

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD REGULAR MEETING

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

MEETING MINUTES

Tuesday, August 8, 2023 at 6:00 PM

ADOPTED 10/10/2023

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

Members Present: Michael Boyd, Heather Haywood (Vice Chair), Mark Langelo, Anthony Lombardo, Fernando Melendez (Chair),

Members Excused: Timothy Connor and Jack Corbett

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

Board Counsel: Sean Moylan, Assistant County Attorney

2. Pledge to the Flag.
3. Approval of June 13, 2023 regular meeting minutes.
Motion by: Mark Langelo
2nd by: Michael Boyd
Motion carried unanimously

Item 10 was taken out of order:

10. Quasi-judicial requiring disclosure of ex parte communication:
Application #3377 – **VARIANCE – 15 FOOT REAR YARD SETBACK VARIANCE FROM THE REQUIRED 20 FOOT MINIMUM REAR YARD SETBACK IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – 46 Audubon Lane (Lot 64, Sugar Mill Plantation Phase II). Parcel No. 37-12-31-5627-00000-0640; Parcel size 18,959+/- square feet. Owner: Steven and Kelsey Swearingen/Applicant: Steven Swearingen.
Project #2023060066 (TRC, PDB)

Board Member Disclosures:

No disclosures.

Staff Presentation: by Adam Mengel, Growth Management Director

Applicant: Steven Sweringen commented that they only have 5-feet to put the pool and pool deck.

Public Comment:

John Cibiras, 47 Audubon Lane and President of the Sugar Mill Homeowners Association and the Architectural Board, the Architectural Board has approved the variance to set the pool at the 5' from the property line. It was not the Homeowners Association that mislead the owners, it was the Realtor, the bank and the management company at the time that misinformed the applicant.

Mr. Boyd looked at the aerial and it looks like there are several homes that have encroached into the rear setback. He made the motion to approve.

Ms. Haywood asked a question for staff about the wetland line?

Mr. Mengel the property line is the rearward extent of the property.

Mr. Langello questioned the property line what is the limit of the pool and pool deck and screen enclosure?

Mr. Mengel responded that the pool and pool deck and screen enclosure will leave a 5-foot strip between the property line and the pool deck.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3377 for a fifteen-foot rear (East) yard setback variance from the minimum 20-foot rear yard setback for a pool at 46 Audubon Lane (Parcel # 37-12-31-5627-00000-0640).

Motion By: Michael Boyd

Motion 2nd by: Mark Langello

Vote: carries unanimously.

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

Application #3370 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot B, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0051; 1.10+/- acres (48,061+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.

Project #2023050061

(TRC, PDB)

Board Member Disclosures:

No disclosures.

Staff Presentation: by Adam Mengel, Growth Management Director

Sean Moylan, Deputy County Attorney emphasize the burden that the applicant is facing. There are extraordinary and exceptional conditions pertaining to the particular piece of property because of its size shape topography or other unique features. That unique condition is not created by affirmative actions of the applicant. The applicants have argued that there is not variance that is even needed here, we disagree and that is why they are here. They have argued that code is antiquated, that is not a legal argument that satisfies the code. They have said that of the notations in the preliminary plat the county staff missed their intentions, he does not think that this meets the legal standard either. The fact is that this should have been a PUD (Planned Unit Development), we were expecting that there should be a final plat

by now. He believed that the property should have annexed into the City of Palm Coast according to the agreement that he saw in the Public Record, the annexation agreement has expired by its terms. There will be an annexation, because of the water situation. There are some problems with this before you. They have to show that this burden is not self-created. We did not tell them how many lots to put out by SR 100. We will allow them to present.

Mr. Boyd asked if the whole subdivision, the whole Cornerstone at Seminole Woods Subdivision would be meeting or exceeding the impervious requirement.

Mr. Mengel believed that the answer is, yes. That is correct.

Ms. Haywood asked at what point do our lines get drawn for the hardship.

Mr. Mengel responded a single developer is working with multiple parcels. They are creating the unified control.

Sean Moylan responded the question you asked is at your discretion. Mr. Boyd noted that there is an easement recorded across all of the parcels for drainage purposes.

Jay Livingston, Livingston and Sword at 391 Palm Coast Parkway SW, Ste. 1, Palm Coast. A couple of things, he has to object that the Deputy County Attorney drawing a legal conclusion that is the Board's job. The annexation agreement is not expired. The annexation agreement had a termination clause if the developers were unable to close by June 30, 2023. The annexation agreement is signed and recorded. Starting with the presentation, he provided that the variances should not be needed. Our final response, which he was involved with, did not mention an antiquated code. The zoning district is Industrial and C-2. The project is being developed He read the LDC, Section 3.03.17 The purpose and intent of the C-2, general commercial and shopping center district is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement. As a whole they, meet the standard. The unique nature of the wetland impacts, redesign will impact more wetlands. Bill Hoover, City of Palm Coast, this complies with the City of Palm Coast. There is an easement that provides drainage to the stormwater pond recorded at Official Records Book 2769, Page 401, Public Records of Flagler County, Florida. The unique features of this site is to minimize wetland impacts. Has substantial high quality impacts. They are not proposing anything that is not permitted and the minimum is being requested.

Matt Williams, the landowner and developer for Seminole Woods. Our design team has been working BJ's Wholesale Club and the pulled the permit and the construction has started. Early 2022 our design team has been working with staff and lot F, the BJ's Wholesale Club. They buttoned up the annexation agreement, that obligates them to annex into the City of Palm Coast. Wetland, stormwater management district the permits are pulled. The construction is started. Apply for site development plan to national tenants, May or June the design team first heard that this does not meet the requirements. The 32 acre tract will never exceed the impervious requirement.

Kim Buck, Alann Engineering Group, Inc. to give you idea that they were looking for a cohesive project on. As a whole they are providing 55.1%; 20% is the retention pond; they have also looked at the independent lot, they would be impacting more wetlands. The last thing she wanted to talk about is the email. They have reached out to the City of Palm Coast, due to the fact that they have a master stormwater system, they look at the project as a whole.

Matt Williams he discussed the PUD with staff. They went through this extensively and decided not to do the PUD District.

Public Comment:

No public comments.

Mark Langello questioned is BJ's going to be the sold. They are going to be individually platted. If this was held under one name. He prefers walking to the store and not dodging landscape islands.

Adam brought up the landscaping as a breakup of the parking area, there are specific vua's (vehicular use areas).

Adam Mengel responded no.

Jay Livingston intent of why they have the 30%.

Mark Langello there would not be a discussion.

Adam Mengel provided that through the plat.

Anthony Lombardo questioned the pre-annexation agreement.

Adam Mengel responded that the pre-annexation agreement in play and the condition of the utilities.

Jay Livingston mandatory annexation when you need the utilities. The commercial market is strong, and the BJ's Wholesale Club is finished and the annexation agreement is closed out.

Anthony Lombardo questioned that the wetland impact would be negative.

Adam Mengel would be even more then the designed stormwater is in place. The impacts to the wetlands would be made.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3370 to exceed the impervious area up to a maximum of 80 percent on proposed Lot B, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051), conditioned upon the storm drainage is approximately 5.68 acres and approximately 3.34 acres of wetland preservation.

Motion By: Mark Langello

Motion 2nd by: Heather Haywood

Vote: carries unanimously.

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

Application #3371 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot A, Cornerstone at Seminole Woods. Portion

of Parcel No. 08-12-31-0650-000D0-0051; 1.12+/- acres (48,699+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050062 (TRC, PDB)

Board Member Disclosures:

No disclosures.

Staff Presentation: by Adam Mengel, Growth Management Director

Public Comment:

No public comment.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3371 to exceed the impervious area up to a maximum of 80 percent on proposed Lot A, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051), conditioned upon the storm drainage is approximately 6.58 acres and approximately 3.34 acres of wetland preservation.

Motion By: Mark Langelo

Motion 2nd by: Heather Haywood

Vote: carries unanimously.

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

Application #3372 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot C, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0051; 1.12+/- acres (48,699+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050062 (TRC, PDB)

Board Member Disclosures:

Staff Presentation: by Adam Mengel, Growth Management Director

Public Comment:

No public comment.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3372 to exceed the impervious area up to a maximum of 80 percent on proposed Lot C, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051), conditioned upon the storm drainage is approximately 6.58 acres and approximately 3.34 acres of wetland preservation.

Motion By: Michael Boyd

Motion 2nd by: Heather Haywood

Vote: motion carries unanimously

7. Quasi-judicial requiring disclosure of ex parte communication:
Application #3373 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot D, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0051; 1.10+/- acres (48,010+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050063 (TRC, PDB)

Board Member Disclosures:

Staff Presentation: by Adam Mengel, Growth Management Director

Public Comment:
No public comment.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3373 to exceed the impervious area up to a maximum of 80 percent on proposed Lot D, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051), conditioned upon the storm drainage is approximately 6.58 acres and approximately 3.34 acres of wetland preservation.

Motion By: Michael Boyd
Motion 2nd by: Mark Langelo
Vote: carried unanimously

8. Quasi-judicial requiring disclosure of ex parte communication:
Application #3374 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot E, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074; 1.09+/- acres (47,545+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050064 (TRC, PDB)

Board Member Disclosures:

Staff Presentation: by Adam Mengel, Growth Management Director

Public Comment:
No public comment.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3374 to exceed the impervious area up to a maximum of 80 percent on proposed Lot E, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051), conditioned upon the storm drainage is approximately 6.58 acres and approximately 3.34 acres of wetland preservation.

Motion By: Michael Boyd

Motion 2nd by: Mark Langelo
Vote: motion carried unanimously

8. Quasi-judicial requiring disclosure of ex parte communication:
Application #3374 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot E, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000B0-0074; 2.35+/- acres (102,374+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050065 (TRC, PDB)

Board Member Disclosures:

Staff Presentation: by Adam Mengel, Growth Management Director

Public Comment:
No public comment.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3374 to exceed the impervious area up to a maximum of 80 percent on proposed Lot E, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051), conditioned upon the storm drainage is approximately 6.58 acres and approximately 3.34 acres of wetland preservation.

Motion By: Mark Langelo
Motion 2nd by: Michael Boyd
Vote: motion carries unanimously

9. Quasi-judicial requiring disclosure of ex parte communication:
Application #3375 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 90% in the C-2 (General commercial and shopping center) and I (Industrial) zoning districts – proposed Lot F, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0050 and 08-12-31-0650-000B0-0071; 10.18+/- acres (443,622+/- s.f.). Owner: BJ's Wholesale Club, Inc./Applicant: Alann Engineering Group, Inc.
Project #2023050066 (TRC, PDB)

Board Member Disclosures:
None

Staff Presentation: by Adam Mengel, Growth Management Director

Public Comment:
No public comment.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3375 to exceed the impervious area up to a maximum of 90 percent on proposed Lot F, Cornerstone at Seminole Woods preliminary plat

(Parcel No. 08-12-31-0650-000D0-0051), conditioned upon the storm drainage is approximately 6.58 acres and approximately 3.34 acres of wetland preservation.

Motion by: Mark Langelo

Motion 2nd by: Michael Boyd

Vote: motion carries unanimously

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

Application #3378 – **PRELIMINARY PLAT IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for preliminary plat review for Hammock Park. Parcel No.: 40-10-31-3280-00000-0010; -0020; -0030; -0050; and -00A0; 7.02+/- acres. Owner DbD Solutions, LLC/Applicant: Stephenson Wilcox & Associates.

Project #2023060068

(TRC, PDB, BCC)

Board Member Disclosures:

No disclosures.

Staff Presentation: by Adam Mengel, Growth Management Director

Noah Gorlic, representing Stephen Wilcox & Associates, Inc.

Mark Langelo questioned this is sort of on a positive note.

Kristren Gregory, custom builders, she is not a track builder. She has semi-custom design, bought the property years ago have a gated community she grew up in in Georgia.

Public Comment:

No public.

Motion: APPROVAL of the preliminary plat for the Hammock Park Subdivision, subject to:

- a. no construction to commence prior to issuance of a County land development permit;
- b. no final plat approval to occur until extension of potable water and sanitary sewer is installed and approved by the City of Palm Coast as the utility provider; and
- c. a waiver of the County's secondary means of emergency ingress and egress (LDC Sec. 4.06.02.M.) requirement will be needed as part of the final plat approval; and
- d. any subdivision improvements not completed by the developer to be bonded or other surety provided consistent with the requirements of the Land Development Code.

Motion By: Anthony Lombardo

Motion 2nd by: Heather Haywood

Vote: carries unanimously.

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

Application #3376 – **PRELIMINARY PLAT IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for a preliminary plat for Amberwoods. Parcel No. 22-14-31-0000-

01010-0130 and 22-14-31-0000-01010-0140; 14.363+/- acres. Owner: US Capital Alliance, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023060026 (TRC, PDB, BCC)

Board Member Disclosures:

No disclosures.

Staff Presentation: by Adam Mengel, Growth Management Director

Kimberly Buck, Alann Engineering Group, Inc.

Mark Langello these are the same lots.

Public Comment:

Elmer Riggan lives in the Huntington Villages this come up 5 houses went up for sale. The impact that it has been on the lots.

Motion: Approval of the preliminary plat for the Amberwoods Subdivision, subject to:

- a. no construction to commence prior to issuance of a County land development permit;
- b. no final plat approval to occur until extension of potable water and sanitary sewer is installed and approved by the City of Ormond Beach as the utility provider;
- c. a waiver of the County's minimum corner lot width (LDC Sec. 4.06.06.A.) and secondary means of emergency ingress and egress (LDC Sec. 4.06.02.M.) requirements will be needed as part of the final plat approval; and
- d. any subdivision improvements not completed by the developer to be bonded or other surety provided consistent with the requirements of the Land Development Code.

Motion By: Heather Haywood

Motion 2nd by: Mark Langello

Vote: motion carries unanimously.

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

Application #3381 – **SITE DEVELOPMENT PLAN REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT FOR WOODSIDE AT ORMOND STATION** – Parcel No. 21-14-31-0000-01010-0000; 21.236+/- acres. Owner: US Capital Alliance, LLC/Applicant: Alann Engineering Group, Inc.
Project 2023060075 (TRC, PDB, BCC)

Board Member Disclosures:

No disclosures.

Staff Presentation: by Adam Mengel, Growth Management Director

Kimberly Buck, Alann Engineering Group, Inc. is available for questions.

Public Comment:

Elmer Riggan lives in the Huntington Villages. DR Horton purchased 72 lots. He believes that the values are going down.

Marc Examilotis lives in the Huntington Villages. Will there be the pines in the wetlands areas?

Kimberly Buck with Alann Engineering Group, Inc. the east side of the development will stay wooded.

Board questions:

Anthony Lombardo commented that we did mail letters to the surrounding area.

Mr. Mengel responded, yes.

Mark Langello that this is part of the original DRI.

Adam Mengel the DRI does not specify the lot sizes.

Mark Langello questioned whether the DRI did provide the square footage of the homes.

Kimberly Buck described the DRI amendment that changed this site to residential.

Motion: Approval of the PUD Site Development Plan and PUD Development Agreement.

Motion By: Anthony Lombardo

Motion 2nd by: Michael Boyd

Vote: motion carries unanimously.

14. Staff Comments.

None.

15. Board Comments.

None.

16. Public Comments:

No public comment.

17. Adjournment: Motion to adjourn

Motion By: Heather Haywood

Motion 2nd by: Mark Langello

Vote: motion carries unanimously.

Meeting adjourned at 8:25pm