FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, December 13, 2016 at 6:00 PM

Adopted January 10, 2017

MEMBERS PRESENT: Chairman Michael Boyd, Arthur Barr, Robert Dickinson, Troy Dubose
Michael Duggins, Laureen Kornel, and Mark Langello

MEMBERS EXCUSED: None

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

BOARD COUNSEL: Kate Stangle, with Broad and Cassel

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

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

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

3. Approval of Minutes.
Minutes for the November 8, 2016 regular meetings not available at this time minutes will be
available for next meeting.

4. Quasi-judicial requiring disclosure of ex parte communication:
Application #3043 – APPLICATION FOR REVIEW – DRI NOPC AND AMENDMENT TO
PUD SITE DEVELOPMENT PLAN; request for a Notice of Proposed Change (NOPC) and a
Planned Unit Development (PUD) modification to the Bulow Plantation Development of Regional
Impact (DRI) and the Bulow Plantation PUD (Resolution No. 2000-15); Parcel Numbers: 38-12-
31-0000-04050-0010 and 38-12-31-0000-04050-0030; Owner: MHC Bulow Plantation, LLC, and
MHC Bulow Plantation Two, LLC, respectively / Agent: Mark W. Shelton, AICP, Kimley-Horn
and Associates, Inc.

Ms. Hickey, noted that staff requests that this item not be heard at the December 13, 2016 regular
meeting and postponing it to a time and date certain to the Boards January 10, 2017 regular
meeting at 6 p.m. so to preserve the public notice.

Chairman Boyd asked if there was anyone in the audience who wanted to speak on this item.
Hearing none, he asked for a motion to move this item to the January 10, 2017 regular meeting.

Motion to approve made by Mr. Dickinson seconded by Mr. Dubose
5. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3056 – VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT; request for a 10.06 foot rear yard setback variance at 12 Avalon Terrace (Sea Colony subdivision Phase 2 Lot 245); Parcel Number: 20-10-31-5365-00010-2450; Owner: Jan and Elisabeth Faber / Applicant: Skyway Builders, Inc.

Chairman Boyd asked if anyone had any disclosures to report for this item. Mr. Dickinson stated that he is currently working on some landscaping plan for the Sea Colony HOA and it is not related to this item.

Ms. Hickey presented the staff report noting the location and history of the subdivision. She went on to describe the request in detail along with the applicant’s responses to the Variance criteria. And provided the staff recommendation for the approval of the 10.06 foot rear yard setback variance in addition to the recommendation of approval she also presented an alternative if the Board should determine that the variance criteria had not been met.

Chairman Boyd asked if the Applicant would like to make a statement.

Mr. Don Gordon, applicant of Skyway Builders, 395 Palm Coast Pkwy S.W. Unit 1, Palm Coast. The owners have asked me to do this addition. They have recently purchased this house and one of the reasons they purchased the house they knew it was small and they were told at the time of purchase that they would be able to do this addition because everybody else had done it. They just feel they need the extra space to make it their home. If you deny the variance, they would probably have to put the property up for sale and find another location and start over again. The house is pretty well rundown and they are looking to bring it up and the neighbors are very encouraged that they are willing to do that is why we are asking for a variance, to make it a little better for them and to make them permanent residents.

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

Mr. Langello, asked staff it was stated about changing the PUD. Making a change to PUD is not something that the applicant can do that has to done by the HOA or something like that. So that is not applicable tonight.
Adopted 1/10/2017

Mr. Mengel No, I threw that out there because we have come to the point this juncture before. There have been repeated variances that are very similar We have had a few of these over the years and at some point and not penalizing this owner that would be the solution

Mr. Langello, So, that could be something you can do proactively?

Mr. Mengel, Yes

Ms. Kornel asked had any of the neighbors objected.

Ms. Hickey responded that staff has not received any objections and that within the Board’s packets there were copies of letters of support from the neighbors.

Mr. Dickinson stated “the packet demonstrates that the precedent has been set over the last few years by other construction to support of granting the variance”.

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

6. Quasi-judicial requiring disclosure of ex parte communication:
Application #3057 – REPLACEMENT OF NON-CONFORMING USE IN THE R/C (RESIDENTIAL/ LIMITED COMMERCIAL) DISTRICT; request for the replacement of existing mobile home at 323 County Road 302; Parcel Number: 18-12-30-5550-00040-0012; Owner: Melba Bembry / Applicant: Dammie Bembry.

Chairman Boyd asked if anyone had anything to report for this item

Ms. Hickey presented the staff report noting the location, zoning and future land use and history of the property along with Staff’s recommendation of approval allowing for the existing mobile home dwelling unit to be replaced with a new mobile home dwelling unit at 323 County Road 302 (Parcel # 18-12-30-5550-00040-0012).

Chairman Boyd opened the public hearing to public comments seeing none he then opened the hearing to Board comments.

Chairman Boyd stated that he is familiar with this property and that the only reason it is zoned commercial is because of the grocery store which went out of business more than twenty years ago. So what they are basically doing is replacing an existing mobile home with another mobile home.

Mr. Dickinson, asked there are two site plans which one is the final.
Adopted 1/10/2017

Ms. Hickey responded the preferred configuration was the one with the Mobile home toward the front of the property.

Mr. Langello asked there is no thought in you changing the zoning is there? I have no problem with it. As a ex mobile home installer I was just wonder about the trees that are overlapping the building are they going to have any issue if they want to cut those trees down?

Ms. Lemon responded that the Tree Protection Ordinance would not hinder the removal of any trees.

Chairman Boyd asked if there were anymore comments if not he will entertain a motion

Motion to approve made by Mr. Langello seconded by Mr. Dickinson

Motion carried unanimously

7. Quasi-judicial requiring disclosure of ex parte communication:
Application #3058 – SPECIAL EXCEPTION IN THE R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT; request to operate a Massage Therapy Practice at 5915 N. Oceanshore Blvd.; Parcel Number: 40-10-31-3250-00140-0030; Owner: Absente 2 LLC / Applicant: Bryce Creighton.

Chairman Boyd asked if anyone had anything to report for this item.

Ms. Hickey presented the staff report noting the location, zoning and future land use of the site and the special exception guidelines. In addition previously approved variances for this property allowing multiple uses but not including massage therapy were discussed. She then presented staff recommendation for approval with the following conditions:

a) This Special Exception runs with the land;

b) The allowed Special Exception uses on this parcel include: a Bank (without drive-thru), Florist, Travel Agent, Gallery, Jewelry, Beauty Shop, Boutique, Limited Instruction School, Restaurant/Coffee Shop, and Licensed Massage and Physical Therapists, providing compliance with all applicable Land Development Code provisions can be achieved on the existing site, including off-street parking requirements;

c) All signage must be in compliance with Flagler County Land Development Code criteria;

d) Compliance with the Flagler County Land development Code, Section 6.05.00 Marine Turtle provisions and;

e) If expansion of the existing site is needed in order to accommodate required parking specifically for a restaurant/coffee shop, then a new application requesting a Special Exception for the restaurant/ coffee shop will be required.
Chairman Boyd asked if the applicant would like to speak.

Mr. Brice Creighton 5 Wayne Ave., Palm Coast, applicant I am a licensed Massage Therapist and I have lived in the Hammock for many years and Maria is my partner and we have unit Band its only a few minutes from my home. We both have worked in Jacksonville at many spans and we have a lot of experience and we want to bring it to the Hammock where I live. We have spent about $15,000 investment and all the equipment is new and very nice and up to date and we are ready to open our doors and we will have a sign on the glass door and we already have a sign on the marquee on A1A. We just need this Special Exception so we can open and help people.

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

Mr. Barr asked looking at the site plan there are four parking spaces on rear. How do they access them?

Mr. Mengel responded there is a dirt road Seminole Ave. in the back and that is the parking for the residential unit on the second floor.

Mr. Langello asked how specific are the exception definitions? This one here is massage therapy is that a very strict interpretation that if they did any other thing related to that say facial for instance. How specific are these things. So we are trying to find a broad definition that would encompass it. It seems like you have a whole bunch of lists and obviously the real intent is that it is to be used as commercial neighborhood. It would be a shame to keep coming in with every single applicant to do this.

Mr. Bryce Creighton, I failed to mention that we did have a state inspector come in and inspect our unit and they gave us a massage establishment license. We both have our licenses through the state and we also had an inspector from the state board of massage therapy.

Mr. Dickinson, asked about the restaurant/coffee shop that is a approved use but now there is going to be item (e) as a condition that is a restaurant/coffee shop is introduced at a later date it has to come back can you please elaborate a little bit about this.

Ms. Hickey responded that will only be required if the parking becomes deficient for the use.

Chairman Boyd entertained a motion form the Board.

Motion made to approve by Mr. Barr seconded by Mr. Dickinson.
Adopted 1/10/2017

Motion carried unanimously

Ms. Kornel, stated she would excuse herself from items 8 and 9 due to a conflict of interest.

Ms. Stangel, asked if Ms. Kornel would explain the conflict.

Ms. Kornel, stated it was a perceived conflict due to her employment with the City of Ormond Beach. I never vote on Hunters Ridge projects.

8. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3059 – APPLICATION FOR SITE DEVELOPMENT PLAN REVIEW IN A
   PUD for Celedine at Hunter’s Ridge, consisting of 39.83 +/- acres; Parcel Number: 22-14-31-0000-
   01010-0090; Owner: US Capital Alliance, LLC / Applicant: Allan Feker / Agent: Kimberly A. Buck, P.E., Alann Engineering Group, Inc.

   Chairman Boyd asked if anyone had anything to report for this item

   Ms. Hickey presented the staff report noting the size location, future land use and zoning of the
   subject property. She also gave an overview of the proposed project and staff recommendation for
   approval of the site development plan for Celedine.

   Ms. Kimberly A. Buck Alann Engineering Group, Inc. 800 Airport Road, Ormond Beach applicant
   I am available if you have any questions.

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

   Mr. Langello asked how much of this that we are looking at is in Ormond.

   Mr. Mengel, responded none of this part is in Ormond

   Mr. Langello this is basically a small part of the bigger deal that they are apparently changing the
   corporation name form one name to another but they are still a bigger development out there.

   Mr. Mengel, responded if you look on the future land use the part to the right the boundary that we
   have the county line beyond that it is Ormond Beach and we have our jurisdiction to the west side
   of that. The way these are taken down individually we call them clusters in the Development Order
   so as they move forward they would come with individual development agreements PUD site
   development plans and the platting individually. So that this one is being submitted by the Master
   Developer it is before you would have seen Hunters Ridge Residential Golf, Hunters Ridge Timber
adopted 1/10/2017

Company, Hunters Ridge Golf Company so those are the three entities that had combined
ownership and not this is a different entity still with the principal Mr. Feker who is there with some
partners. So you have this new group US Capital Alliance that is there so basically you still have
the same ownership that is there different entity different operating group that is there you will see
this is the first of several that will come forward. The one item I need to mention I the staff report I
wrote it in there of the Notice of Non-Compliance but I did neglect to mention the part and we
talked somewhat with the applicant about this we wanted to advance this through the Planning
Board step but this request cannot advance to the Board of County Commissioners until the order
rescinding the Notice of Non-Compliance we had until that order itself is recorded in the Public
Record then we will proceed to the Board of County Commissioners.

Mr. Langello asked, that is just a formality because the County Commission already approved it.

Mr. Mengel, responded it has got several layers to it, there are some agreement s that were part of
that and so you are correct. The actual approval has taken place all those agreements are in
substantial form it is now the part for us to go forward with the closing part. You have some
transfer properties that have to happen some assignment documents for assign and some of those
rights so you have that final cleanup and all of those are precursors to the order actually being
finalize and recorded in the public record. So, conceptually it has been approved by the Board of
County Commissioners and we did that preliminary step for all those other documents to follow.

Mr. Langello, asked the one we saw several meetings ago that also had the sales trailer put in there
is that the same company is this the same or something different.

Mr. Mengel, responded it’s the same it’s actually a different entity this one is US Capital HR but it
is the same principal. I think it is the same parties it is just a different legal entity and that actually
that single parcel that is the only parcel with that ownership on it. The remainder of the DRI is
under US Capital Alliance LLC but it is the same group.

Mr. Langello, clarified so that trailer and commercial even though they are the same company is
for that neighborhood and the other four I guess are for this neighborhood? Are they going to be
separated can they have one over here and one over there?

Mr. Mengel, responded I think that the intent I don’t want to speak for them but I think that
temporary office that we had would be the potential sales center. The language that the applicant
incorporated in to this Development Agreement has become a standard kind of a boilerplate for us
where we have a certain amount of lots developed and out of those lots the three of those then can
be used I think it is five lots that can be developed as models and can be used for sales purposes
and so that gives some flexibility to the builder but that temporary office is that same entity that
would most likely be used for sales purposes for this development and others to follow.
Mr. Langello asked so, going forward everyone of those cluster neighborhoods could have that language where they can have four or five models so every one of them can have it that is consistent with the whole thing.

Mr. Mengel, responded yes I think because of the housing type like this one may be more of a patio home and then the next one might have a larger footprint, so the other part is you might have different builders doing a takedown so I don’t want to obligate anybody to use that temporary sales center. But as it seems now there will be that common sales center the one we had before that was reviewed that would become the hub for any of these that follow.

Mr. Langello, stated “the only thing is that you had the survey five pages of survey stuff are you guys going through those numbers and trying to close the surveys?

Mr. Mengel responded I am pretty sure we did on this one.

Chairman Boyd asked if there were anymore Board Comments seeing none he asked for a motion.

**Motion to approve made by Mr. Barr seconded by Mr. Langello**

**Motion carried unanimously**

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

   Application #3060 – **APPLICATION FOR PRELIMINARY PLAT IN A PUD** for Celedine at Hunter’s Ridge, consisting of 39.83+/- acres; Parcel Number: 22-14-31-0000-01010-0090; Owner: US Capital Alliance, LLC / Applicant: Allan Feker / Agent: Kimberly A. Buck, P.E., Alann Engineering Group, Inc.

Chairman Boyd asked if anyone had anything to report for this item

Ms. Hickey presented the staff report in detail

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

Mr. Langello asked are we approving the plat with the scriveners errors to be corrected or has that already been done? Or are we approving subject to?

Chairman Boyd asked if the Board had anymore comments seeing none. He then asked for a motion.
Motion to approve the plat subject to all the scriveners’ errors being corrected and seconded by
Mr. Dickinson
Motion carried unanimously

10. Staff Comments.
    None
11. Board Comments.
    Mr. Langello wished everyone a Merry Christmas.

12. Public Comments – Each speaker will be allowed up to three minutes to address the Planning
    and Development Board on any item or topic not on the agenda.

13. Adjournment

Drafted by: Wendy Hickey
Reviewed by: Adam Mengel