

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD REGULAR MEETING

Flagler County Government Services Building,
1769 East Moody Blvd., Board Chambers, Bunnell, FL

MEETING MINUTES

Tuesday, July 9, 2024, at 6:00 PM

1. **Roll Call:** The meeting was called to order by the Chair and a quorum was present.

Members Present: Michael Boyd (Vice Chair), Jack Corbett, Michael Goodman, and Anthony Lombardo.

Members Absent: Mark Langello (Chair), Timothy Conner, and Dan Wilcox

Present: Adam Mengel, Growth Management Director; Chuck Merenda, Assistant Director; Simone Kenny, Planner; Hannah Lademann, Land Development Technician.

Board Counsel: Sean Moylan, Deputy County Attorney

2. Pledge to the Flag.
3. Approval of June 11, 2024 minutes.

June 11, 2024 regular meeting minutes

Motion to approve by: Jack Corbett

Seconded by: Michael Goodman

Motion carried unanimously.

Quasi-Judicial Process: The audience should refrain from clapping, booing or shouts of approval or disagreement. To avoid potential legal ramification and possible overturning of a decision by the Courts, a public hearing must be fair in three respects: form, substance and appearance.

Time limits will be observed:

Staff – 10 minute presentation.

Applicant – 15 minute presentation (unless time extended by consensus of Board).

Public Comment – 3 minutes per speaker, 5 minutes if speaking on behalf of a group.

Applicant Rebuttal and Closing Staff Comments – 10 minutes each.

4. Quasi-judicial requiring disclosure of ex parte communication:
Project No. 2024030057 – **SPECIAL EXCEPTION IN THE C-2 (GENERAL COMMERCIAL) DISTRICT** – request for a Special Exception for RV and Boat Storage in the C-2 (General Commercial) District at 2150 S. Old Dixie Highway. Parcel No. 03-13-31-0650-000D0-0050; 7.548+/- acres. Owner: 278 Storage, LLC/Agent: Kim Buck, P.E., Alann Engineering Group, Inc. (TRC, PDB)

Board Member Disclosures:

Anthony Lombardo discloses a phone call with a lady because he is a real estate agent who listed a home on treetop and the agent did mention the project was upcoming. He also discloses a conversation with the owner of the property, and she mentioned she did not attend neighborhood meetings within the community.

Jack Corbett discloses that he owns properties 40 Treetop Circle and 10 Treetop Trail, which directly abuts the property and has had conversations with two homeowners on Treetop Trail. He has recused himself from the motions and vote on this project.

Staff Presentation: by Adam Mengel, Growth Management Director

Applicant Presentation: Rob Merrill, Cobb Cole Law and Kimbery Buck, Alann Engineering Group

Public Comment:

Valoree Mclean, Shoreline Reality, listing agent for 7 Treetop Trail voices concern for sale of home and decrease of property value. She shares she conducted 34 viewings of the home, and 22 potential buyers all noted the eyesight of the storage facility as a reason for not buying.

Suzanne Lavalley, resident of 9 Treetop Trail shares concern of flooding and potential fire hazards with the stick frames houses so close in proximity to the storage of gas-powered RVs.

Jackie Demartino, resident at 2000 S Old Dixie Hwy shares concern with drainage on neighboring properties due to the pond. Conflicts between information given from County Road and Bridge and St. Johns River Water Management on how water should drain on the west side of Old Dixie Hwy.

Alan Sanderford, resident of 14 Treetop Circle shares concern with the quantity of pole lights and the shine onto neighboring properties. He shares concern that special exception criteria have not been met. Additionally, notes concern owners of the property and their history/issues with other commercial properties.

Jeff Lowcher, resident of 16 Hummingbird Circle, shares that he does not believe this project is a necessity as stated within the Special Exception criteria as there are numerous other storage facilities within the area that do not abut residential areas.

Harriet Castle, resident of 14 Treetop Circle, shares concerns of safety regarding ingress/egress and the use of this site of phase I during the construction of phase II. She states that there are concerns about fumes/gas/diesel/possible fires due to the amount they carry and the proximity to wood frame houses. She states they have not submitted a stormwater plan with SJRWM. She mentions that 3 Treetop Trail has been on the market for a while, and they have been unable to sell their home due to the inconvenience and sight of the storage facility directly behind their home.

Dale Lowcher, resident of 16 Hummingbird Circle request data the supports the need of an additional storage facility in this area. Shares concern of the lighting and how it casts

to their property across Old Dixie Hwy, she recommends tinting of windows and accent lighting. She shares that the property is already not being maintained (cutting grass). She states that many things have changed since the project was originally proposed (hours of operation)

Edward Demartino, resident of 2000 S Old Dixie Hwy. Shares concern of flooding onto his property, as he abuts this property to the west. He shares that he asked for a swale between the properties and that the owners have not complied with his request to mitigate the runoff of water. Shares frustration with county staff and claims there are easements that are shown on his previous survey that run from Old Dixie Hwy to the rear of the proposed property.

Beverly Nichalar, resident of 5 Treetop Trail shares concern with her lack of privacy and lack of replanting of trees to maintain the buffer.

Ray Sanchez, resident of 26 Bay Point Drive shares that Plantation Bay has its own storage for RVs and Boats. He questions why this is a necessary use and what the special need is for this exception to be granted. He also asks why this was not asked for when Phase I was proposed.

Jane Gentile-Youd, resident of 3 Magnolia Drive N shares that the applicant has not provided substantial competent evidence for the need of this request. She references a case from her prior experience in Miami-Dade County that the residents should be considered the expert witnesses proving the necessity of need rather than the Planning Board.

Bruce Tucker, resident of 15 Treetop Circle shares he is proud of his private property in a great neighborhood. He expressed concern about the potential threat and the right to defend private property. He states that the applicant failed to comply with number 9 of the Special Exception criteria in reference to the positive economic impact on the community.

Rob Merrill responds to comments that subject property owners also have property rights with their commercial property. He states that in reference to property owners concerns of drainage, all plans are signed and certified by Kimberly Buck, PE and that her license is on the line. Kimberly Buck shares clarification on the drainage plans and how this property is proposing drainage/runoff. She states that both stormwater and drainage plans are currently being reviewed by SJRWM. Jack Corbett asked what is in the northeast corner of the property and whether it was considered to move the storage to that area of the parcel. Mrs. Buck shares that there was a pre-existing low spot and that there are conceptual plans for that site (possibly a shopping center). Mr. Corbett wanted to confirm that there will be no washing or fueling of the vehicles on the site. Mrs. Buck responded that there will be very strict lease agreements to prevent both. Anthony Lombardo asked about the Southwest corner and the cause of the flooding to the property to the west. Mrs. Buck explained that the property contains neighboring property has a wetland and that the proposed property maintains the 25' required upland buffer. She goes on to say that the property owner is also concerned about the ditch along Old Dixie Hwy, and she explained that the roof of the buildings does not drain onto his property, but drains inward. She states that they built a swale to ensure that water from the project site does not go onto his property, but that

neighbor wished for the swale to carry his water to Old Dixie Hwy, which is outside of their purview and right.

Mrs. Buck also touched on concerns about lighting. She states that the lights within the windows act as advertisements for the facility. She does state that the contractor found that the interior lights were installed incorrectly and have been fixed to face inward. She states that all the lights were switched to a lower voltage for dimming purposes. She shares that all the exterior wall lights and pole lights were switched to shut off when the facility closes at 10pm. She clarifies that while the office closes at 6pm, the facility is open until 10pm. In addition, she states that the under-canopy lights were changed from 8' to 4' dimmable lights and that all pole lights were set to 30% of the brightness unless motion-activated, and that both will shut off when the facility closes at 10pm. She states that the shown lighting plan in the staff presentation is not an accurate representation of their most updated lighting plan.

Mr. Lombardo asks staff for clarification about the history of the property owner and the claims of unpaid taxes. Sean Moylan shares that to his understanding the property taxes have not been paid by the property owner, but a tax certificate has been issued. Mr. Moylan states that the taxes being paid are not a criterion for approval of a special exception. Mr. Lombardo states “how can we get behind” approval for an applicant who was not paid his taxes. Michael Goodman asks for clarification that if the applicants do not receive approval of the special exception will they be allowed to build a second storage building instead. Mr. Moylan confirmed that yes, another storage building, among other uses, could be approved without the need for a public hearing. Jack Corbett comments that as a property owner with two residences within this neighborhood who is concerned about property values, he does not want something more strenuous to be built on the property instead.

Rob Merrill shares that the owner of the property is looking for a return on his investment in this commercial property. He states that in his professional opinion, this is one of the least impactful uses with the lowest intensity that could be proposed on this property. He predicts that if a special exception is not approved, that they will develop something else on the property. Michael Goodman suggested that the developer work harder to appease the neighboring residents – suggesting rethinking the quantity of proposed parking spaces. Mr. Merrill states that he and Mrs. Buck have

MOTION: The Planning and Development Board finds that all special exception criteria as listed in the guidelines at Land Development Code Section 3.07.03.F. have been met for the RV and boat storage use at 2150 South Old Dixie Highway (Parcel No. 03-13-31-0650-000D0-0050), subject to the following conditions:

- a. Development to occur in substantial conformity with the design drawings attached to this Special Exception request, inclusive of lighting setbacks, and landscape buffers; and
- b. Access hours only from 6:00 a.m. to 10:00 p.m. daily; and
- c. No work to commence without issuance of a County Land Development Permit, and no occupancy/initiation of the RV and Boat Storage use until all inspections are complete and all permits are finalized out; and
- d. Site lighting to utilize DarkSky methods; and

- e. No business may operate from the premises (i.e., a business tax receipt shall not be issued for any business on the subject parcel other than the storage use), however the parking of commercial vehicles and equipment shall be permitted; and
- f. Provide a 45' buffer on the South of the property
- g. Fire chief conditions in reference to access for ingress/egress.

Motion to approve by: Michael Boyd

Seconded by: Anthony Lombardo

Motion carried unanimously.

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

Project No. 2024050052 – **VARIANCE IN THE MH-1 (RURAL MOBILE HOME) DISTRICT** – request for a Front Yard Setback Variance in the MH-1 (Rural Mobile Home) District at 4101 Butternut Avenue. Parcel No. 13-12-28-1800-01580-0060; 49,500+/- square feet. Owner: George laizzi Life Estate/Applicant: David Wilhite, Caprock, LLC. (TRC, PDB)

Board Member Disclosures: None

Staff Presentation: by Simone Kenny, Planner

Applicant Presentation: Dan Wilhite, General Contractor, Caprock LLC

Public Comment:

MOTION: The Planning and Development Board finds that all variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E. have been met and therefore approves Application No. 2024050052 for an eight-foot front (North) yard setback from the minimum 25-foot front yard setback for a proposed six-foot-high fence at 4101 Butternut Avenue (Parcel No. 13-12-28-1800-01580-0060).

Motion to approve by: Michael Goodman

Seconded by: Jack Corbett

Motion carried unanimously.

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

Project No. 2024020066 – **SITE DEVELOPMENT PLAN IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for a Site Development Plan in the PUD (Planned Unit Development) District for Primrose at Hunter's Ridge. Parcel No. 22-14-31-0000-01010-0081; 27.14+/- acres. Owner: Ace and Luna II, LLC/Agent: Michael D. Chiumento III. (TRC,PDB, BOCC)

Board Member Disclosures: None

Staff Presentation: by Adam Mengel, Growth Management Director

Applicant Presentation: Jared Trent, Chiumento Law and Marc Dowst, Project Engineer

Public Comment: Will Saffen, 3 Melogold Drive

MOTION: The Planning and Development Board recommends to the Board of County Commissioners APPROVAL of the PUD Site Development Plan and PUD Agreement for Primrose at Hunter's Ridge.

Motion to approve by: Anthony Lombardo

Seconded by: Michael Goodman

Motion carried unanimously.

7. Legislative not requiring disclosure of ex parte communication:

Consideration of an amendment to the Land Development Code related to tree requirements captioned similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING APPENDIX C, LAND DEVELOPMENT CODE, OF THE FLAGLER COUNTY CODE OF ORDINANCES; AMENDING LAND DEVELOPMENT CODE SECTION 4.05.01, SKETCH PLAT REVIEW; AMENDING LAND DEVELOPMENT CODE SECTION 5.01.04, LANDSCAPE DEVELOPMENT STANDARDS; AMENDING LAND DEVELOPMENT CODE SECTION 5.01.09, FLAGLER COUNTY SHADE TREES; AMENDING LAND DEVELOPMENT CODE SECTIONS 6.01.00 THROUGH 6.01.05 RELATED TO INDEX TREE REMOVAL AND PROTECTION; CREATING LAND DEVELOPMENT CODE SECTION 6.01.09, TREE BANK FUND ESTABLISHED; CREATING LAND DEVELOPMENT CODE SECTION 6.01.10, VARIANCES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

(PDB, BOCC)

Board Member Disclosures: None

Staff Presentation: by Adam Mengel, Growth Management Director

Applicant Presentation: None

Public Comment: Robin Polletta, resident of Halifax Plantation shares that she is on the board of her HOA and has participated in an index tree study within her neighborhood. She shares her main concern to preserve historic trees regardless of their location.

MOTION: The Planning and Development Board recommends to the Board of County Commissioners CONTINUE the draft ordinance amending the Land Development Code to the next Planning and Development Board meeting on August 13th at 6pm or soon thereafter.

Motion to approve by: Michael Boyd

Seconded by: Michael Goodman

Motion carried unanimously.

8. Staff Comments.

9. Board Comments.

10. 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.

11. Adjournment.

Motion to adjourn by: Anthony Lombardo

Seconded by: Michael Goodman

Meeting adjourned at 9:16 pm.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Corbett Jack</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Flagler Co. Planning Board</i>
MAILING ADDRESS <i>40 Tractor Circle</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Ormond Beach FL Flagler</i>	NAME OF POLITICAL SUBDIVISION: <i>Flagler County</i>
DATE ON WHICH VOTE OCCURRED <i>7/9/24</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Jack Corbett, hereby disclose that on July 9, 2024:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed



Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.