



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

City Hall  
160 Lake Avenue  
Palm Coast, FL 32164  
[www.palmcoastgov.com](http://www.palmcoastgov.com)

***Chair Clinton Smith  
Vice Chair Sandra Shank  
Board Member James Albano  
Board Member Charles Lemon  
Board Member Hung Hilton  
Board Member Suzanne Nicholson  
Alternate Board Member Sybil  
Dodson-Lucas  
Alternate Board Member Larry  
Gross  
School Board Rep Kory Bush***

---

**Wednesday, January 18, 2023**

**5:30 PM**

**City Hall - Community Wing**

---

- Public Participation shall be in accordance with Section 286.0114 Florida Statutes.
- Public comment on issues on the agenda or public participation shall be limited to 3 minutes.
- Other matters of concern may be discussed as determined by Committee during the meeting.
- If you wish to obtain more information regarding the agenda, please contact the Community Development Department at 386-986-3736.
- In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a reasonable accommodation to participate in any of these proceedings or meeting should contact the City Clerk at 386-986-3713, at least 48 hours prior to the meeting.
- It is proper meeting etiquette to silence all electronic devices, including cell phones while meeting is in session.
- Any person who decides to appeal any decision with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose, may need to hire a court reporter to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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

*Chair Smith called the January 18, 2023 Planning and Land Development Regulation Board (PLDRB) meeting to order at 5:30pm.*

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

*Present and responding to roll call were:*

*Chair Smith  
Vice Chair Shank  
Mr. Albano*

Mr. Lemon  
Mr. Hilton  
Ms. Nicholson  
Mrs. Lucas  
Mr. Gross

Excused:  
Mr. Bush

**C Approval of Meeting Minutes**

**1 OCTOBER 19, 2022 MEETING MINUTES OF THE PLANNING AND LAND DEVELOPMENT REGULATION BOARD MEETING**

**Pass**

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

**Approved - 7 - Chairman Clinton Smith, Board Member Sybil Dodson-Lucas, Board Member Charles Lemon, Board Member Suzanne Nicholson, Vice Chairman Sandra Shank, Board Member James Albano, Board Member Hung Hilton**

**D Public Hearing**

**2 SPECIAL EXCEPTION – HORIZON SELF STORAGE - APPLICATION # 5293**

*Mr. Ray Tyner, Deputy Chief Development Officer, introduced this agenda item along with Ms. Estelle Lens, AICP, Planner, who gave a presentation which is attached to this record.*

*Rob Merrell, representee for the applicant, addressed the PLDRB regarding this project and was present to address any questions of the PLDRB members.*

*Mr. Albano asked about the proposed painted concrete block architectural feature. Ms. Lens stated that the architectural designs include split block and massing techniques, and the building located on the property will be housed behind pines.*

*Mrs. Lucas asked about the range of pricing for the units. Mr. Dugan Gravage, representing the owner, stated that the pricing is market driven \$2.00 and \$2.50 per square a month. A 10 x 10 unit would be about \$250.00. Mrs. Lucas asked if the storage areas are climate controlled. Mr. Gravage stated that the inside units are climate controlled. Vice Chair Shank asked if the option on landscaping plan to the north and east of the property, as stated D, E, or F, is left up to the applicant. Ms. Lens stated that there is the option of D, E, or F based on the Land Development Code (LDC). Mr. Tyner stated that screening is required to be adequate for the project. Vice Shank asked if it is possible to add a condition for the landscaping buffer type for the north and east. Mr. Tyner answered yes.*

*Chair Smith opened this item to public comment at 5:56pm and seeing no one approach Chair Smith closed this item to public comment at 5:57pm.*

*Mr. Hilton asked about the number of special exceptions that have been presented recently to the PLDRB. Mr. Tyner explained that this use is enabled by right, but a special exception is required to add special conditions, if applicable. A special exception is engrained in our LDC. Mr. Tyner also clarified a special exception is different from a variance.*

*Mr. Albano commented that there is a need to review light pollution for this and similar projects. Ms. Lens stated that a photometric plan is required at time of Technical Site Plan submittal. She further mentioned that the Technical Site Plan would be coming back to the PLDRB in the future.*

**Pass**

**Motion made to approve as amended subject to the 8 conditions outlined by staff and in addition to the north and east side the buffer zone be limited to D or E as an option. It was further stated that this item is consistent with the Comprehensive Plan and the Land Development Code by Vice Chairman Shank and seconded by Board Member Dodson-Lucas**

**Approved - 7 - Chairman Clinton Smith, Board Member Sybil Dodson-Lucas, Board Member Charles Lemon, Board Member Suzanne Nicholson, Vice Chairman Sandra Shank, Board Member James Albano, Board Member Hung Hilton**

**3 PRESENTATION QUASI-JUDICIAL AND SUNSHINE LAW TRAINING**

*Mr. Ray Tyner explained the timing of this training was due to only having one agenda item for the PLDRB members to hear tonight. Also, we have a new member to the PLDRB.*

*Ms. Katie Reischmann, legal counsel, addressed the PLDRB members on the Quasi-Judicial (policy application vs. legislative - policy formation) proceedings and her presentation is attached to this record. Ms. Reischmann clarified that the role of the PLDRB in a quasi-judicial matter (special exception, variance, rezoning) is to apply the code to a particular set of facts. Ms. Reischmann clarified by stating the PLDRB should question (when reviewing a Quasi-Judicial application) what did the policy makers tell us to do via the Land Development Code (LDC). Ms. Reischmann also clarified that a new Florida law requires that the PLDRB is to provide a denial reason. Vice Chair Shank asked if when a motion is made to deny should a reason be given. Ms. Reischmann stated that if the PLDRB is going against staff recommendation than yes providing a reason would be helpful to staff and the applicant. Mr. Albano asked if a variance must be based on a hardship. Ms. Reischmann stated that a variance is based on hardship. Mr. Tyner stated that it has been staff's policy historically to make sure that a variance meets all 5 of the criteria for a variance (per the LDC). Katie reviewed the appeal process for a quasi-judicial decision which involves the court reviewing the criteria for an appeal. Mr. Albano asked about swearing in for a quasi-judicial matter. Ms. Reischmann stated she has always been of the opinion to keep things light and informal. Chair Smith asked if a PLDRB member*

*knows an answer should they provide the information. Katie answered yes but added that they shouldn't testify to the suitability to the application. Ray reminded the PLDRB members about talking with others about pending applications in public can be perceived as being biased. Chair Smith stated that if you are at a party and someone starts talking about a project that may reasonably come before the PLDRB, he suggested just walking away. Ms. Reischmann clarified that the court is putting the burden on the board to find the evidence to not allow the applicant to get what they are asking for in their application. Mr. Tyner asked for Ms. Reischmann to clarify. Ms. Reischmann stated in case law, the courts say that the applicant must meet the requirements of the code and if they do, usually determined by staff, then the board must say what is the evidence that the application should be denied is based upon. Mr. Albano asked about a rezoning denial. Ms. Reischmann explained that the board may deny a rezoning, even though the applicant has the right to request a rezoning, when staff (report) has determined that the LDC requirements for a rezoning were not met. Ms. Reischmann explained the measuring of the public interest criteria in the code stating that lay testimony about compatibility of a project can be weighed. Mr. Tyner asked about Comprehensive Plan changes and what testimony carries weight. Ms. Reischmann stated that lay testimony from neighbors is valid and may be considered during a Comprehensive Plan amendment application. Ms. Reischmann explained the appeal process. Mrs. Lucas asked who pays for an appeal and Ms. Reischmann explain the person who files the appeal pays. Ms. Reischmann stated that in a statutory action the applicant can recoup their legal fees if they prevail in court.*

*Ms. Reischmann discussed the broad nature of the Florida Sunshine Law and stated that at any time any two of you speak the public needs to be invited and noticed. New rule lets a PLDRB member abstain from a vote if one feels they may be biased on the matter. Ms. Reischmann stated that the PLDRB members may speak with staff without violating the Florida Sunshine Law. Mr. Tyner stated that we follow City Council rules for public comments being limited to 3 minutes. Mr. Albano asked about liability protection for the PLDRB members and Ms. Reischmann stated yes while you are acting as a PLDRB member during a meeting you are covered. Ms. Reischmann stated that any communications regarding a public matter should be forwarded to the Recording Secretary. Mrs. Lucas asked about not reading the documents (mailed letters) and Ms. Reischmann stated that is the best situation and if you don't read the document than you don't have to disclose an ex-parte communication. Ms. Reischmann stated that nothing of value should be accepted from a member of the public. She encouraged PLDRB members to contact the ethics hotline with questions.*

*Mr. Albano asked if the applicant has the right to go directly to City Council, bypassing the PLDRB. Mr. Tyner stated that theirs is an appeal process. Ms. Reischmann stated that the PLDRB has a vital role and the PLDRB members are the protectors of the Comprehensive Plan and that is by statute.*

#### **Received and Filed**

### **E Board Discussion and Staff Issues**

None

**F      Adjournment**

*Motion made that the meeting be adjourned by Mr. Albano and the motion was seconded by Mr. Hilton. The meeting was adjourned at 6:48pm.*

*Respectfully Submitted by:  
Irene Schaefer, Recording Secretary*

**Pass**

**Motion made to approve by Board Member Albano and seconded by Board Member Hilton**

**Approved - 7 - Chairman Clinton Smith, Board Member Sybil Dodson-Lucas, Board Member Charles Lemon, Board Member Suzanne Nicholson, Vice Chairman Sandra Shank, Board Member James Albano, Board Member Hung Hilton**