

**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

1 **MEMBERS PRESENT:** Chairman Michael Boyd, Arthur Barr, Robert Dickinson, Troy Dubose
2 Michael Duggins, Lauren Kornel, and Mark Langello

3
4 **MEMBERS EXCUSED:** None

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

22
23 4. Quasi-judicial requiring disclosure of ex parte communication:

24 Application #3043 – APPLICATION FOR REVIEW – DRI NOPC AND AMENDMENT TO
25 **PUD SITE DEVELOPMENT PLAN**; request for a Notice of Proposed Change (NOPC) and a
26 Planned Unit Development (PUD) modification to the Bulow Plantation Development of Regional
27 Impact (DRI) and the Bulow Plantation PUD (Resolution No. 2000-15); Parcel Numbers: 38-12-
28 31-0000-04050-0010 and 38-12-31-0000-04050-0030; Owner: MHC Bulow Plantation, LLC, and
29 MHC Bulow Plantation Two, LLC, respectively / Agent: Mark W. Shelton, AICP, Kimley-Horn
30 and Associates, Inc.

31
32 Ms. Hickey, noted that staff requests that this item not be heard at the December 13, 2016 regular
33 meeting and postponing it to a time and date certain to the Boards January 10, 2017 regular
34 meeting at 6 p.m. so to preserve the public notice.

35
36 Chairman Boyd asked if there was anyone in the audience who wanted to speak on this item.
37 Hearing none, he asked for a motion to move this item to the January 10, 2017 regular meeting.

38 *Motion to approve made by Mr. Dickinson seconded by Mr. Dubose*

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1 *Motion approved unanimously*

2

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

8

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

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

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

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

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

29 Mr. Langelo, asked staff it was stated about changing the PUD. Making a change to PUD is not
30 something that the applicant can do that has to done by the HOA or something like that. So that
31 is not applicable tonight.

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

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

5 Mr. Mengel, Yes

6 Ms. Kornel asked had any of the neighbors objected.

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

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

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

12 *Motion carried unanimously*

13

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

19

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

21

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

26

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

29

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

33 Mr. Dickinson, asked there are two site plans which one is the final.

34

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

3
4 Mr. Langelo asked there is no thought in you changing the zoning is there? I have no problem
5 with it. As a ex mobile home installer I was just wonder about the trees that are overlapping the
6 building are they going to have any issue if they want to cut those trees down?

7
8 Ms. Lemon responded that the Tree Protection Ordinance would not hinder the removal of any
9 trees.

10
11 Chairman Boyd asked if there were anymore comments if not he will entertain a motion

12
13 *Motion to approve made by Mr. Langelo seconded by Mr. Dickinson*
14 *Motion carried unanimously*

15
16 7. Quasi-judicial requiring disclosure of ex parte communication:
17 Application #3058 – SPECIAL EXCEPTION IN THE R/C (RESIDENTIAL/LIMITED
18 COMMERCIAL) DISTRICT; request to operate a Massage Therapy Practice at 5915 N.
19 Oceanshore Blvd.; Parcel Number: 40-10-31-3250-00140-0030; Owner: Absente 2 LLC /
20 Applicant: Bryce Creighton.

21
22 Chairman Boyd asked if anyone had anything to report for this item.

23
24 Ms. Hickey presented the staff report noting the location, zoning and future land use of the site and
25 the special exception guidelines. In addition previously approved variances for this property
26 allowing multiple uses but not including massage therapy were discussed. She then presented staff
27 recommendation for approval with the following conditions:

- 28
29 a) This Special Exception runs with the land;
30 b) The allowed Special Exception uses on this parcel include: a Bank (without drive-thru),
31 Florist, Travel Agent, Gallery, Jewelry, Beauty Shop, Boutique , Limited Instruction
32 School, Restaurant/Coffee Shop, and Licensed Massage and Physical Therapists, providing
33 compliance with all applicable Land Development Code provisions can be achieved on the
34 existing site, including off-street parking requirements;
35 c) All signage must be in compliance with Flagler County Land Development Code criteria;
36 d) Compliance with the Flagler County Land development Code, Section 6.05.00 Marine
37 Turtle provisions and;
38 e) If expansion of the existing site is needed in order to accommodate required parking
39 specifically for a restaurant/coffee shop, then a new application requesting a Special
40 Exception for the restaurant/ coffee shop will be required.

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- 1
2 Chairman Boyd asked if the applicant would like to speak.
3
4 Mr. Brice Creighton 5 Wayne Ave., Palm Coast, applicant I am a licensed Massage Therapist and
5 I have lived in the Hammock for many years and Maria is my partner and we have unit Band its
6 only a few minutes from my home. We both have worked in Jacksonville at many spans and we
7 have a lot of experience and we want to bring it to the Hammock where I live. We have spent
8 about \$15,000 investment and all the equipment is new and very nice and up to date and we are
9 ready to open our doors and we will have a sign on the glass door and we already have a sign on
10 the marquee on A1A. We just need this Special Exception so we can open and help people.
11
12 Chairman Boyd opened the public hearing to public comments seeing no one he closed public
13 comments and opened Board Comments.
14
15 Mr. Barr asked looking at the site plan there are four parking spaces on rear. How do they access
16 them?
17
18 Mr. Mengel responded there is a dirt road Seminole Ave. in the back and that is the parking for the
19 residential unit on the second floor.
20
21 Mr. Langelo asked how specific are the exception definitions? This one here is massage therapy is
22 that a very strict interpretation that if they did any other thing related to that say facial for instance.
23 How specific are these things. So we are trying to find a broad definition that would encompass it.
24 It seems like you have a whole bunch of lists and obviously the real intent is that it is to be used as
25 commercial neighborhood. It would be a shame to keep coming in with every single applicant to
26 do this.
27
28 Mr. Bryce Creighton, I failed to mention that we did have a state inspector come in and inspect our
29 unit and they gave us a massage establishment license. We both have our licenses through the state
30 and we also had an inspector from the state board of massage therapy.
31
32 Mr. Dickinson, asked about the restaurant/coffee shop that is a approved use but now there is
33 going to be item (e) as a condition that is a restaurant/coffee shop is introduced at a later date it
34 has to come back can you please elaborate a little bit about this.
35
36 Ms. Hickey responded that will only be required if the parking becomes deficient for the use.
37
38 Chairman Boyd entertained a motion form the Board.
39
40 *Motion made to approve by Mr. Barr seconded by Mr. Dickinson.*

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1 *Motion carried unanimously*

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

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

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

6 8. Quasi-judicial requiring disclosure of ex parte communication:
7 Application #3059 – APPLICATION FOR SITE DEVELOPMENT PLAN REVIEW IN A
8 PUD for Celedine at Hunter’s Ridge, consisting of 39.83+/- acres; Parcel Number: 22-14-31-0000-
9 01010-0090; Owner: US Capital Alliance, LLC / Applicant: Allan Feker / Agent: Kimberly A.
10 Buck, P.E., Alann Engineering Group, Inc.

11
12 Chairman Boyd asked if anyone had anything to report for this item

13
14 Ms. Hickey presented the staff report noting the size location, future land use and zoning of the
15 subject property She also gave an overview of the proposed project and staff recommendation for
16 approval of the site development plan for Celedine.

17
18 Ms. Kimberly A. Buck Alann Engineering Group, Inc. 800 Airport Road, Ormond Beach applicant
19 I am available if you have any questions.

20
21 Chairman Boyd opened the public hearing to public comment seeing no one he closed the public
22 comment and opened Board comments.

23
24 Mr. Langelo asked how much of this that we are looking at is in Ormond.

25
26 Mr. Mengel, responded none of this part is in Ormond

27
28 Mr. Langelo this is basically a small part of the bigger deal that they are apparently changing the
29 corporation name form one name to another but they are still a bigger development out there.

30
31 Mr. Mengel, responded if you look on the future land use the part to the right the boundary that we
32 have the county line beyond that it is Ormond Beach and we have our jurisdiction to the west side
33 of that. The way these are taken down individually we call them clusters in the Development Order
34 so as they move forward they would come with individual development agreements PUD site
35 development plans and the platting individually. So that this one is being submitted by the Master
36 Developer it is before you would have seen Hunters Ridge Residential Golf, Hunters Ridge Timber

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

11
12 Mr. Langelo asked, that is just a formality because the County Commission already approved it.

13
14 Mr. Mengel, responded it has got several layers to it, there are some agreement s that were part of
15 that and so you are correct. The actual approval has taken place all those agreements are in
16 substantial form it is now the part for us to go forward with the closing part. You have some
17 transfer properties that have to happen some assignment documents for assign and some of those
18 rights so you have that final cleanup and all of those are precursors to the order actually being
19 finalize and recorded in the public record. So, conceptually it has been approved by the Board of
20 County Commissioners and we did that preliminary step for all those other documents to follow.

21
22 Mr. Langelo, asked the one we saw several meetings ago that also had the sales trailer put in there
23 is that the same company is this the same or something different.

24
25 Mr. Mengel, responded it's the same it's actually a different entity this one is US Capital HR but it
26 is the same principal. I think it is the same parties it is just a different legal entity and that actually
27 that single parcel that is the only parcel with that ownership on it. The remainder of the DRI is
28 under US Capital Alliance LLC but it is the same group.

29
30 Mr. Langelo, clarified so that trailer and commercial even though they are the same company is
31 for that neighborhood and the other four I guess are for this neighborhood? Are they going to be
32 separated can they have one over here and one over there?

33
34 Mr. Mengel, responded I think that the intent I don't want to speak for them but I think that
35 temporary office that we had would be the potential sales center. The language that the applicant
36 incorporated in to this Development Agreement has become a standard kind of a boilerplate for us
37 where we have a certain amount of lots developed and out of those lots the three of those then can
38 be used I think it is five lots that can be developed as models and can be used for sales purposes
39 and so that gives some flexibility to the builder but that temporary office is that same entity that
40 would most likely be used for sales purposes for this development and others to follow.

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1 Mr. Langello asked so, going forward everyone of those cluster neighborhoods could have that
2 language where they can have four or five models so every one of them can have it that is
3 consistent with the whole thing.
4

5 Mr. Mengel, responded yes I think because of the housing type like this one may be more of a
6 patio home and then the next one might have a larger footprint, so the other part is you might have
7 different builders doing a takedown so I don't want to obligate anybody to use that temporary sales
8 center. But as it seems now there will be that common sales center the one we had before that was
9 reviewed that would become the hub for any of these that follow
10

11 Mr. Langello, stated "the only thing is that you had the survey five pages of survey stuff are you
12 guys going through those numbers and trying to close the surveys?"
13

14 Mr. Mengel responded I am pretty sure we did on this one.
15

16 Chairman Boyd asked if there were anymore Board Comments seeing none he asked for a motion.
17

18 *Motion to approve made by Mr. Barr seconded by Mr. Langello*
19 *Motion carried unanimously*

- 20
21 9. Quasi-judicial requiring disclosure of ex parte communication:
22 Application #3060 – **APPLICATION FOR PRELIMINARY PLAT IN A PUD** for Celedine at
23 Hunter's Ridge, consisting of 39.83+/- acres; Parcel Number: 22-14-31-0000-01010-0090; Owner:
24 US Capital Alliance, LLC / Applicant: Allan Feker / Agent: Kimberly A. Buck, P.E., Alann
25 Engineering Group, Inc.
26

27 Chairman Boyd asked if anyone had anything to report for this item
28

29 Ms. Hickey presented the staff report in detail
30

31 Chairman Boyd opened the public hearing to public comment seeing no one he closed the public
32 comment and opened Board comments.
33

34 Mr. Langello asked are we approving the plat with the scriveners errors to be corrected or has that
35 already been done? Or are we approving subject to?
36

37 Chairman Boyd asked if the Board had anymore comments seeing none. He then asked for a
38 motion
39

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1 *Motion to approve the plat subject to all the scriveners' errors being corrected and seconded by*
2 *Mr. Dickinson*
3 *Motion carried unanimously*

4
5 10. Staff Comments.

6 None

7 11. Board Comments.

8 Mr. Langelo wished everyone a Merry Christmas.

9

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

12

13 13. Adjournment

14

15

16 Drafted by: Wendy Hickey

17 Reviewed by: Adam Mengel

18