

REGULAR PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JULY 25, 2019

THE REGULAR PLANNING COMMISSION MEETING of the City of Port Orange was called to order by Chairman Jordan at 5:30pm.

Pledge of Allegiance

Silent Invocation

Roll Call

Present: John Junco
Maria Mills-Benat
Newton White
Darrel "Bo" Bofamy
Lance Green
Stan Schmidt
Thomas Jordan, Chairman

Also Present: Matthew Jones, Deputy City Attorney
Shelby Field, Assistant City Clerk

B. DISCUSSION/ACTION

4. Consideration of Minutes

Motion to approve the minutes as presented from June 27, 2019 was made by Commissioner Bofamy and Seconded by Commissioner White. Motion carried unanimously by roll call vote.

Chairman Jordan read the voting conflict forms from Commissioner Green and Commissioner Schmidt into the record. They are both declaring a conflict on Item #5 of this agenda.

5. Case No. 19-65000001

PCD Rezoning/The Palms at Ashton Lakes PCD
Southeast corner of S. Williamson Boulevard and Oakwater Lane

A request by the applicant to rezone ±18.72 acres from Cypress Head Planned Commercial Development (PCD) to The Palms at Ashton Lakes PCD and approval of The Palms at Ashton Lakes PCD Master Development Agreement (MDA) and Conceptual Development Plan (CDP) to allow for the development of a 167-bed assisted living facility (ALF) and a future commercial outparcel.

STAFF CONTACT: Gwen Perney, (386) 506-5673 gperney@port-orange.org

Penelope Cruz, Planning Manager, presented the staff report for the proposed rezoning and answered questions from the Commissioners.

Mark Watts, attorney for the applicant, introduced himself and the other representatives for the project.

Bill Maggard, Project Manager for NexCore Group, provided a presentation and answered questions from Commissioners. They are focused on the quality of healthcare and keeping seniors active and happy.

Jami Mohlenkamp, Oz Architecture, spoke about their desire to provide a good quality of life to seniors.

Matthew West, LTG Incorporated, spoke about the potential traffic benefits that would come from this designation rather than a shopping center that is allowed under the current zoning designation.

Mr. Maggard spoke about a few of the concerns they received from the neighborhood meeting, such as the landscape buffer and pedestrian safety, and how they would address these issues.

Commissioner Bofamy inquired about the outcome of the neighborhood survey. Mr. Watts responded that his understanding was this is a less intense use of the property, but citizens seem to be concerned about the initial location of the access drive on Oakwater and pedestrian safety.

Commissioner Green agrees this is less of a traffic impact than the current designation but believes the landscape buffer needs to be bigger and doesn't like the connection/exit on Oakwater, he would rather it be a right turn in only.

Commissioner White agrees about the right turn in only option for Oakwater if there must be an entrance at all. He is concerned with the number of parking spaces and would like to see more.

Commissioner Schmidt asked about the location of the Oakwater exit and if that is their only entrance/exit or if one can be on Williamson. Mrs. Cruz responded that due to the roadway classifications of Oakwater and Williamson, the LDC requires the sole access to be from the lower classified road (Oakwater) to prevent stopping traffic on the thoroughfare road, and that they are already going above the code by providing access on both. She also informed the Commissioners the Oakwater entrance/exit is required by public safety.

Commissioner Mills-Benat suggested sidewalk stamping on the Williamson entrance/exit as well for pedestrian traffic.

Arlene Fiore, citizen, understands the original designation in 1991 for the Oakwater exit but doesn't believe it's still necessary. She spoke on behalf of Ashton Lakes and is requesting at least to make the road emergency vehicles only if they must have it.

Walter Smiths, President of Ashton Lakes HOA, believes the additional parking could go on the eliminated second access point on Oakwater. He would like a left turn signal to turn onto

Oakwater from Williamson and would like to see stop signs on the Oakwater and Williamson entrance/exits put in. Mr. Smiths is also in favor of the increased buffer.

Richard Fiore, citizen, asked about the size of the buildings allowed on site. He inquired about putting a buffer between the project and the Ashton Lakes subdivision entrance.

Jenette Powells, citizen, has safety concerns about the senior citizens with dementia who would live there and would like a buffer to block the view of other buildings and the temptation to wander away from the facility.

Robert Meyers, citizen, discussed the traffic in their neighborhood when school starts and noted some difficulties that could arise taking care of the property maintenance with the changes in traffic.

Jeremy Fairs, citizen, also touched on the Oakwater exit and would like to see some of the natural buffer stay.

Anthony Leva, citizen, believes Port Orange has gotten too big and has too much congestion now. He would like to see some of the natural habitat remain.

Steve Hagberg, citizen, is concerned about traffic coming through the residential areas.

Commissioner Junco spoke about the traffic concerns from the citizens and believes an assisted living facility would provide less traffic then what the property is currently zoned for.

Commissioner Mills-Benat agrees with Commissioner Junco and stated this parcel is going to be developed no matter what and would rather see an assisted living facility than a shopping center.

Commissioner Bofamy asked Mrs. Cruz what could be developed on the property if this is not approved. She answered that it has Commercial Future Land Use and Zoning already so anything commercial, such as shopping centers could be possible.

Commissioner Green would like to see a few things; the landscape buffer on Oakwater looked at, a left turn light onto Oakwater, and emergency access only on Oakwater.

Commissioner White spoke on the current traffic manual and standards for a road and how they are not what the community wants.

Chairman Jordan also spoke about the traffic, but how it primarily comes from the projects around it.

Motion to approve case 19-65000001 was made by Commissioner Junco and Seconded by Commissioner Bofamy. Motion carried 5-0-2 by roll call vote with Commissioner Green and Commissioner Schmidt abstaining.

6. CASE NO. 19-60000004
Rezoning/6015 Spruce Creek Road
Southeast corner of Central Park Boulevard and Spruce Creek Road

A request by applicant to rezone ± 7.58 acres from Single-family Residential (R-10SF) to Government/Public Use (GPU).

STAFF CONTACT: Briana Conlan-King, (386) [506-5676 brking@port-orange.org](mailto:506-5676.brking@port-orange.org)

Briana Conlan-King, Senior Planner, discussed details of the proposed rezoning and answered questions from the Commissioners.

Commissioners are concerned about the noise from the outdoor amphitheater.

Scott Kirschner, applicant, spoke to the Commissioners about the desire for a church at this location and answered questions from Commissioners.

Commissioner Mills-Benat spoke highly of Mr. Kirschner's involvement in the community.

Harry Newkirk, Newkirk Engineering, addressed commissioner concerns about preserving the historic trees on site.

Mrs. Cruz informed the Commission about the noise ordinance in residential areas.

Mr. Kirschner informed the Commission he has no desire to turn the outside area into a big concert venue but more like a community gathering place highlighting the natural landscape.

Jennifer Legaf, citizen, is in favor of the potential project.

Motion to approve case 19-60000004 was made by Commissioner Mills-Benat and Seconded by Commissioner Bofamy. Motion carried unanimously by roll call vote.

7. CASE NO. 18-50000002
Subdivision Plat & Plans/Springs at Port Orange
5410 S. Williamson Blvd., located on the southwest side of S. Williamson Blvd., north of Summer Trees Road

A request by the applicant to subdivide ± 29.5 acres into three (3) lots.

STAFF CONTACT: Penelope Cruz, (386) 506-5671 pcruz@port-orange.org

Mrs. Cruz discussed details of the plan and answered questions from the Commissioners.

Commissioner White is concerned about the traffic this could produce.

Luke Kilic, Project Manager, gave more information on the project and answered questions from Commissioners.

Motion to approve case 18-50000002 with staff recommendations as presented and subject to city attorney review was made by Commissioner Mills-Benat and Seconded by Commissioner Junco. Motion carried unanimously by roll call vote.

8. CASE NO. 19-40000004

PCD Amendment/First Amendment to the Riverwalk Amended and Restated MDA and CDP East side of Ridgewood Avenue, between Orange Avenue and Herbert Street

A request by the applicant for approval of the First Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA) to defer the completion date for certain site improvements in Phase 1 and defer recording of the Riverwalk subdivision plat to September 20, 2020. There is no proposed change to the September 20, 2019, completion date for the 23-foot public trail and park.

STAFF CONTACT: Penelope Cruz, (386) 506-5671 pcruz@port-orange.org

Tim Burman, Community Development Director, discussed the request to change the completion of the parking lot and recording dates and answered questions from Commissioners.

Jeff Brock, representative for the applicant, spoke regarding the request and answered questions from Commissioners.

Scott Toban, S.A.T Development, addressed some of the permitting issues they are having to demolish the building on the property.

Parker Mynchenberg, Parker Mynchenberg & Associates, spoke about the work that has been done so far and the only thing they are asking for which is to extend the timing of the parking lot.

Motion to approve case 19-40000004 as presented was made by Commissioner Junco and Seconded by Commissioner Mills-Benat. Motion withdrawn.

Chairman Jordan would like to see a limit on how long the City Manager can grant for an extension to prevent longer construction delays.

Commissioner White suggested a maximum of a 60-day extension.

Motion to approve case 19-40000004 with a recommendation to Council that the City Manager's discretion on extensions be limited to a 60-day period was made by Commissioner

*White and Seconded by Commissioner Bofamy.
Motion carried unanimously by roll call vote.*

Chairman Jordan called a 2-minute recess at 7:43 pm

9. CASE NO. 19-25000002
LDC Text Amendment/Chapters 2, 17, and 18

A request for approval of an amendment to the Land Development Code (LDC) Chapters 2, 17, and 18, to address zoning for contractor businesses and motor vehicle sales as part of an effort to update the LDC.

STAFF CONTACT: Penelope Cruz, (386) 506-5671 pcruz@port-orange.org

Mrs. Cruz discussed the request for an amendment to the LDC and answered questions from the Commissioners.

Motion to approve case 19-25000002 with a recommendation to amend chapter 18, section 4, subsection 5.12c to change the landscape buffer for the storage yard only from a 10-foot buffer to a 20-foot buffer was made by Commissioner Bofamy and Seconded by Commissioner Mills-Benat. Motion carried unanimously by roll call vote.

10. CASE NO. 19-60000006
Administrative Rezoning/415 Herbert Street
415 Herbert Street

A request to rezone ± 0.64-acres from Commercial Industrial (CI) to Government/Public Use (GPU).

STAFF CONTACT: Penelope Cruz, (386) 506-5671 pcruz@port-orange.org

Mrs. Cruz presented the staff report for the proposed rezoning and answered questions from the Commissioners.

Motion to approve case 19-60000006 was made by Commissioner Mills-Benat and Seconded by Commissioner Junco. Motion carried unanimously by roll call vote.

C. OTHER BUSINESS

11. Commissioner Comments

Commissioner Green questioned Mr. Burman about the Thompson Pump project. Mr. Burman responded they have not come forward with a site plan. Commissioner Green is unhappy with the buffer on Airport Road for Acorn Storage.

Commissioner White asked about who is responsible for the walkway lights at the Springs Apartments. Mr. Burman responded that the Springs are responsible. He also inquired about what happened to the Kangaroo gas station. Mr. Burman responded that they closed down and that no permits have been submitted for redevelopment. Commissioner White questioned what is going on with the landscape for Dave's Pest Control. Mr. Burman replied they are working with them to bring it up to code.

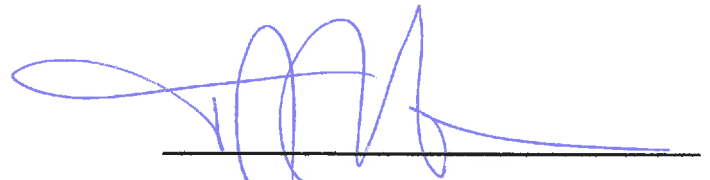
Commissioner Mills-Benat asked for an update on the church on Madeline. Mr. Burman provided a summary of their site plan and the work that has been done. Code Enforcement is keeping track of the property.

12. Staff Comments

There were none.

D. PUBLIC COMMENTS – there were none.

E. ADJOURNMENT – 8:30pm


Chairman Thomas Jordan

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Green, Lance E</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Planning Board</i>	
MAILING ADDRESS <i>6469 Longlake Dr</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Port Orange</i>	COUNTY <i>Volusia</i>	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <i>7/25/19</i>		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Lance Green, hereby disclose that on 7/25, 20 19:

(a) A measure came or will come before my agency which (check one or more)

☐ insured to my special private gain or loss;

☒ insured to the special gain or loss of my business associate, Jimmy Payton @ Payton Homes,

☐ insured to the special gain or loss of my relative, _____,

☐ insured to the special gain or loss of _____, by whom I am retained; or

☐ insured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item 5 - PCD Re-Zoning
Palms @ Ashton Lakes

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

7/23/19
Date Filed

Lance Green
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Schmidt, Stan		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Planning Commission	
MAILING ADDRESS 5574 Trail Side Drive		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Port Orange	COUNTY Volusia	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED 7/25/19		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTEE	

WHO MUST FILE FORM 8B

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

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APPOINTED OFFICERS (continued)

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- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Stan Schmitt, hereby disclose that on 7/25, 20 19:

(a) A measure came or will come before my agency which (check one or more)

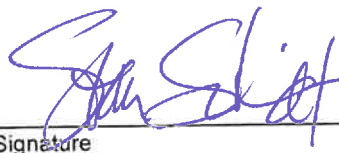
- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item #5 - 19-65000001
PCD Rezoning the Palms at Ashton Lakes PCD

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

7/23/19
Date Filed


Signature

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