

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING**

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

MEETING MINUTES

Tuesday, April 11, 2023 at 6:00 PM

ADOPTED MAY 9, 2023

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

Members present: Timothy Connor, Heather Haywood, Mark Langelo, and Fernando Melendez (Chair).

Members excused: Michael Boyd, Jack Corbett, and Anthony Lombardo.

Staff present: Adam Mengel, Growth Management Director; Chuck Merenda, Assistant Growth Management Director; and Gina Lemon, Development Review Planner III.

Board Counsel: Sean Moylan, Deputy County Attorney.

2. Pledge to the Flag.

3. Approval of: March 14, 2023 regular meeting minutes.

Motion: Motion for approval.

Motion by: Mark Langelo

Motion 2nd by: Timothy Conner

Vote: Motion carried unanimously.

4. Legislative, not requiring disclosure of ex parte communication:

Application #3330 – **SMALL SCALE FUTURE LAND USE MAP AMENDMENT FROM COMMERCIAL: HIGH INTENSITY (6.52+/- AC) AND INDUSTRIAL (21.80+/- AC) TO RESIDENTIAL: HIGH DENSITY (28.32+/- AC)** – request to amend the Future Land Use Map designation at 5615 State Road 100 East. Parcel Number 08-12-31-0650-000B0-0070; 28.32+/- acres. Owner: Flagler Pines Properties, LLC/Applicant: Jay W. Livingston, Esq.

Project #2022090031

(TRC, PDB, BCC)

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Jay Livingston, Esquire, Livingston and Sword, gave an overview of the proposed project. He explained that the proposed high density residential use. He explained the parcel specific limiting policy does exist in the Future

Land Use Element now and explained the proposed changes to the parcel specific limiting policy. Flagler Airport does not have a Part 150 sound study, Mr. Livingston engaged a Sound Engineer to perform a sound analysis to determine if we were going to be within the 65 decibel range.

Sound Engineer, Rob Lilkendey, of RML Acoustics, LLC, explained the process that took place to create the sound study. For noise impacts, the FAA uses a yearly day/night average sound level. This is a measure of all the sounds averaged over the 24 hour period. This is what the FAA uses to determine compatibility. Based on the weeks' worth of sound level it is compatible with the airport.

Steven Grigg, President of Republic Properties Corporation. He is a resident of St. Johns County and a licensed architect in the State of Florida. The setbacks on the south side will be about 115 feet and about 100 feet on the property line from west. The project will be located behind the commercial parcels adjacent to E. Moody Boulevard. There are 3-story 40-unit buildings. There are preserved wetlands. From their experience the freeway noise is a much bigger issue than runway noise.

Board Question:

Mark Langello questioned the height of the buildings. Thirteen feet per floor will be over forty feet for the third floor, will be lower than the trees. Mr. Langello also questioned the sound study, what was the height of the microphones.

Mr. Lilkendey responded 6 ½ feet. The pines are approximately 40'.

Mr. Langello questioned the methodology; the microphone was nestled down 6 ½ feet high. He went on with this disagreement to the methodology.

Mr. Lilkendey responded that the table there was 337 flights, that is 22 flights an hour. Mr. Lilkendey explained the propagation of sound for the Board Members.

Mr. Livingston explained the closest airport that has Part 150 sound study. The example was Ft. Lauderdale. Mr. Livingston explained that the locations of the buildings are outside the 65 decibel range.

Mr. Lilkendey explained that being 1000 feet way, then moving 50 feet away is not going to change the sound level much.

Mr. Livingston explained summed up the discussion on the sound with bugs and having been in the County for a very long-time bikes going on SR 100 are not going to be louder than the place sources. Insects with some of the road noise exceed the plane noise. We are in the middle, the sound has much less of an impact.

Heather Haywood questioned the educational facilities increase. How was that calculated?

Mr. Mengel used the generator based on housing type.

Heather Haywood questioned the staff with the student generator. Mr. Mengel responded that the generator is provided by the School District.

Mr. Livingston said the school district did a school impact fee study; the school district has a school generator factor. The student generation rates actually declined from the study that was provided in 2006 and two years ago.

Public Comments:

Roy Seiger, Airport Director of the Flagler Executive Airport commented the rezoning should not be approved. The property was rezoned in 2021 from AC (Agriculture) District to I (Industrial) District at Ordinance No. 2021-10, the felt that the Industrial District is compatible. The Flagler Executive Airport does have a perceived noise problem. The property is contiguous to the Flagler Executive Airport, is not compatible.

Public comments closed.

Board Discussion:

Timothy Conner commented on the need for more multifamily residential development. The location is not compatible. We've only heard from some experts, the experts say that noise is not incompatible. Mr. Conner then made a motion to approve the Future Land Use Designation.

Chair Melendez wanted to collect Board comments.

Mark Langelo commented on traffic and the sound of the report. He did find some inconsistencies with the tables. He found that the commercial would produce less trips. He took classes in college on sound, he is a general contractor. Commented on removing Industrial space. He doesn't think this is a great use of the land.

Heather Haywood agreed that there is a great need for multifamily, however there is a need for the flow of the community.

Timothy Conner commented on the limited for industrial land use but commented that this land is not going to be used for industrial purposes. This is going to be a big box, but if you start putting together mixed use, residential and commercial in close proximity to each other then you have a place for the residents to shop and visit restaurants nearby. To simply do a commercial strip down Highway 100 is bad planning, not good planning. Multi family residential is good for the environment, particularly when you stack structures in multi-level buildings, you have more green space. This close to the Target Shopping Center, it is close to the Shopping Center at Airport Commons, you have restaurants and the school nearby and the gas station is on the corner.

Motion: The Planning and Development Board recommends to the Board of County Commissioner Approval of Application #3330, a Future Land Use Map

amendment (for Parcel # 08-12- 31-0650-000B0-0070) totaling 28.32+/- acres from Commercial High Intensity and Industrial to Residential High Density, finding that the amendment is consistent with the Flagler County Comprehensive Plan.

**Motion by: Timothy Conner
Motion died for lack of second.**

Jay Livingston on rebuttal, this particular parcel is not going to be used as industrial. He went on to describe the lack of compatibility with industrial uses. There is a lot of industrial land within this area, but it is not being utilized as industrial. We have seen commercial development and residential development. There are apartments within Town Center, this is almost the same uses and zoning. The apartment projects are really nice. Mixing the multifamily locations with the commercial has been demonstrated to work; to find locations build multifamily without having to make everyone angry. This concept that this property will not be developed for industrial.

Mark Langello understood what Mr. Conner was talking about and mixing it up, but disagreed with the lack of industrial.

Motion: The Planning and Development Board recommends to the Board of County Commissioners denial of Application #3330, a Future Land Use Map amendment (for Parcel # 08-12- 31-0650-000B0-0070) totaling 28.32+/- acres from Commercial High Intensity and Industrial to Residential High Density, finding that the amendment is not consistent with the Flagler County Comprehensive Plan on two points: the land zoning that is here is more appropriate; and changing it to residential is not consistent.

For the record, Mr. Conner explained that this will never be used for industrial.

**Motion by: Mark Langello
Motion 2nd by: Heather Haywood
Vote: Motion carried with 3 ayes, Timothy Conner voted nay.**

5. Quasi-judicial requiring disclosure of ex parte communication:
Application #3331 – **REZONING FROM C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT AND I (INDUSTRIAL) DISTRICT TO R-3B (MULTIFAMILY RESIDENTIAL) DISTRICT** – request for rezoning at 5615 State Road 100 East. Parcel Number 08-12-31-0650-000B0-0070; 28.32+/- acres. Owner: Flagler Pines Properties, LLC/Applicant: Jay W. Livingston, Esq.
Project #2022090032 (TRC, PDB, BCC)

No Board disclosures.

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Jay Livingston, Esquire, Livingston and Sword continued that

the property will be annexed to the City of Palm Coast. The presentation was relative to both items.

Board Questions:

Mark Langello asked if the City of Palm Coast has been talked to about this project.

Mr. Livingston commented that this will be a mixed use area.

Mark Langello questioned if the part or the whole would be annexed.

Mr. Livingston responded that they would take the whole, because you do not want to create an enclave.

Public Comments:

No public comment.

Mr. Moylan explained that the Board is a recommending body, therefore make a motion based on the merits of the project.

Motion: The Planning and Development Board recommends to the Board of County Commissioners denial of Application #3331, a rezoning from C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) District for 28.32+/- acres, finding that the proposed rezoning is inconsistent with the Flagler County Comprehensive Plan and the Flagler County Land Development Code and compatibility to the surrounding area.

Motion by: Mark Langello

Motion 2nd by: Heather Haywood

Vote: Motion carried 3 ayes, Timothy Conner voted nay.

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

Application #3345 – **SPECIAL EXCEPTION IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT** – request for a Special Exception for a Roadside Vendor for art and food trucks at 2751 Moody Boulevard. Parcel Number 11-12-31-0650-000C0-0050; 9+/- acres. Owner: Robert Mott and John Mott/Applicant: Amber Embers.

Project #2023020040

(TRC, PDB)

Mark Langello disclosed that he had a conversation with the applicant, stopped the conversation and said will discuss in the proper setting.

Staff Presentation: Mr. Mengel presented the staff report.

Mark Langello, questioned the signage, up at the street to advertise their overall project. Not limiting the tent signage.

Heather Haywood question the parking is going to be monitored.

Mr. Mengel responded that it will be complaint driven. The traffic hazard will be FDOT.

Applicant Presentation: Amber Embers, owner of the Cosmic Hippie. The vendors are driving to Jacksonville and Daytona Beach. She will have canvas artwork, custom chocolates and artisan work. She requires that the applicants to provide documentation and digital. Her husband is the security guy and will do the parking.

Board Questions:

Heather Haywood questioned the restrooms.

Ms. Embers answered that there are two port-a-potties, one regular and one handicapped accessible with a hand washing station.

Public Comments:

No public comments.

Board Discussion:

Heather Haywood discussed 5 food trucks on the property.

Mark Langelo questioned staff with the parking.

Mr. Mengel responded that there are patrons of the food trucks that will come buy the food and then leave.

Ms. Embers responded that they have measured the property numerous times, if the vendor comes with a trailer, they will require the pickup to park with the vendor parking and work from the trailer.

Mark Langelo questioned 3 food trucks versus 5 food trucks have an effect on the business plan?

Ms. Embers responded that they were looking for variety of the food trucks.

Mark Langelo questioned the amount of food trucks and the related bathrooms.

Mr. Mengel responded that the commonsense answer would be to provide more of them.

Timothy Conner discussed that there are built in constraints, this spot has been used for this kind of activity. He says in his experience he has not seen this become a dangerous situation.

Motion: The Planning and Development Board finds that all the special exception criteria as listed in the guidelines at Land Development Code (LDC) Section

3.07.03.F have been met and therefore approves the roadside vendor use at 2751 Moody Boulevard (Parcel #11-12-31-0650-000C0-0050), subject to the following conditions:

On a continual basis as required by the LDC specific to roadside vendors:

- 1. Limited to operation at an approved site, but not within five hundred (500) feet of an existing permanent business offering the same services or products.**
- 2. Must provide safe ingress and egress to the site.**
- 3. Must obtain County Business Tax Receipts.**

On an initial and/or continual basis, as applicable, and as required by the LDC for this Special Exception use:

- 4. This Special Exception runs with the land.**
- 5. All roadside vendors are required to set-up and take-down all aspects of the roadside vendor operation on a daily basis. No part of any roadside vendor operation is permitted to remain on site overnight.**
- 6. All roadside vendors operating from the site are required to secure their roadside vendor operation during any period of intermittent severe weather.**
- 7. Roadside vendors shall be limited to: art, jewelry, cottage-made foods, honey, bread, baked goods, home décor and collectibles, non-profit agencies, and food trucks.**
- 8. The location on the site of the roadside vendor (art, jewelry, cottage-made foods, honey, bread, baked goods, home décor and collectibles, non-profit agencies, and food trucks) shall be in a manner consistent with the site plan submitted as part of this application and shall in no instance be permitted to be placed within a vehicular access way or in a required off-street parking space.**
- 9. Refuse will be collected in trash cans and disposed of with ordinary waste generated by the owners' present commercial use unless additional special requirements are called for by other relevant agencies.**
- 10. Parking associated with the use shall be off-street parking, and no parking will be permitted within the right-of-way of Moody Boulevard/State Road 100. Should vehicular traffic and/or off-street parking exceed the provided capacity, the applicant shall utilize staff to direct customers away from the parcel and out of the Moody Boulevard/State Road 100 right-of-way. If required, the applicant shall require "one-in, one-out" traffic management if all available off-street parking is utilized. Customers shall not queue within the Moody Boulevard/State Road 100 right-of-way.**
- 11. Any signs or lighting located within any vendor space or on any food truck/trailer shall be configured in such a manner so as to maintain traffic safety and to minimize glare on adjacent properties.**
- 12. Signage for the use shall be limited to the signage affixed to any vendor space or on any food truck/trailer, including the use of electronic messaging signage or signage with exposed illumination. Individual vendors and food trucks/trailers may have one two-sided sandwich "menu**

board” sign adjacent to their vendor space or food truck/trailer – but not placed within a vehicular access way or in a required off-street parking space – while the roadside vendor is onsite and open for business. A single, two-sided sign no larger than 32 square feet in sign area and with an overall sign height not to exceed six feet may be permitted by the applicant on the subject parcel and identifying “The Cosmic Landing” and the hours of operation, to be located generally within the location as depicted on the Site Plan. No signs may be placed within the right-of-way of State Road 100/Moody Boulevard.

13. Days and hours of operation of the roadside vendors shall be limited to 11 a.m. to dusk daily, with set-up to begin no earlier than 9 a.m.
14. The use of amplified speakers on, or situated in association with, any vendor space or any food truck/trailer shall be limited to no more than 80 dBA while operating at the property as measured at the parcel line of the subject parcel.
15. All vendors and food trucks/trailers shall be required to obtain and maintain on an ongoing basis any Business Tax Receipt and/or agency permit or authorization, including but not limited to issuance of a County Business Tax Receipt by the Flagler County Tax Collector, the Department of Agriculture and Consumer Services, the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, and the Health Department, as applicable.
16. All vendors and food trucks/trailers shall not have permanent connections to onsite utilities.
17. Driveway connection to State Road 100/Moody Boulevard will be subject to permit/approval from the Florida Department of Transportation (FDOT), and will be subject to FDOT access requirements on an ongoing basis for the duration of the use.

Motion by: Heather Haywood

Motion 2nd by: Timothy Conner

Vote: Motion carried unanimously.

7. Quasi-judicial requiring disclosure of ex parte communication:
Application #3346 – **SITE DEVELOPMENT PLAN REVIEW IN A PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for a Site Development Plan Review in a PUD for model homes and parking in the proposed Groveside at Ormond Station Subdivision (f/k/a Celedine). Parcel number 22-14-31-0000-01010-0091; 39.81+/- acres. Owner: ADJ Hunters Ridge, LLC/Applicant: D. R. Horton.
Project #2023020047 (TRC, PDB, BCC)

No Board disclosures.

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Sydney Kendrick, D. R. Horton, no presentation available for questions.

Board Questions:

Mark Langello asked about time limit on the model homes and temporary sales center.

Public Comments:

Jennifer Liddell of 46 Huntington Place, spoke on concerns timing, environmental impact studies, wetland mitigation, negative impact to the wildlife.

Sidney Kendrick explained that the speaker's comments were not related to this application. Her comments are more related to the subdivision.

Public comments closed.

Motion: The Planning and Development Board recommends to the Board of County Commissioners approval of the PUD Site Development Plan in addition that a timeframe for the sales center that would possibly have extensions, the lots no longer used as a sales center must return to a single-family dwelling and the parking lot removed and the lot restored.

Motion by: Mark Langello

Motion 2nd by: Heather Haywood

Vote: Motion carried unanimously.

8. Quasi-judicial requiring disclosure of ex parte communication:
Application #3347 – **SITE DEVELOPMENT PLAN REVIEW IN A PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for a Site Development Plan Review in a PUD for model homes and parking in the proposed Gardenside Subdivision (f/k/a Iris). Parcel numbers 21-14-31-0000-01010-0000; 21-14-31-0000-01010-0030; 22-14-31-0000-01010-0070; 22-14-31-0000-01010-0080; and 22-14-31-0000-01010-0130; 60.06+/- acres. Owner: US Capital Alliance, LLC/Applicant: D. R. Horton.
Project #2023020048 (TRC, PDB, BCC)

No Board disclosures.

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Sydney Kendrick, D. R. Horton no presentation, available for questions.

Public Comments:

Will Rourk, 8 Shear Water Trail, questions how many lot will be developed and the widening of Airport Road.

Barbara Roark, 8 Shear Water Trail, questioned what will happen with the Fire Department and the schools.

Public comments closed.

Mr. Mengel explained the development of regional impact for the Hunter's Ridge and the development yet to come.

Motion: The Planning and Development Board recommends to the Board of County Commissioners approval of the PUD Site Development Plan in addition that a timeframe for the sales center that would possibly have extensions, the lots no longer used as a sales center must return to a single-family dwelling and the parking lot removed and the lot restored.

Motion by: Mark Langello

Motion 2nd by: Heather Haywood

Vote: Motion carried unanimously.

9. Staff Comments.

None

10. Board Comments.

None

11. 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.

No public comments.

12. Adjournment:

Motion to adjourn Motion by: Mark Langello

Meeting adjourned at 9:03 p.m.