



**City of Palm Coast
Minutes
Planning and Land
Development Regulation
Board**

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

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

Wednesday, October 20, 2021

5:30 PM

City Hall - Community Wing

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.

Call to Order and Pledge of Allegiance

Chair Smith called the Planning and Land Development Regulation Board (PLDRB) October 20, 2021 meeting to order at 5:30PM.

Roll Call and Determination of a Quorum

Present and responding to roll call were:

Chair Smith
Mr. Albano
Ms. Shank
Mr. Lemon
Ms. Nicolson
Mr. Hilton
Ms. Bott

Excused were:
Mrs. Lucas
Mr. Scully

Approval of Meeting Minutes

1 MINUTES OF THE SEPTEMBER 15, 2021 PLANNING AND LAND DEVELOPMENT REGULATION BOARD MEETING

Pass

Motion made to approve as presented by Board Member Hilton and seconded by Board Member Albano

Approved - 6 - Chairman Clinton Smith, Board Member Charles Lemon, Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano, Board Member Hung Hilton

Public Hearings

2 STOUTENBURG BOATHOUSE ROOF VARIANCE - APPLICATION # 4870

Ms. Katie Reischmann, City Attorney, addressed the PLDRB members regarding the guidelines for a variance. She stated that usually a variance is granted when there is something unusual about the parcel and the applicant had not taken any action resulting in the parcel becoming not fit for use. In addition Ms. Reischmann stated that the variance requested must be the minimum action that is required to make the parcel usable. Mr. Ray Tyner, Deputy Chief Development Officer, addressed the PLDRB members regarding the 5 criteria that must be met to grant a variance. Mr. Tyner introduced Ms. Estelle Lens, Planner AICP, who gave a presentation which is attached to this record. He also introduced Ms. Tracey Doak, Zoning Supervisor, who was present to answer any questions.

Suzette & Greg Stoutenburg applicants addressed the PLDRB members regarding the timeline for the project's construction and provided information regarding subsequently learning of the permit and construction problems.

Mr. Jay Livingston, representing the applicants, addressed the PLDRB members and gave a presentation which is attached to this record. Mr. Livingston handed out an aerial of the subject property, which has been attached to this record.

Chair Smith questioned the details involved with the original permit which included the dock, which showed a future roof at 28 ft. and the subsequent submittal which showed a 40 ft. dock which was put on hold permit, and a hand written comment of 34 ft. was added to the submittal, so the permit for the roof was never actually active, correct? Ms. Lens answered yes. Mr. Albano asked to see the picture showing the elevation of the dock. What is the overall height of this boathouse from the seawall? Mr. Livingston stated that the top of the dock is 10.5 ft. from the waterline, so 10 ft. from the seawall, the dock is a stepdown from the seawall about 10.5 ft. Mr. Albano questioned the interpretation from the Land Development Code (LDC) dealing with a roof over water should be 26 ft. plus the allowance over additional width. Mr. Livingston stated that the roof over dock isn't addressed. Mr. Albano stated (depending on the outcome of this hearing) that the State of Florida has a home owner construction recovery fund and that Mr. Livingston's clients would be eligible to apply for this funding. Mr. Livingston stated that that he and his clients would like to avoid going after the contractor but if that is necessary than yes they would take advantage of the State's home owner recovery fund if they could not get remedy elsewhere. Ms. Nicholson asked a question of Ms. Reischmann, who bears the proof to clarify if there is confusion on a building permit, is it the applicant or the City? Ms. Reischmann stated that we are here (at this public meeting) for a variance therefore by applying for a variance the applicants have accepted the fact that their permit was issued for 34 ft. and they have a 45 ft. roof. So they have accepted the fact that the code requires a 34 ft. roof. Ms. Reischmann stated that in regard to your question regarding the status of the permit, case law states that unless the person signing off on the permit has full authority to waive the code, than that permit was issued in error and the City can reissue the permit with the correct footage. Ms. Nicholson questioned the City staff if there had been any precedent of any other dock roofs being approved for more than 34 ft. in the past. Mr. Tyner stated that in 2009 the PLDRB issued a variance for a dock roof on 2 Cardnial Ct. which was supposed to be 30 ft. and the applicant was granted a 3 ft. variance, giving them a 33 ft. dock roof. Chair Smith also stated that some dock roofs may have been built prior to the code being inacted (2008). Ms. Shank referencing the definition of a variance as provided by Mr. Livingston states circumstances peculiar to the land use or building, stating that there is nothing peculiar with the land, it is a standard lot. Ms. Shank asked for clarification on the timing of the contract for the work on the roof. Mr. Greg Stoutenburg clarified that there were two transactions with Aqua (contractor), the first to put a dock and a lift in and the second for the roof over the dock. Two quotes were provided - one covering just the boat area and the second one covering the boat area and the seating area and the applicant accepted the second proposal for the dock. The second transaction for the roof was signed on December 3, 2019. Ms. Shank asked about the estimates on the dock and boat lift, the first transaction. Ms. Soutenburg stated the signed contract was for \$17,400.00 for the roof (the second contract). And the first signed contract for the dock and boat lift was \$20,990.00. Ms. Shank stated that the perrmit that was issued in October 2019 indicates the estimate is for the boat slip and boat dock, not including the roof, otherwise the estimate would have been for \$38,000.00, stating that she didn't believe that the variance application meets the grounds for granting a variance. Mr. Livingston clarified with regard to Ms. Shank's earlier point about a variance is granted due to a peculiarity on the land. Mr. Livingston stated that the peculiarity is on the building as to how it was constructed and that is relevant to this application. Ms. Shank stated that the roof was never permitted, as

previously stated. Mr. Livingston agreed but stated that was not what his clients were told, they believed it was permitted.

Mr. Livingston stated that he doesn't agree with Katie's (Ms. Reischmann) earlier statement that by applying for a variance the applicant has accepted the code. Mr. Livingston stated that they have applied for a variance because that is the administrative remedy the City provides. Mr. Livingston mentioned that he disagrees with staff's interpretation on the code. He stated that he has two options, to go to court filing declaratory action or he comes to the PLDRB seeking relief. He further stated that they are here because it is a procedural requirement not to admit they agree with the interpretation of the code. Mr. Tyner stated that staff is very clear on the interpretation of the code which they have been applying since 2008. There has been one variance since 2008 and all the contractors seem to understand the code provisions. Even this contractor understood our code provisions because he came with a code revision. Mr. Livingston referenced two plans with the same time stamp (one for a 34 ft. roof and one for a 40 ft. roof) on July 8, 2019. Mr. Tyner explained that one permit is submitted for an application (package) including building and zoning. In that same package the building staff reviews for compliance with the FI. Building Code and the zoning team would review for compliance with the LDC. Mr. Albano asked if the contractor was offered the opportunity to come tonight to address the PLDRB members. Mr. Livingston stated he wasn't sure if the contractor was contacted to come here. Ms. Reischmann stated for clarification she wasn't stating that by the applicant coming here tonight they waive any other remedies. However she wanted to clarify what we are here tonight to address, if the interpretation of the code is in fact what Mr. Livingston stated, than you would deny this variance. If he wants to make an argument that the permit was actually granted for a 45 ft. roof than you wouldn't come here for a variance you would use another mechanism. Ms. Reischmann went on to state that we need to assume certain facts, that the code was interpreted correctly. She mentioned that Ms. Jordan Myers handed out to the PLDRB members copies of the "residential docking facilities along salt water and fresh water canals" code section being discussed (copy attached to this record) for the members to reference. Ms. Reischmann stated that we are talking about here is a dock not just the dock slip. Ms. Reischmann related the variance standards are to be applied to the property not to the persons involved. Neighbors approval is great but we don't know if that is all the neighbors. In addition the minimum relief necessary to make reasonable use of the land is an important standard because that is stating that if the variance is not granted the applicant will not be able to use their land in a reasonable way.

Chair Smith opened this item to public comemnt at 7:00PM and seeing no one approach the podium he closed this item to public comment at 7:01PM.

Prior to the PLDRB members making a motion Ms. Reischmann asked that the PLDRB make a positive motion and then deny the motion if they wish to vote against the variance.

Fail

Motion made to approve by Board Member Shank and seconded by Board Member Albano

Denied - 6 - Chairman Clinton Smith, Board Member Charles Lemon, Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano, Board Member Hung Hilton

3 SABAL PALMS PHASE 2 - TECHNICAL SITE PLAN TIER 2 - APPLICATION # 4780

Mr. Ray Tyner, Deputy Chief Development Officer, gave an introduction of this item and introduced Ms. Estelle Lens, Planner AICP, who gave a presentation which is attached to this record.

Mr. Greg Spiro, Managing Member of Protea Senior Living, the owner of Sabal Palms, addressed the PLDRB members. He also provided a fly over video which are part of this record.

Ms. Shank inquired if any of the proposed units will be set aside for veterans? Mr. Spiro stated that typically in our other properties we do, however, for Sabal Palms I don't know. Ms. Shank asked that Mr. Spiro consider setting aside 10% of the available units for veterans based on the crisis in housing for veterans. Mr. Albano asked if Phase 2 is the final phase on this project as his concern is maintaining the big buffer between this development and existing residential properties. Mr. Spiro stated yes it is the final phase of the project.

Chair Smith opened this item to public comemnt at 7:20PM and seeing no one approach the podium he closed this item to public comment at 7:21PM.

After the vote Chair Smith declared a 5 minute comfort break at 7:24PM.

Pass

Motion made to approve with staff's condition by Board Member Hilton and seconded by Board Member Albano

Approved - 6 - Chairman Clinton Smith, Board Member Charles Lemon, Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano, Board Member Hung Hilton

4 REZONING GRAND LANDINGS NORTH - APPLICATION #4873

Chair Smith resumed the PLDRB meeting at 7:30PM. Chair Smith stated that he has declared a conflict of interest on this item because he has had some representation of the applicant in this matter and he has filed the appropriate paperwork with the Recording Secretary, which has become part of this record. Chair Smith was advised by the City Attorney, Ms. Reischmann, that it would be appropriate for him to continue to lead the meeting but that he will not participate in the discussion nor in the vote.

Mr. Ray Tyner, Deputy Chief Development, gave a history of this property which has County zoning designation in order to be consistent with our Comprehensive Plan a request to rezone to City zoning designation has been files. He also introduced Jordan Myers, Environment Planner, who gave a presentation which is attached to this record.

Mr. Vincent Sullivan, of the Chiumento Law firm, on behalf of the applicant JTL Grand Landings addressed the PLDRB members and was available to answer any questions.

Chair Smith opened this item to public comment at 7:39PM and seeing no one approach the podium he closed this item to public comment at 7:40PM.

Pass

Motion made to Recommend Approval by Board Member Shank and seconded by Board Member Lemon

Approved - 5 - Board Member Charles Lemon, Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano, Board Member Hung Hilton

5 AMENDING THE FUTURE LAND USE MAP DESIGNATION FOR 141.5+/- ACRES OF PROPERTY FROM RESIDENTIAL LOW-DENSITY AND CONSERVATION (COUNTY DESIGNATIONS) TO RESIDENTIAL AND CONSERVATION (CITY DESIGNATIONS) ALONG WITH POLICY TO LIMIT DEVELOPMENT TO 217 UNITS

Chair Smith stated that he has a conflict with this item #5 as well as #6, he did not deal with this owner but he has had dealings with the adjacent owner. Chair Smith further stated as in item #4 he has filed the appropriate paperwork with the Recording Secretary (which is part of this record) and that he was advised by the City Attorney, Ms. Reischmann, that it would be appropriate for him to continue to lead the meeting but that he will not participate in the discussion nor in the vote.

Mr. Ray Tyner, Deputy Chief of Community Development, explained that items #5 & #6 will be presented together but that two separate votes will be required. He further explained how these items' existing zoning and Future Land Use Map (FLUM) designations will be changed from Flagler County designation to the City of Palm Coast's zoning and FLUM designations. He also introduced Mr. Jose Papa, Planner AICP, who gave one presentation for both items # 5 & #6 which is attached to this record.

Mr. Jay Livingston, Livingston and Sword, representing the applicant, Atlee Development Group and ML Carter & Associates, gave a presentation which is attached to this record. Mr. Livingston gave a summary of the questions raised at the neighborhood meeting, specifically, questions about what is being proposed, and why the rezoning was needed, location of and proximity of construction to the neighboring homes, traffic impact, flooding and the amount of fill being brought in. Mr. Livingston encouraged the participants to follow the project as it goes through the process.

Chair Smith opened this item to public comment at 7:50PM and seeing no one approach the podium he closed this item to public comment at 7:51PM.

Pass

Motion made to Recommend Approval including the development limit to 217 units by Board Member Albano and seconded by Board Member Nicholson

Approved - 5 - Board Member Charles Lemon, Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano, Board Member Hung Hilton

6 AMENDING THE ZONING MAP DESIGNATION FOR 141.5+/- ACRES FROM COUNTY DESIGNATION OF PLANNED UNIT DEVELOPMENT (PUD) TO CITY DESIGNATION OF SINGLE-FAMILY RESIDENTIAL-1 (SFR-1) AND PRESERVATION (PRS)

Mr. Jose Papa, Planner AICP combined the presentation for this item with item #5.

Chair Smith opened this item to public comment at 7:52PM and seeing no one approach the podium he closed this item to public comment at 7:53PM.

Ms. Shank made a statement requesting that the Palm Coast City Council consider a Planned Affordable Development addressing the housing needs in the City.

Pass

Motion made to Recommend Approval by Board Member Albano and seconded by Board Member Lemon

Approved - 5 - Board Member Charles Lemon, Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano, Board Member Hung Hilton

Board Discussion and Staff Issues

No Board and or Staff Items were discussed.

7 ELECTION OF A VICE CHAIR TO THE PLANNING AND LAND DEVELOPMENT REGULATIION BOARD

Ms. Nicholson nominated Mr. Scully as Vice Chair and Mr. Albano seconded. Mr. Hilton nominated Ms. Shank as Vice Chair and Mr. Albano seconded.

The vote for Mr. Scully as Vice Chair was as follows:

Mr. Lemon No

Mr. Hilton No

Ms. Shank No

Ms. Nicholson Yes

Mr. Albano No

Chair Smith Yes

Motion is defeated 4 to 2

The vote for Ms. Shank as Vice Chair was as follows:

<i>Mr. Lemon</i>	<i>Yes</i>
<i>Mr. Hilton</i>	<i>Yes</i>
<i>Ms. Shank</i>	<i>Yes</i>
<i>Ms. Nicholson</i>	<i>Yes</i>
<i>Mr. Albano</i>	<i>Yes</i>
<i>Chair Smith</i>	<i>Yes</i>

Chair Smith commented on the two excellent candidates and it was hard to choose between them. Congratulations, Vice Chair Shank.

Pass

Motion made to approve Ms. Shank as Vice Chair by Board Member Hilton and seconded by Board Member Albano

Approved - 6 - Chairman Clinton Smith, Board Member Charles Lemon, Board Member Suzanne Nicholson, Board Member Sandra Shank, Board Member James Albano, Board Member Hung Hilton

Adjournment

Motion made that the meeting be adjourned by Mr. Albano and the motion was seconded by Mr. Lemon. The meeting was adjourned at 7:48PM.

*Respectfully Submitted by:
Irene Schaefer, Recording Secretary*

Pass

Motion made to approve by Board Member Albano and seconded by Board Member Lemon

Approved - 6 - Chairman Clinton Smith, Board Member Charles Lemon, Board Member Suzanne Nicholson, Vice Chairman Sandra Shank, Board Member James Albano, Board Member Hung Hilton