



**City of Palm Coast  
Minutes  
CMT/Virtual Hybrid  
Planning and Land  
Development Regulation  
Board**

City Hall  
160 Lake Avenue  
Palm Coast, FL 32164  
www.palmcoastgov.com

***Chairman Clinton Smith  
Vice Chair Robert J. DeMaria  
Board Member James Albano  
Board Member Sybil Dodson-  
Lucas  
Board Member Jake Scully  
Board Member Sandra Shank  
Board Member Charles Lemon  
Alternate Board Member Hung  
Hilton  
Alternate Board Member Suzanne  
Nicholson  
School Board Rep Patty Bott***

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**Wednesday, September 30, 2020**

**5:30 PM**

**Community Center - 305 Palm  
Coast Pkwy. N.E.**

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**RULES OF CONDUCT:**

>Public comment will be allowed consistent with Senate Bill 50, codified at the laws of Florida, 2013 – 227, creating Section 286.0114, Fla. Stat. (with an effective date of October 1, 2013). The public will be given a reasonable opportunity to be heard on a proposition before the City's Planning & Land Development Regulation Board, subject to the exceptions provided in §286.0114(3), Fla. Stat.

>Public comment on issues on the agenda or public participation shall be limited to 3 minutes.

> All public comments shall be directed through the podium. All parties shall be respectful of other persons' ideas and opinions. Clapping, cheering, jeering, booing, catcalls, and other forms of disruptive behavior from the audience are not permitted.

>If any person decides to appeal a decision made by the Planning and Land Development Regulation Board with respect to any matter considered at such meeting or hearing, he/she may want a record of the proceedings, including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made.

>If you wish to obtain more information regarding Planning and Land Development Regulation's Agenda, please contact the Community Development Department at 386-986-3736.

>In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's Office at 386-986-3713 at least 48 hours prior to the meeting.

>The City of Palm Coast is not responsible for any mechanical failure of recording equipment

>All pagers and cell phones are to remain OFF while the Planning and Land Development Regulation Board is in session.

**A Call to Order and Pledge of Allegiance**

*Chair Smith called the September 30, 2020 meeting of the Planning and Land Development Regulation Board (PLDRB) to order at 5:30PM.*

*Chair Smith read into the record the instructions for public participation. Neysa Borkert, City Counsel, explained what a quasi-judicial meeting is for the public's benefit. She also asked the PLDRB members if they received any ex parte communication outside of the items included in the agenda provided to them. No members had received communication outside those items included in the agenda packet.*

**B Roll Call and Determination of a Quorum**

**C Approval of Meeting Minutes**

**1 MEETING MINUTES OF THE PLANNING AND LAND DEVELOPMENT  
REGULATION BOARD MEETING OF SEPTEMBER 16, 2020**

**Pass**

**Motion made to approve as presented by Board Member Albano and  
seconded by Board Member Dodson-Lucas**

**Approved - 7 - Board Member Jake Scully, Vice Chair Clinton Smith, Board  
Member Sybil Dodson-Lucas, Board Member Charles Lemon, Alternate Board  
Member Suzanne Nicholson, Board Member Sandra Shank, Board Member  
James Albano**

**D Public Hearings**

**2 LAKEVIEW ESTATES MASTER PLANNED DEVELOPMENT, APPLICATION # 4150**

*Chair Smith for the benefit of the public explained the rules for the hearing, he explained the order of the presentations, which would follow as: staff then applicant, then the item will return to the PLDRB members for any questions for staff or the applicant, then the item will be open to the public for "public comment".*

*Mr. Smith then introduced Neysa Borkert, City Counsel, who explained what a quasi-judicial proceeding involves. The PLDRB members will be reviewing this matter and making a recommendation to the City Council. Ms. Borkert, clarified that in reviewing this matter the PLDRB will be referencing in the Land Development Code (LDC) particularly the following sections (sections 2.05.05 and 2.09.04) as well as the City's Comprehensive Plan (Comp. Plan) to ensure that the request is consistent with the Comp. Plan and the LDC. Ms. Borkert explained that the PLDRB members will be relying on the evidence and testimony that is put on the record during this meeting to make their determination. Ms. Borkert further explained the difference between evidence and opinion. She also asked that those representing a group of people must identify that group they are speaking on behalf of, for the record. Ms. Borkert, also introduced the hold harmless signed by the applicant in regard to the Virtual/CMT Hybrid meeting and it was added into the record. Ms. Borkert asked the PLDRB members if they received any ex-parte communications on this item before them today and only Mrs. Lucas mentioned a letter she received and turned over to Ms. Schaefer the Recording Secretary when received. Ms.*

*Borkert explained that the referenced letter is including in the agenda packet so it has already been disclosed.*

*Mr. Ray Tyner, Duputy Chief Development Officer, gave a brief description of his employment history with the City along with a history of the subject property including its history as a golf course and its historic zoning district (CGG) which allowed 1 unit per acre on these 280.6 acres. Mr. Tyner also mentioned that in Mr. Hoover's presentation one will notice the differences between City Staff's recommendation and that of the applicant's as to where to site these 268 units (which represents the 268 developable acres of the property). Mr. Tyner explained that this property has the appropriate zoning but there is not an accompanying development agreement that goes along with the zoning and that is why this item is being heard tonight. There is also a draft of a Master Planned Development agreement that will part of tonight's presentation.*

*Mr. Tyner also introduced Mr. Bill Hoover, Senior Planner, who has master degrees in Geography and Planning and is a member of the American Institute of Certified Planners who gave a presentation which is attached to these minutes.*

*Chair Smith recessed to address techical audio problems on [www.palmcoastgov.com](http://www.palmcoastgov.com) @5:50PM and resumed the meeting @ 6:12PM. Chair Smith read the instructions again for remote participation. At that time Mr. Hoover restarted his PowerPoint presentation for the benefit of all present as well as the on line participants who did not have audio previously. At the request of those present he did give extensive definations of each of the zoning districts on his presentation and their associated uses.*

*Attorney Michael Chiumento III, representing the applicant, gave a presentation which is attached to these minutes. Mr. Chiumento broke down and reviewed the comments that came out of the December 5, 2019 neighborhood meeting. Mr. Chiumento showed a drone view of the subject property for presentation purposes of the views that are currently available.*

*Chair Smith brought it back to PLDRB members for questions of City Staff and/or the applicant at 7:28PM. Mr. Scully questioned the lack of retention ponds in the staff's recommendation's for tracts 1, 4 and 6. Mr. Tyner responded that in staff's opinion it was best to keep the land natural.*

*Mr. Chiumento responded to Mr. Tyner's comment that the differences in City staff's and the applicant's recommendations is a matter of opinion, neither of them are right or wrong, and neither are in violation of the LDC or zoning, it is a matter of style.*

*Mr. Albano questioned the differences in staff's and the applicant's views with regard to tract 3 and he asked that the applicant explain their interpretation of the Comprehensive Plan. Mr. Chiumento stated that the LDC required that the existing golf course views be maintained under section 3.03.04J. When the subject property was changed from a golf course zoning into a MPD they incorporated some of the language that references existing golf course views. Mr. Chiumento stated that they are willing to maintain the existing views in perpetuity but they are not a golf course view it is a forest view.*

*Chair Smith asked Mr. Chiumento how many units are sharing a driveway in regard to Tract 3 on Lakeview Blvd. and in addition Mr. Chiumento mentioned that there are 15 shared driveways with 2 lots per driveway.*

*Chair Smith asked City Staff are any of the Single Family Residential (SFR) 2 and/or SFR3 lots in Tract 3 less than 80 ft. in width? Mr. Hoover answered that the SFR2 zoning district has a lot width of 60 ft. and the SFR3 zoning district has a lot width of 80 ft. Most of these lots are 10,000 sq. ft and/or 80 ft. in width. Mr. Chiumento agreed with Mr. Hoover's statement and stated that although the lots may be zoned SFR2 they are sized larger as an SFR3 zoned lot and would be 80 x125 ft. (12,000 sq. ft.) with regard to Tract 3.*

*Chair Smith opened this item to public comment @ 7:38PM and he again reviewed the rules for public comment and the call in number for those participating virtually.*

*Mr. David Serta, Luckencarter, FL., addressed the PLDRB members regarding contaminated land based on prior useage as a golf course and fertilizers used on the property.*

*Mike Martin, 5 Lake Success Drive, questioned Mr. Chiumento's contaminated land testing standards as to whether the tests were performed to the correct depths. He also questioned why the City did not allow the land to revert to natural when the land use stopped as a golf course in 2007 and continued to require golf course views. He also questioned the development of smaller lots at the subject property and their effect on his home value.*

*Peter Kennedy, 19 Lake Success Drive, strong proponent of property rights protection of both the residents and the developer and feels if done correctly could be beneficial for all. He also stated that based on use of the View Protection Zone (VPZ) in the City's recommendations that the applicant will be forced to shrink the size of his lots to incorporate all his 268 unit entitlements and Mr. Kennedy stated this would be detrimental to his property value. Finally, he does not believe a 50 ft. VPZ is not enough on the 18th fairway. (Tract 1) and suggested including an elongated waterway as it is a better buffer for those that live in that area.*

*David Flynn, 47 Londonderry Drive, (Tract 8) speaking for 4 residents living on Londonderry Drive, he referenced a prior agreement with the prior golf course owners' that allowed he and his neighbors to maintain the land behind their homes (property line to about 30 ft. to the pond). Mr. Flynn questioned the developer's plans for that area.*

*Mark Ransom, 141 London Drive, (Tract 9) his concerns are with the effects on the wildlife in the area if any changes are made to the existing retention ponds. Suggested adding a recreation area that utilizes the existing ponds.*

*Susan Shivertaker, Fairway 4 of Matanzas Golf Course, (Tract 9) questioned the soil testing and the process for soil removal of any contaminated soils. Is ingress or egress off US 1 or London Drive? Are ponds (not being shown on Tract 9) going to be filled in for housing development? Retention ponds may not be sufficient to accommodate proposed number of units. Questioned the drainage affect of the new homes and how it may effect her flood zone. Does the plan call for new sidewalks in Tract 9 or is the developer continuing to use the existing*

pathways. Question on whether the proposed Property Owners' Association (POA) may include existing residents.

Toby Tobin, resident of Palm Coast, stated that the VPZ is not defined in the LDC. Improved drainage issues, possible access to Lakeview Blvd., parking resolution are possible areas for negotiation and problem resolution.

Frank Mallenowski, 16 Lee Drive, (Tract 3) questioned if the 268 units being proposed would close the door on any future development of the subject property. If Tract 3 is left unbuilt and Tract 1 is reduced in size as the City suggested; how will these restrictions impact the lot sizes that are built.

Leanne Pennington, 75 Lake Success Drive, stated that the draft version of the proposed MPD does not use the word conservation land (specifically Tract 2). Questioned the proposal to build multi-family housing on Tract 8, where the LDC states that multi-family use will be surrounded by fairways, not located on the fairways, as the City's proposal indicates. Ms. Pennington is concerned about setting a precedent for other Palm Coast golf courses (i.e. Pine Lakes, Cypress Knolls, and Palm Harbor). Requested a copy of the soil testing report.

Michael Arnold, Registered Financial, 14 Luvett Lane, requested an economic impact study be preformed by a certified financial expert or institute. Requested an insurance review from a Property and Casualty company to show the impact on flood zones and increase cost of living. Questions on whether the purchaser has been qualified for proof of funds as well a legal opinion stating that the purchaser is able to meet the timelines and/or has any pending litigation.

Louis Pederos, works with Alex (developer), stated that the developer has tried his best to accommodate everyone's requests in this development. Mr. Pederos spoke highly of the developer's efforts on this project.

Perry Minnotti, 207 London Drive, questioned the legal status of the golf course, he has an ITT document stating that the Matanzas Golf Course would be maintained in perpetuity. Wants to ensure the development will be built (not sit idle). Suggested tabling this item till all questions are answered.

Dennis Shiverdecker, 145 London Drive, his property tax bill indicates that his property is on a golf course, why does the City and the developer say it isn't a golf course anymore?

Diane Minnotti - 207 London Drive (Tract 1), stated that no one is interested in Matanzas Woods area until now, missing subdivision sign, only 1 walkway, and the residents do not have a recreation area. Questioned fire mitigation involvement when the land returns to natural state. She asked the developer where on Tract 1 was the arsenic found, and if that tract is developed what impact on the health and safety of the residents will moving that dirt cause? She questioned whether the developer would be required to have a bond to ensure completion of this project, if approved.

Chair Smith asked for a comfort break at 8:15PM and he reconvened the meeting at 8:25PM.

*Sylvia Puggliese, lives in Palm Coast, questioned the rights of the home owners who purchased property on a golf course. Suggested that the City should have purchased the former golf course to preserve it as green acres.*

*Robert King, no address given, not in favor of this development, arsenic being found is disturbing and the land should be preserved as a recreation area.*

*Michael LiButti, no address given, questioned the status of the retention ponds on this property, stated that he purchased his property with the understanding that no housing would be developed behind his home and objected to the multi-family on the fairways.*

*Justin Simmons, 39 Lake Success Drive, referenced the LDC section that he should still have even with this development a golf course view, is understated in the applicant's proposal.*

*Linda Little, Londerry Drive, questioned whether or not she would be able to maintain (mow) the developer's land behind her home, which she has been maintaining over the past several years.*

*Chair Smith closed this item to public comment at 8:35PM.*

*Ray Tyner reviewed the public questions that were more geared towards City staff for the PLDRB members and the following updates were provided by him:*

*Arsenic testing report has not been received by City, although the City has been informed that a test was completed. Mr. Tyner further stated that within the MPD there is specific language that in section 11.20 title pollutants, states that the applicant would need to provide the environmental report prior to applying for a plat.*

*Flood zone impact - City of Palm Coast flood zone regulations require all homes must be built out of the flood zone including eliminating impact on adjoining properties. Mr. Tyner explained the next steps - staff professional review occur at the next step for preliminary plat. In addition to City staff reviewing the plans, St. Johns River Water Management District (SJRWMD) also reviews these plans to ensure the development complies with State standards. In regard to flooding complaints in the Matanzas Lake area the City's Stormwater Division has hired a stormwater engineer and consultant to look into the issues in the Matanzas Lake area.*

*Mr. Tyner explained that any application for development that comes into the City must apply for a specific water agreement that includes a water and sewer analysis to ensure there is capacity for the new development. This review includes City staff and the Florida Department of Environmental Protection.*

*Mr. Tyner addressed the Property Tax bill referring to the resident's address as associated with a golf course. This is set through the Flagler County Property Appraiser's office and this was set at a time when the golf course existed and in 2007 the golf course went away. He further explained that the VPZ is not defined in the LDC and it is meant to protect the neighborhood.*

*Mr. Tyner addressed the question if this proposal is approved is that the end of the development on this property. He explained that the MPD calls for 268*

*homes and if the owner wishes to amend in the future that the applicant would need to go through the process again to modify the MPD through the public hearing process (PLDRB and City Council). He further explained that the Development Order (DO) does have language that the VPZ be in conservation easements. Mr. Tyner stated the location in the DO, page 34, section 11.7 (VPZ) item #2 where it states that the owner must record the VPZs as conservation easements. This action would occur during the Platting process.*

*Mr. Tyner made a general comment (as he was not specifically familiar with the citizen's reference to the American Village project) as to stormwater ponds that may incur technical issues during development involving water levels may involve the topography of the location, the geography or type of soils present. City staff and SJRWMD are also involved in the review of stormwater.*

*Mr. Tyner addressed the citizen's question as to why the current owner is not being required to maintain the fairways (mow) as previous owners were asked to maintain the property. Certificate of Occupancy (CO) was still in place for the golf course use until such time as the current owner removed the clubhouse and bathrooms along the course. Once those facilities were removed the City's position is that it reverts to a natural setting and a CO is no longer in effect.*

*Mr. Chiumento explained that the arsenic in their testing was found in Tract 1 on the former driving range, the testing was done following State and Federal government mandated rules. The area affected was approximately 100 yards and the State and Federal government mandate the remediation rules.*

*Mr. Chiumento explained the multi-family on Tract 8 are limited to 35 foot high townhomes with a buffer of 150 ft. Mr. Chiumento stated that he did not have an issue with neighbors' maintaining lands on the subject property that backed to their property (continuing to mow the subject property).*

*Mr. Chiumento discussed the use of the term "fairway views" and stated that it is in the applicant's opinion the tract is not a fairway and therefore no fairway views exist, with regard to Tract 8.*

*Mr. Chiumento addressed the question of the location of egress and ingress on Tract 9 being from US Hwy.1.*

*Mr. Chiumento addressed the future of the existing ponds in regard to Tract 9 which does not convey the run off and the applicant proposes that in the buffer area they would create a stormwater zone so that the neighbors would have a waterfront view as well. The applicant's proposal is to look at the stormwater ponds in this area as a global solution to getting stormwater from up in this area by bringing the existing run off into the lakes and ponds.*

*Mr. Chiumento addressed the question of a POA in tracts 1, 3, and 8 which would be under their own independant asociation or maybe part of a master POA. Only those lots in tracts 1, 3 and 8 would be subject to the POA to maintain the streets, stormwater, etc.*

*Mr. Chiumento answered a resident's question regarding what would be included in the Tract 9 - VPZ would it be trees or a water body to convey water from the north to the south? Mr. Chiumento stated that the applicant is open to either*

*solution, however he did state that if left as is the existing ponds they will not be functional as they will silt in.*

*Mr. Chiumento addressed the question of a Covenant with ITT and the existing home owners and stated that the subject property does not have any such Covenants and/or restrictions. And stated any question of existing covenants that the existing residents would be a private matter between the home owner and ITT. Neysa Borkert stated private covenants is not a City issue. The City looks at title as it relates to ownership and easements at the Platting stage, the City only enforces our LDC, Comprehensive Plan and the Code of Ordinances, not private covenants.*

*Mr. Chiumento stated the Owners' Association would maintain the buffers and forested area on the proposed site.*

*Mr. Chiumento reviewed the differences between the City and the applicant's proposals for Tract 1, if the applicant is to follow the City's proposal the units placed in smaller area will result in smaller lots. Mr. Chiumento suggested that the applicant's proposal would accommodate larger lots and include ponds improving the look of the tract. The applicant's proposal on Tract 1 would also result in larger lots in Tract 3 with less density. Mr. Chiumento also stated that if the applicant's proposal were to be adopted than the applicant would be in a position to do some planning involving more recreation area, stormwater solutions, and drainage resolution on Tract 9.*

*Mr. Tyner addressed the question about wildfire mitigation which is enforced by the City's Code Enforcement Division.*

*Chair Smith brought the item back to the PLDRB members for discussion at 9:06PM.*

*Ms. Shank questioned the retention pond in the northwest quadrant of Tract 1 asking if that is where the highest percentage of arsenic was found. Mr. Chiumento clarified the arsenic found at that location was at the former driving range which was adjacent to the former clubhouse. Ms. Shank questioned how many total units are proposed for Tract 1 and Mr. Chiumento answered 150 units approximately. Ms. Shank asked what is the standard testing for environmental contaminants in the subject property and Mr. Tyner stated that the City does not regulate those testing standards they are regulated by the Florida Department of Environmental Protection. That agency has specific standards for testing and that is what the City drafted in our LDC.*

*Mrs. Lucas questioned the standard for a park proposal and is it being considered. Mr. Chiumento stated that the Comprehensive Plan and the LDC have a formula that states that for every 1000 citizens you have to provide 8 acres of park. However, that standard is for a development, there is no requirement in the LDC that requires a private development to provide off site recreation area for the community. However, he did mention that the applicant has discussed the possibility of using some of the subject property as a community park, however, under the City proposal there isn't enough land to get our units and a park that is shared by the development and community.*

*Mr. Scully questioned the term of the existing Development Agreement as 7 years and yet the LDC states a term of 5 years. Mr. Tyner clarified that since a*



*Development Agreement is done via an Ordinance it was extended by agreement. Mr. Scully agreed with Mrs. Lucas that Tract 9 which has a zoning district of Public/SemiPublic (PSP) may be able to be used as a park site. Mr. Scully mentioned that for the Board's consideration that he felt in favor of the applicant's proposal for Tract 3 and that he suggested both City staff and the applicant go back to "the drawing board" for Tract 1 and compromise to find a solution. Mr. Scully stated for the board's consideration that the PLDRB be charged with defining what a VPZ is for this development and future golf courses.*

*Ms. Nicholson questioned the separation (distance) to the east on the applicant's Tract 1 conceptual layout 1 from the existing development. Mr. Chiumento stated that the back of their proposed homes to the back of the existing homes is 50 ft. and that the land would revert to natural, and that it would be placed in a conservation easement. Mr. Chiumento mentioned that under the applicant's Tract 1 conceptual layout 2 the distance would be 100 ft with a stormwater pond as separation. Ms. Nicholson asked a procedural question as to whether or not a vote other than yes or no would be possible to allow the applicant and staff to continue to work on the proposal towards a compromise.*

*Neysa Borkert clarified for the PLDRB that their recommendation can be whatever the board sees fit. It is up to the Board's pleasure as to how they recommend to the City Council, as any recommendation here will go to the City Council for their consideration. However, any recommendation here must include any changes that are recommended/made. Ms. Borkert brought to the PLDRB's attention, at the bottom of page 10 of the agenda, the staff's recommendation, however, that recommendation can be modified by the motion maker on the PLDRB as to see how they see fit.*

*Mr. Albano questioned whether City staff gave any consideration to not backing traffic out onto Lakeview Blvd. from Tract 3. Mr. Chiumento stated that they did discuss with City staff (and he did clarify it is a collector road as classified under the City), however the applicant believes the proposed plan will work and will maintain safety. Mr. Bob Dickenson, architect for the applicant, clarified on the Tract 3 details that the owners' of these properties would be turning around as the driveways are 200 ft deep, therefore they would not be backing onto Lakeview Blvd.*

*Ms. Shank quoted the LDC section 2.05.05D regarding unreasonable hazard and stated her concern about the environmental report regarding the arsenic levels was not presented prior to this meeting and the potential long term risks to the potential residents of that Tract. Mr. Chiumento stated that the State and Federal government will dictate how the soil contamination is remediated and will leave the land in a condition that is fine for habitation. In addition, it is a requirement of the MPD and the City's LDC.*

*Mr. Scully in response to Mr. Albano's motion (after the motion was seconded by Ms. Nicholson) recommended that the City Council charge the PLDRB with the defining the VPZ within former golf courses. Ms. Borkert clarified that before the PLDRB is this application not the LDC and such a motion should be done during the meeting section titled Board Discussion and Staff Issues. Mr. Scully withdrew his ammendment to the motion.*

**Pass**

**Motion made to Table this item to allow the applicant and City staff to go back to try to close the gap between the disparity between Tract 1 and Tract 3 by James Albano and seconded by Alternate Board Member Nicholson**

**Approved - 7 - Board Member Jake Scully, Vice Chair Clinton Smith, Board Member Sybil Dodson-Lucas, Board Member Charles Lemon, Alternate Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano**

**E Board Discussion and Staff Issues**

**F Adjournment**

**Pass**

**Motion made to approve by Board Member Scully and seconded by Board Member Shank**

**Approved - 7 - Board Member Jake Scully, Vice Chair Clinton Smith, Board Member Sybil Dodson-Lucas, Board Member Charles Lemon, Alternate Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano**

*The meeting was adjourned at 9:45 PM.*

*Respectfully Submitted by:*

*Irene Schaefer, Recording Secretary*

**3 ATTACHMENTS**