enough clarity to that within the PowerPoint
36 but I will read it out loud To you which will be more dull. From 2008 we had comments that came
37 back from the applicant because we kept coming around this traffic idea so their assertion their
38 basis for them omitting it from the Development Agreement this time is in large part is that it is not
39 needed. So, we had this evaluation from Traffic Planning Design from April 2008 and I will quote
40 " Traffic study for the Harbor View Marina identified a requirement to improve the intersection of

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1 Colbert Lane and State Road 100 with an additional east bound left turn lane and associated
2 receiving lane the projects total trips of the deficient movement are projected to be 145 vehicles
3 peak hour the total traffic volume of the approach of 514 vehicles at peak hour the project share of
4 traffic of the east bound traffic with a left turn movement at 28 percent. The intersection of Roberts
5 Road and Colbert Lane is not included in the analysis because the project is not expected to add
6 traffic to its minor movements. Traffic from the Harbor View Marina Village will be traveling
7 north and south on Colbert Lane. In the past this proposed intersection will not directly impact the
8 critical minor approaches or turning movements.”This from the letter dated April 17, 2008. Along
9 with that there was a signalization plan for the signalization of Colbert Lane and Harbor View
10 Drive an intersection was included within that response to staffs comments at that time. So we had
11 those pieces coming in an attempt to resolve our ongoing questions related to the traffic mitigation.
12 Now fast forward to this time and what we are facing is really not a whole lot of difference of what
13 we had at 2006. We have had some more infill development that has happened. We have had some
14 more plats for development certainly in Palm Coast Plantation but we have had those larger
15 developments as part of that study back in 2006 it just never happened. So here we are we call
16 these ghost trips you have a reservation happen some idea in 2006 you pay to play come forward
17 with your mitigation amount for your off site traffic improvements and you will be able to advance
18 forward on these projects and remember at that time we were always being right at or just below
19 the Development of Regional Impact (DRI) threshold so the idea was that we weren’t getting
20 those regional focused impacts coming in that fashion effectively what we had done was we had
21 gone through and said in lieu of the DRI type analysis we are going to create our own sector plan.
22 We are going to look at this as its own unique situation with this group of developments and have
23 them come in and propose something unique to traffic more than anything else where it has left us
24 now. I would say we really don’t have much of a situation than what we have as real world
25 impacts in 2006. We still have a situation where we have a level of service probably at worst a
26 level of service of “C” on Colbert Lane. We have a 2 (two) lane configuration that can be widened
27 to 4 (four) but I don’t see that happening any time soon. The more realistic option to us for
28 consideration is signalization that will happen prior to that from a safety standpoint. You will have
29 those traffic movements as the developments get larger as they do develop then you will have
30 these left turn movements that will be the consideration because you will have stacking happening
31 in places you don’t want it to happen so the is where your signalization will kick in or your 4
32 (four) laning happens as my prediction as a no traffic guy I will give you that expectation at least
33 on my side. The other deletion we have on note in the agreement is we have the deletion of the
34 conveyance of our parcel the language conveying lot 157 which has happened that obligation has
35 been met for us as it stands now we don’t necessarily want to be part of the PUD or part of the
36 plating so that language was inserted in there. It was forward looking at the time and it said this is
37 being reserved out this going to be conveyed now has been conveyed the intent remains to be
38 developed as the fire station site will likely be necessary for that as the development occurs and get
39 more substantial in this area. You have a fire station on the north end at Palm Coast Parkway a
40 City station site and we have the reserve site on John Anderson that was part of the Ginn

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1 Development on John Anderson some 2(two) to 3(three) miles to the south. So you have some
2 other reserved areas approximate to this that may need some consideration by us before
3 committing to a fire station site here but that language will be deleted specifically from the
4 agreement that is the 2 (two) pieces that we pulled out with recommendation here along with that.
5 What we started with is that this accomplishes the text amendment the document itself reduces the
6 number of lots by 7 (seven) from 161 to 154 single family lots then you have the renumbering then
7 for the multifamily unit count 155 to 159 those multifamily pads for the condominiums that were
8 part of this larger approval that all happened previously and again that part is not being amended.
9 This limited request being the Development Agreement and your recommendation then on this
10 application would advance to the Board of County Commissioners specific to the Development
11 Agreement only.

12
13 Staff's recommendation is approval of application #3037 amendment of the Development
14 Agreement of a PUD for Harbor View Marina consistent with the Comprehensive Plan and the
15 Land Development Code subject to the following condition:

- 16
17 1. Text to be added to the Development Agreement to provide for subsequent traffic studies to be
18 completed prior to site plan approval and or issuance of a land development permit whichever
19 occurs first of any multifamily condominium lot and those numbers 155 to 159 as shown on
20 the plans with any adverse off site traffic impacts to be subject to payment of proportionate fair
21 share contribution.

22
23 I may have used some terminology that may be foreign to some folks here. In 2008 we had this
24 discussion at the Board level we have a Proportionate Fair Share Ordinance, it is on the books and
25 at the time the Commission was very cognizant of that and had a discussion with the applicant on
26 that particular point and when that kicks in is when you have a deficiency on your roadway. Like
27 you have those traffic impacts that have been determined there is no other capacity and that is
28 when your proportionate fair share kicks in I will submit to you we are not at that situation. The
29 intent of this language within the comment and I will also defend the applicant here somewhat we
30 have not talked about this and run this through any kind of vetting to see if they are satisfied with
31 it. They are being hit unaware with this comment they know it is out there they tried to reach out to
32 us but we didn't have enough time with the hurricane and everything else that is going on. So this
33 is hitting them pretty cold but what we want to do with this is ad I am holding to this is that the
34 single family I believe there is sufficient capacity for that and what I understand thatch is what is
35 moving forward here that is the push right now to final plat but this is for subsequent permitting as
36 those condo pads develop and when and if they do they will have to come through individual
37 traffic impact analysis and if there is adverse conditions found that would be address by the

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1 developer at that time of that vertical development occurring prior to that approval coming into
2 play that is the intent of the comment from staff recommendation certainly open to any discussion
3 and the insight the applicant may provide on this and I hope to be fair to everyone on this with this
4 and my explanation for the rational with that I will conclude my comments and submit my staff
5 report for the record and the analysis and comments provided as basis for your recommendation
6 whatever it may be ultimately as it applies to the Development Agreement and that concludes my
7 comments. I await your questions and the applicant is present. I know they have a presentation.

8 Jim Morris, P.A., 750 Oak Heights Court, Port Orange, Fl, Attorney for the applicant, Let me take
9 the last first I believe Mr. Mengel has been fair in his assessment in proportionate share or cost
10 sharing and the language suggested in the staff report is agreeable to us and I think the way that he
11 characterized it in the availability for single family we know it is there everyone knows that
12 Colbert lane has available capacity When Mr. Mengel was analyzing the aspects of traffic lights
13 and so on that is probably your most likely scenario and when the other development comes on
14 line that is certainly when a contribution should be mad. We are absolutely intent with the
15 recommendation have no objection to it or any argument with the reasoning that pertains to that.
16 The other thing that is most important in understanding request is that in the staff report and I
17 alluded to the paragraph on the front page it talks about the changes in the single family units. This
18 amendment is really for the purpose of reconfiguring the single family lots from the configuration
19 approved in 2006. The new configuration does not have the internal waterways for a boat to pass it
20 is just stormwater ponds that you see now and the unit count is slightly reduced. The multifamily is
21 there it has been there approved for quite some time we have no proposal to change that. In lieu of
22 having water access through waterway in the development is this block stack storage building it is
23 roughly opposite of the Sea Ray building/plant as it is in regard to the basin and that is the extent
24 of the changes we propose we agree with the staff recommendation rather than take up more of
25 your time now I would just as soon answer questions from the audience members after you have
26 had a chance of listing to anyone else.

27 Chairman Boyd asked the board if they had any questions.

28 Mr. Langello, I remember this application If I can just set the stage this property has not been
29 developed. First thing the fair share money that we are talking about does this mean that there is
30 not a traffic impact fee to be paid by the single family resident? Is this in lieu of or addition too?

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1 Mr. Mengel responded I hope I mentioned this and I thought I did in the staff report the
2 transportation impact fee is currently in a moratorium The Commission can reinstate that at any
3 time. I did not intend that to be in lieu of the Proportionate Share contribution to be in lieu of.

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

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

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

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

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

26 Because of the number of people the site anticipated you had to have two (2) exits and we had to
27 go through Palm Coast Plantation and have a breakdown barrier If I remember anyway we had to
28 make that second entrance If they keep doing the single family and they trip the number of
29 residents they would need for the second exit and are they going to have to develop that road to
30 that second exit which would be part of what you are asking for in the multifamily phase and you
31 are over lapping those two (2) things.

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1 Mr. Mengel, responded the second entrance and that specific requirement you will see us talk
2 about at the time of Preliminary Plat which is one of the remaining two (2) items for project
3 tonight It was contemplated since 2006 it was discussed in 2008 and as the plat advance there
4 would have to be a waiver specifically approved by the Board of County Commissioners this does
5 have the greater than 50 lots which is the number that requires two (2) points of entry, paved
6 access correction there is two (2) considerations there two (2) access points and the secondary
7 emergency egress. So, what you have happening here is effectively a waiver of that and we will
8 talk about it more when we get to the Preliminary Plat I don't see that as something necessarily
9 related to the traffic to the transportation side of the house.

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

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

21 Mr. Langelo, asked that wont trip the Fair Share thing.

22 Mr. Mengel responded, no sir.

23 Chairman Boyd opened the public hearing to public comments.

24 Ms. Edith Ferrena, 282 South Riverwalk Drive, Palm Coast, which is about 100 feet from the two
25 (2) eastern most proposed condo towers. When I bought my house back in 2011 I could never have
26 imagined 95 foot tall buildings behind my house. In fact my real estate listing described the area
27 behind my property as a preserve as did the listing of my neighbors. I am here today because I am
28 putting my faith in my local government to uphold and enforce the laws of the Municipal Codes
29 and the Comprehensive Plan of Flagler County. Flagler County Comprehensive Plan objective
30 13.3 states "New development is compatible with the design and environmental character of the
31 area in which it is located." Multistory towers clearly are incompatible with the design which the

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1 area is located. In fact Palm Coast Plantation slogan is “Living in harmony with nature” it is not
2 living in harmony with 95 foot tall condominium towers. In fact there is only one other building
3 this tall in the entire county that is the Aliko. Municipal Code 3.04.02 F(2) states “ the proposed
4 PUD will not affect adversely the health and safety of residents or workers in the area and will not
5 be detrimental to the use of adjacent properties or the general neighborhood. 95 foot tower directly
6 behind our home would certainly be detrimental for so many reasons; first of all we would have a
7 loss of privacy in fact one of the reasons I bought my house was when I walked in I saw the
8 beautiful family room with a fourteen (14) foot ceiling and a lovely transom window right up on
9 the top with a beautiful view that view will be no more if phase II is implemented with these
10 condominium towers. In addition the Harbor View community pool will be right behind my house
11 that will likely create noise problems the parking garage will emit fumes and will there will
12 certainly be noise a parking lot, car alarms etcetera 95 foot towers leaning over our home will most
13 certainly lower our property values. Homes are usually are biggest investment there are a lot of
14 people whom have invested within a couple hundred feet of what is being proposed. It is wrong to
15 negatively impact our nest egg such as this unnecessarily. I know some people are saying this has
16 already been approved but Municipal Code 3.04.02.H (2) deals with the expiration of a PUD and it
17 says “The applicant must begin and substantially complete of the Planned Unit within 2 (two)
18 years of the time of final approval: this PUD was not substantially developed and complete within
19 2 (two) years according to our law this PUD should have expired in 2008. I hope you will give this
20 matter careful consideration it affects the quality of life for many residents who already own
21 homes in the area. Thank You.

22 Ms. Gail Cornis, 286 South Riverwalk, Palm Coast, I am actually 2 (two) lots away from the lady
23 that just spoke and if time permits I would like to show you a picture or two (included with these
24 minutes as part of the official record). My husband and I are concerned about the 2 (two)90 foot
25 towers directly behind our house. In fact if you would take our lot and flip it over you would be
26 hitting the footprint of one of the towers that is how close it is. The impact is really harmful not
27 just to us but the owners of lots 67-72 I know that there are only 6 (six) lots directly impacted and
28 we are really impacted. My husband and I purchased our lot 69, in 2009 and built our home in 201,
29 the total value of our home is \$420,000 my husband and I are retired civil servants it is not like we
30 are wealthy people this was our retirement home we wanted to live in peace in this community.
31 We knew nothing about the Harbor View PUD until 2014 when the gotoby.com article came out.
32 We will be directly and adversely affected by the planned location of these two condo towers so
33 close to our property line these are the ways we feel we will be impacted, #1. lack of privacy and I
34 have a picture to show that as our home is a courtyard home anyone in the units facing east will

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1 have a direct view into our courtyard, and depending how high the unit is perhaps a direct view
2 into our living room. #2 Noise, noise from the balcony noise from the pool noise from the parking
3 garage car emissions there is so many cars in such a close proximity to our house we are concerned
4 about air quality. My husband has COPD (chronic obstructive pulmonary disease) as a result of
5 military combat service. Sadly we will not see the afternoon sun those towers behind the house
6 will totally block out the sun I am estimating probably about one o'clock in the afternoon and it is
7 all due to the fact the condos are abutting each other like the Great Wall of China.#3 Security risks
8 we are concerned about condos are often rented out we anticipate an influx of transients at very
9 least trying to actively get into the Palm Coast Plantation property and the worst maybe our house
10 both are quality of life issues. Finally what concerns us the most is the loss of property value if the
11 towers are built and we decide to sell we believe the value of our house will be severely degraded
12 creating a financial hardship which may carryover to other homes in the area. As I said earlier we
13 had no knowledge of this development prior to 2014 and we are not alone in that others in our
14 immediate vicinity also didn't and I would just like to bring up a point of interest that says In a
15 earlier staff report from the Planning & Zoning Department from June 2006 said "the justification
16 of 110 foot building next to existing single family lots is not an example of superior design it can
17 be argued that the purchasers of the individual lots within Harbor View know or should know of
18 the design they are buying into but the same cannot be said for the purchasers within Palm Coast
19 Plantation Unit . So back in 2006 they knew that people like me and my husband were going to
20 have this problem. We believe that the proposed PUD may not adversely the entire Palm Coast
21 Plantation community it will directly affect the residents in unit 4 and it will be detrimental to the
22 use of our properties and our neighborhood we will be severely affected in terms of quality of life
23 and financial hardships. If I may I would like to show you what our view is now and what it will
24 be If I could just describe it our home is built around the pool there is an eight (8) foot wall on this
25 side with the screen enclosure over the top and the back of the house is the bedroom the living
26 room and the dining room it is all open there with the screened in lanai behind it. We don't have
27 much in property behind the house structure itself it is only about 20 feet so the house is 100 feet
28 long so what is behind it is trees there are cypress trees probably 50 feet tall something like that so
29 part of it arguably could be our view would be obstructed as far as the trees but beyond the trees
30 there is that Great Wall of China. It is extremely upsetting for us I understand the PUD has been
31 approved but like the lady before me I would like to prevail on your I don't know your sensibilities
32 sense of fairness and we are the little guys doe if you have any questions I would be happy to
33 answer them.

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1 Ms. Stephanie Contrada, 166 Heron Drive, in Palm Coast Plantation, and it is on the south end of
2 Heron Drive, I would not be directly affected but I am close enough. My husband and I bought the
3 property in 2004 for our retirement home we had a house built in 2006 and the reason we built it
4 was the beautiful surrounding area the park across the street the lake behind our home the
5 conservation area the natural beauty and just the whole area it is just beautiful. Now we are talking
6 about these proposed condominiums that are practically in our view it is completely out of
7 character with the whole area there is nothing like that along Heron or in the development that is
8 going to be anything like that and even in Grand Haven it's going to severely affect our property
9 values. To be honest I would just want to sell my house tomorrow if these condominiums go up it
10 is just not my idea of why I bought this beautiful home and like I said it was our forever home. I
11 am not a public speaker I am just horrified that 90 foot condominiums are going to be there that
12 don't belong there they are completely out of character with the whole area. I am really unhappy
13 and I would never do it again if I know this was going to happen. Thank You for your
14 consideration.

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

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

33 Mr. Barr, asked Mr. Mengel to clarify the status of and the Continuity of the PUD.

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1 Mr. Mengel responded you do have the time line provided in the packet I didn't want to go and
2 read it to you all but. You did have a mix of land uses on here and this did have some industrial on
3 it I think that was the basis for in a large part for the density that was assigned to this you can see
4 also in that application from September of 2004 it would have allowed the maximum density of10
5 (ten) units per gross acre or at least in the portion that was intended to have some residential
6 development that was assigned to this it The Planning Board from that history has recommended
7 denial the applicant had amended their application then remembering then in some former
8 industrial site as the justification as I remember reading it they reduced it down from the maximum
9 10 (ten) units per gross acre to a maximum of 7(seven) units per gross acre you have a transmittal
10 that happens I think a year later of that Land Use Amendment which is not uncommon on how our
11 process have progressed and by December of 2005 the Land Use Amendment goes through June
12 2006 you have the rezoning from Industrial to Planned Unit Development subject to the conditions
13 that were specific to this proposal July 2006 the PUD comes into effect Ordinance 2006-20
14 recorded in the public records and then August 2006 very close to my first meeting with the
15 county. Ernie Caldwell on behalf of this developer and a presentation he had made to the
16 Commission at the time regarding the gopher tortoises and there would not be an incidental take
17 permit even though I think one had been issued as they were perusing that our goal was to save the
18 tortoises. February 2008 PUD site development plan advance again some gaps with this 2008
19 BOCC approval of the Harbor View Marina Site Development Plan and PUD and Preliminary
20 Plat. So, at this point you have all those pieces together where we had a subsequent land
21 development permit that was issued in 2008 permits from other agencies that came into play you
22 had the water Management District, Army Corps of Engineers and others I am not recalling at this
23 point and those permits remained in effect to the extent that a new development was underway
24 they had some compliance issues with the Corp of Engineers not the fault of the developer but
25 because the County had not adopted its Manatee Protection Plan as the state and come back
26 wanting us to do so and that translated that heavy hand of injustice In my opinion the Army Corps
27 of Engineers that it was the biggest secret that was kept by them that they revoke the permits
28 without a lot of notice to those permit holders so it was a surprise to this developer when they then
29 commenced work and the Corps had in fact revoked their permit. We are just settling those issues
30 as our Manatee Protection Plan is now in effect and we are moving forward with those projects and
31 those permits coming back on line so with this the Land Development Permit has no expiration
32 and we do have some projects and this is certainly one of those that has a longer progression than
33 others certainly because the substantial economic downturn movement probably the largest push
34 on all of these similar projects others that are similarly situated. To state this one more time the
35 comments that you have heard I would certainly encourage those speakers maybe not directly to

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1 each of them but make those comments that they have because this the avenue to make those
2 comments this is appropriate time, venue this and the Board of County Commissioners this is their
3 chance to state their feelings on this but at the same time though I am realistic and certainly
4 empathetic to the situation but they are not alone. I now have had 3 (three) projects that have come
5 back from this era who then had a group of owners who were not present when that original
6 development came through and now are conveying to our bodies that we were caught unaware. So
7 we have these rights this bundle of sticks that planners talk about the entitlements that have been
8 conveyed to the developer. More so you have permits that have been issued if we do nothing
9 today. They can proceed with the development as approved at this point there will be no affect to
10 the condos. The problem for the developer then is how to make the canal system work and not
11 build the dry Stackhouse that is proposed those are the substantial changes seen with this. Let's
12 look forward on these 3 (three) applications and assume none are approved our land development
13 permit remains still in effect and they can proceed with the development as it was approved in
14 2006 and land development permit issued in 2008. That is the bad side to this and our goal in land
15 use decisions, land use deliberations of this type certainly puts you in the position though it is not
16 unique for you to balance those issues I certainly think this venue is appropriate for those folk that
17 have been provided notice to state their concerns on the record and to have those known and for us
18 to move on from there to every extent that is appropriate and your consideration as a
19 recommending body to the BOCC for these 3 (three) items.

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

22 Mr. Mengel responded , that is Flagler County

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

25 Mr. Mengel responded yes it was.

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

30 Mr. Mengel responded the other part I think is important to mention is there is commonality
31 between the developments there was and I will let the applicant talk about this if not now the next

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

7 Mr. Langelo the comment about the property value and someone spoke about the Aliko and the
8 other one down in Flagler Beach has anyone ever looked at the values of the land immediately
9 surrounding.

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

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

17 Mr. Parker Mynchenburg responded yes

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

20 Mr. Mengel responded yes

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

23 Mr. Mengel responded no sir if you look specific to this item the Development Agreement you
24 have that redline strikethrough version it shows up on page 4 (four) it has maximum building
25 height both the A- single family 45 (forty five) feet and B-multifamily net 80 (eighty) feet
26 maximum building height 95 (ninety five) feet seven residential stories over residential parking
27 both have stayed consistent since the 2006 approval and the only addition that is made as part of
28 this request is a subpart C-stackhouse at 70 (seventy) feet.

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1 Mr. Langello asked so there wasn't any thought to any reconsideration of the heights and the
2 proximity for the lot.

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

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

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

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

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

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

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

25 Mr. Jim Morris attorney for the applicant I want to respond to your question but I also want to give
26 you some additional information because I didn't get backup we intend to move forward and we
27 are trying to do that as promptly as we can. So from the perspective you find yourselves in as a
28 Quasi Judicial Board it seems to me there is evidence to support a recommendation in support of
29 staff or there is not and the staff recommendation is competent substantial evidence and you don't

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

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1 you are the judges I can't tell the judge what to do. I will answer any question if you have any.
2 Thank you.

3 Chairman Boyd again asks for a motion

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

5 Chairman Boyd responded yes

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

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

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

18 Mr. Morris, responded that is conservation area

19 Mr. Langelo so there is no easy movement of the buildings

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

23 Mr. Langelo just trying to have a little give and take but there is no easy solution

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

26 Mr. Langelo responded it can be to the table if we wanted it to be meaning you the Board or
27 whatever.

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1 Mr. Morris responded yes sir

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

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

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

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

15 Mr. Duggins stated he sat through most of the meetings ten years ago I didn't like the project then
16 I like it better now with the part they are proposing on the single family part I thought it was
17 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
18 like it back then and I don't like it now I wondered what would happen to the lots on Riverwalk
19 they were just starting to sell lots out there and they thought it would all be built by 2008
20 economics stopped that. What we are looking at tonight is a far better project at least on this little
21 part of it of what was proposed. Mr. Mengel because of the downturn in the economy did the
22 legislature passed a rule that all these developers kicked their projects down the road even if they
23 had a sunset am I right in my thinking?

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

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

29 Chairman Boyd state I have a motion and a second I will call the question all

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1 *Motion carries unanimously*

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

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

7
8 No ex-parte communications were disclosed.

9
10 Mr. Mengel presented the staff report noting that this is the Site Development Plan of the three
11 applications. He again showed the aerial, zoning and future land use map reiteration that what this
12 application is doing is only reconfiguring the single family lots and then showing the old plan and
13 the proposed plan. Describing the breakdown of the overall development 23.4 percent is single
14 family lot area 11 percent is road way tract 21.5 percent is conservation and 15.8 percent is
15 multifamily and 3.2 percent is commercial additional information is within the staff report

16
17 Staff recommendation application# 3038 a amendment to the Site Development Plan for Harbor
18 View Marina provided findings that the development is consistent with the Comprehensive Plan and
19 the Land Development Code. I would like to submit the staff report along with my testimony and
20 the testimony of the applicant for the record.

21
22 Mr. Jim Morris for the applicant, I would like to incorporate Mr. Mengel’s findings and conclude
23 this is a code compliant application meeting the standards of Flagler County and incorporating them
24 by reference and stand on his expertise and testimony to the Board.

25
26 Chairman Boyd opened the public hearing to public comments.

27
28 MS. Edit Ferrera, 282 South Riverwalk Dr, “one little piece of the time line missing from earlier
29 this evening is back in 2014 when I read about this PUD on GOTOBY.com, I met about 30 (thirty)
30 of my neighbors with Mr. Mengel and Ms. Sally Sherman here at the County offices. At that
31 meeting all of my neighbors shared our shock and dismay about this PUD. I brought it up to Mr.
32 Mengel then that according to our municipal code as I mentioned before what I can understand that
33 this PUD expired but Mr. Mengel and Ms. Sherman did not have that interpretation of the municipal
34 code 3.04.02.H (2) which says that it must be substantially complete within 2 (two) years and I do
35 understand that there have been some extensions granted by the state. But Mr. Mengel stated that
36 the only way you can ever address this is or have this changed is if there is substantial changes in
37 the PUD. That does not mean of the developer wants to make the condominiums a lower height that
38 is not a substantial change but the PUD would have to be reapplied for if there were substantial
39 changes. Well now that there is no canal system and no lift to take the boats over into the Lehigh

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1 Cut and now there is a boat stack and the number of condominiums has changed and all that I would
2 consider that a substantial change so I am not a lawyer but I would think this whole thing has to be
3 re-approved. One more thing as far as the single family goes there is not a bigger proponent than me
4 to have that developed because every day I have to drive by this terrible eyesore I don't know if you
5 have been over there but they dug that marina with their expired Army Corps of Engineers permit
6 and it is a horrible mess Cline Construction had hulking rusting machinery all over that place there
7 has been vandalism. I have calls from my neighbors about have I seen anything some kid is being
8 accused of vandalizing a Cline crane it is a total mess and it has been that way for years there is
9 supposed to be a silt fence that is down not to mention the gopher tortoises that were murdered but I
10 want to see it beautified because it is really horrible so as far as the single family goes let's get
11 going on that. My interpretation is that this whole PUD needs to be re-approved number one it is
12 expired and number two there have been substantial changes."

13
14 Chairman Boyd asked for any other public comments seeing none her opened the hearing to Board
15 comments.

16
17 Mr. Langelo asked to have either Mr. Mengel or Mr. Morris address the substantial change that she
18 was told.

19
20 Mr. Mengel responded I don't remember saying that but there are provisions within our Land
21 Development Code that talk about minor and major site plan amendments minor are administrative
22 These are criteria that we would be allowed to approve a site development plan without bringing it
23 to a Public Hearing, the same or greater amount of open space the same or fewer number of parking
24 spaces the same or fewer number of dwelling units. That is the narrow focus we have and arguably
25 without the stackhouse we would be looking at this administratively. As to the 2 (two) year
26 expiration I am charged with interpreting the Land Development Code and we have developments
27 that that have had specific expiration dates these development within the heyday of our
28 development processes when we were processing with the number we had coming in and with the
29 pace that we had and in 2014 and any other time I my tenure I have shared this our dynamic at the
30 time was we would not have thought 10-12-14 years later to even put an expiration date you would
31 have been laughed out of the room if you put an expiration date on a PUD at the because it would
32 have been how fast can I put a shovel in the dirt how quick can I get this going. At that time with
33 that range a half dozen applications or more coming forward similar to this one coming to this
34 Board and the Board of County Commissioners we never contemplated expiration. Certainly that
35 language is in Our Land Development Code I am not going to say it isn't we have intentionally at
36 that time not provided an expiration and it is my opinion supported by a legal opinion that Ms.
37 Ferrena is aware we discussed this we have documents we have supporting documents from the
38 County Attorney to support this opinion I have provided that says that this and other similarly
39 situated effectively have no expiration and as I mentioned in the time line of public hearings this has
40 been vetted through multiple levels of reviews and Board of County Commissioners approvals that

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1 came along with this all that leading to a land development permit and if I can put you back into
2 that developers perspective that they mentioned. A developer with a permit in hand has those tools
3 to come in and start the vertical development. I submit to you and the time frame will not be
4 disputed here and what we have talked about here 2006 to 2008 2006 PUD approval, 2008 Site Plan
5 approval and Preliminary Plat, enabling a developer to put a shovel in the ground followed in quick
6 succession by the issuance of land development permit I would submit we all those things in line
7 that shows that this was an active development as of 2008. Our land development permits do not
8 expire we have an expiration date of 2109 I think it is put into our systems because we know these
9 process take time should we address this in hindsight maybe we should but the developer had
10 progressed as they had appropriately done so and within the time frames that the Land Development
11 Code establishes for them to do what they are supposed to do in terms of zoning and land use so
12 that then led to a land development permit being issued within that 2(two) year time frame I
13 would say everything was met on this one and I will still hold to that opinion and still support it. I
14 believe this is an active development permit that is out there for this development to commence as it
15 has been previously approved now seeking that amendment for a portion of it and continue that
16 development.

17
18 Mr. Langelo asks so this application would help further help the single family portion of this
19 development.

20
21 Mr. Mengel responded yes it will

22
23 Chairman Boyd asked if there were any more Board comments hearing none he asked for a motion.

24
25 *Motion to approve by Ms. Kornel and seconded by Mr. Duggins*
26 *Motion carried unanimously*

27
28 12. *Quasi-judicial requiring disclosure of ex parte communication:*

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

32
33 No ex-parte communications were disclosed.

34
35 Mr. Mengel presented the staff report nothing that this is the final of the series of three
36 amendments and with your recommendation all three of these will be advanced to the Board of
37 County Commissioners to the next available meeting where public notice be provided. This
38 follows in line with the PUD Site Plan the development plan has a decrease in the single family
39 lot count from 161 to 154 lot the renumbering of the multifamily lots due to that the elimination
40 of the canal system in the single family portion of the development and adding in the dry boat

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1 storage of building within the common area. All other portions of the preliminary plat remain as
2 previously approved. In our processes this advances as preliminary plat and as you can imagine
3 in our 2008 approval this along with it has the construction plans and we have posted them on
4 line and that provides the foreshadowing of the land development permit. One the preliminary
5 plat is approved by the Board of County Commissioners the developer can commence with that
6 particular step and consistent with the construction plans that are effectively being amended
7 here with this amended preliminary plat. Singular to that single family portion of this now we
8 have the Development Agreement Site Development Plan and the Preliminary Plat all being
9 consistent with the single family portion of the development and have the construction plans go
10 along with it.

11
12 Staff's recommendation is approval of application # 3039 amendment to the Preliminary Plat for
13 the Harbor View PUD the plan is consistent with the Comprehensive Plan and the Land
14 Development Code subject to the following conditions:

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

18
19 Mr. Jim Morris for the applicant I would incorporate Mr. Mengel's comments into the record. In
20 regard to the discussion about access we have 2 (two) connection points to get to the primary
21 road that goes to Colbert Lane. He went on to add additional traffic management information for
22 the record.

23
24 Chairman Boyd opened up the public hearing to public comments seeing no one he closed
25 public comments and opened Board comments.

26
27 *Motion to approve made by Ms. Kornel seconded by Mr. Langelo.*

28
29 *Motion carried unanimously.*

30
31 13. Quasi-judicial requiring disclosure of ex parte communication:

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

37
38 Chairman Boyd asked if anyone had any disclosures to report for this item. None reported.

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1 Mr. Mengel presented the staff report noting that this is an amendment to the Hunters Ridge Planned
2 Unit development (PUD) for RV Storage .Maps were shown of the location of not only the PUD but the
3 proposed area for the RV storage . The parcel consists of 10.41 acres the request to amend the site
4 development plan from originally fourteen (14) RV storage spaces to nine (9)depicted on the current
5 plan. This item and the item following had come before Board of County Commissioners Meeting
6 (BOCC) where it was discussed to grant a two (2) year extension on these PUDs. We had taken forward
7 even before this application was forwarded to you. So you will see we have added that into the
8 conditions. So the temporary nature of this unless the time is extended by the Board would expire in
9 2018 and it would have some previsions for extension if needed.

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

- 14 1. This PUD will expire on September 8, 2018 unless an extension is approved by the
- 15 BOCC.
- 16 2. Final Site Plan approval not to occur until or in conjunction with the dedication of
- 17 Airport Road
- 18 3. Issuance of a stormwater management permit or letter of exemption from St. Johns
- 19 River Management District.
- 20

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

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

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

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

30 Mr. Mengel, responded, Airport Road is constructed on its west side passed the roundabout that connects
31 to state road 40 there is utilization of the roadway it is open but it has not yet been platted the plat had
32 been approved but not completely executed and recorded in the public records. During the September
33 BOCC meeting during this item a representative of another development within Hunters Ridge and
34 related to Airport Roads platting specifically requested that these items be tied together When you look

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1 at it there isn't that linkage we do understand , this being a request along with the next one from the
2 Master Developer more would complete an obligation that had been agreed to in the past but has yet to
3 be fully executed and so the other representative had requested that the BOCC place that condition We
4 do not see that as an issue and everything is moving forward within Hunters Ridge. We have had
5 discussions with the Master Developer an overview of the issues some have been hanging out there for a
6 number of years and we think it is great step and the language included in this condition will not create
7 any difficulties to anyone.

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

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

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

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

19 *Motion carried unanimously.*

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

21 **Application #3047 – APPLICATION FOR REVIEW IN THE PUD (PLANNED UNIT**
22 **DEVELOPMENT) DISTRICT – PUD SITE DEVELOPMENT PLAN;** request to amend the
23 Hunter's Ridge Office Park – Phase 1 Planned Unit Development (PUD) (Ordinance No. 2010-
24 09). Parcel Number: 22-14-31-0000-01010-0120; Owner: U.S. Capital HR, LLC; Applicant:
25 Kimberly A. Buck, P.E., Alann Engineering Group, Inc.

26
27 Chairman Boyd asked if anyone had any disclosures to report for this item. None reported.

28 Mr. Mengel presented the staff report noting this is an amendment to a Planned Unit Development
29 (PUD) site development plan specific to the Hunters Ridge Office Park Phase I development. It is
30 located on the southwest corner of the intersection of Airport Road and Hunters Ridge Blvd. at the
31 southwest quadrant of the roundabout. Maps and photos were displayed, showing the area to the south,
32 Huntington Woods Phase I a recorded plat and to the southeast across from Hunters Ridge Blvd you
33 have Huntington Villas coming forward for final plating at least phase I as you can see construction

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1 will happen very soon he went on showing the extension of Airport Road where it is finished but has not
2 received its final plat recording. as noted in the previous item.

3 This particular the site is 8.33 acres in size and it is limited to a temporary sales office. This also has a
4 2018 expiration date and the developer will be able to ask for an extension if needed. This Office PUD is
5 to run the road from Hunters Ridge Blvd to Airport Rd. It will have an office park within that corner so
6 you would have this connector road through this overall development that may happen in quick
7 succession. The temporary Office will be accessible to the public it will not just be a construction trailer
8 it will also be a sales office. There is a handicapped parking space and ramp for accessibility. It is a
9 modular building and will have recycled asphalt for the regular parking. We have asked for some
10 additional landscape to be added and it is shown on the site plan. The Health Department will determine
11 if a holding tank for sanitary sewer will be sufficient for the temporary use.

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

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

25
26 Mr. Mengel, added that the conditions added for the stormwater management permit instructs the
27 developer not to commence development, but legitimately we cannot hold them to this and State Statute
28 says that we cannot withhold any permit we have where we tell them they can't commence development
29 until these other things are in place.

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

31
32 Kimberly Buck P.E. Alann, Engineering Group , 880 Airport Road, Ormond Beach., representing the
33 applicant noting she didn't have anything to add.

34
35 Chairman Boyd, asked if anyone from the public wished to comment
36

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1 James Hodak, 4219 Mayfair Lane Port Orange, FL I currently have a home under construction in the
2 Huntington development directly behind this business section. My wife and I have a couple of concerns
3 when you say business use what type of business use? It is not clarified anywhere.
4
5 Mr. Mengel, Responded this is an existing approved PUD it is intended for office commercial it is limited
6 in scope within the PUD as it is presently crafted. He also invited Mr Hodak to come in or call the office
7 where staff can talk specifically what the PUD would allow.
8
9 Chairman Boyd asked if there was anyone else from the public that would like to comment? Hearing none
10 he closed the public comments section and opened it up for Board comments.
11
12 Mr. Langelo asked staff this is called temporary and its going to sit is there a time limit or a build out?
13 What is the nature of temporary in regard to this building ? Is it till it is 100% built out? Does it have to go
14 away five (5) years from now, or two (2) years from now? What is the nature of temporary?
15
16 Mr. Mengel, responded I would like to link it with the previous item the temporary RV storage. It was
17 clearly temporary in its original approval and in the immediate request. This PUD is a permanent office
18 park so this piece of it is temporary in nature this point it is approved through September 8, 2018 and
19 subject to extension by the Board.
20
21 Mr. Langelo, stated “you said the PUD was extended, what about the structure” When they get a permit or
22 a CO time limit that we can tie to this assuming this is temporary verses a conventional building and the
23 purpose of that so it wont be here forty (40) years from now and we are still have it instead of building a
24 permanent building.
25
26 Mr. Mengel, responded not as it is structured in what you see before you. What we had discussed that at the
27 2018 date the Developer would come forward with an extension. We had discussed infromally for as long
28 as ten (10) years this would be accomplished by an initial five (5) year extension and a subsequent five (5)
29 year extension of the PUD.
30
31 Mr. Langelo, asked once someone has a building permit having a CO is not the same thing.
32
33 Mr. Mengel, responded being a modular building and being temporary there is permanence with this and I
34 understand where this is coming from.
35
36 Mr. Langelo, We are calling it temporary and it is a temporary structure and therefore temporary has some
37 sort of limit to it or do we just say temporary and whenever they feel like it they take it away this century or
38 the next century.
39
40 Mr. Mengel, responded I can give some history of temporary sales centers that have had a longer duration
41 we had the one at Matanzas Shores ,Surf Club we have one here off of Huntington Place and I am not aware
42 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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1 intent is and if you think there is a recommendation you would like to go forward to the BOCC please do
2 so.

3
4 Ms. Buck , The intent of the Developer is to build out the office park and set up a permanent sales office
5 within the office complex.

6
7 Mr. Langello, Do you have a trigger that your client feels comfortable with. Like units in the park to be
8 developed or a certain amount of the business in the business park how would you define temporary.

9
10 Ms. Buck, responded it is difficult to say, I would suggest five (5) years

11
12 Mr. Langello responded so this structure would remain no longer than five (5) years from CO. So if I made
13 a motion with that language it would be acceptable to you with the opportunity to apply for an extension.

14
15
16 *Motion to approve made by Mr. Langello with the additional language that the structure would remain*
17 *no longer than five years from date of CO Seconded by Mr. Barr.*

18
19 *Motion Carried Unanimously.*

20
21 **15. Staff Comments.**

22 None

23
24 **16. Board Comments.**

25
26 **17. Public Comments.**

27 None.

28
29 **18. Adjournment.**

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

31
32 Drafted by: Wendy Hickey

33 Reviewed by: Adam Mengel

34

35