

PANAMA CITY BEACH CITY COUNCIL

AGENDA


NOTE: AT EACH OF ITS REGULAR OR SPECIAL MEETINGS, THE CITY COUNCIL ALSO SITS, EX-OFFICIO, AS THE CITY OF PANAMA CITY BEACH COMMUNITY REDEVELOPMENT AGENCY AND MAY CONSIDER ITEMS AND TAKE ACTION IN THAT LATTER CAPACITY.

SPECIAL MEETING DATE: DECEMBER 14, 2017
MEETING TIME: 5:00 P.M.

- I. CALL TO ORDER AND ROLL CALL
- II. INVOCATION- COUNCILWOMAN STRANGE
- III. PLEDGE OF ALLEGIANCE- COUNCILWOMAN STRANGE
- IV. QUASI-JUDICIAL HEARING—REHEARING OF ORDER OF THE PLANNING BOARD DENYING VARIANCE ON 502 PETREL.
- V. ADJOURN

JOHN REICHARD	<u> X </u>
PHIL CHESTER	<u> X </u>
JOSIE STRANGE	<u> X </u>
HECTOR SOLIS	<u> X </u>
MIKE THOMAS	<u> X </u>

I certify that the Council members listed above have been contacted and made aware of the item on this agenda.



City Clerk

11/27/17

Date

IN AN EFFORT TO CONDUCT YOUR COUNCIL MEETINGS IN AN ORDERLY AND EXPEDIENT MANNER, WE RESPECTFULLY REQUEST THAT YOU WAIT UNTIL THE CHAIR RECOGNIZES YOU TO SPEAK, THEN COME TO THE PODIUM AND STATE YOUR NAME AND ADDRESS FOR THE RECORD.

E-mailed to following interested parties on: 12/11/17, 1 P.M.

<u>NEWS MEDIA</u>	<u>CONTACT</u>
News Herald	Tyra Jackson
Bullet	Linda Lucas
Channel 4	News Dept
Channel 7	Newsroom
Channel 13	Brady Calhoun
Comcast	Stefanie Bowden
WOW	Cil Schnitker
WKGC	Tori Shay
WLTG	A. D. Whitehurst
Clear Channel	Production Director
Powell Broadcasting	Jeff Storey, GM

NOTE: COPIES OF THE AGENDA ITEMS ARE POSTED ON THE CITY'S WEBSITE WWW.PCBGOV.COM UNDER "AGENDA INFORMATION".
THIS MEETING WILL BE LIVE-STREAMED ON THE CITY WEBSITE.

NOTICE IS HEREBY GIVEN THAT ONE OF MORE MEMBERS OF OTHER CITY BOARDS MAY ATTEND AND SPEAK AT THIS MEETING.

If a person decides to appeal any decision made by the City Council with respect to any matter considered at the meeting, if an appeal is available, such person will need a record of the proceeding, and such person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is based. Sec. 286.0105, FS (1995)

**APPEAL OF THE PLANNING BOARD'S
DENIAL**



LES W. BURKE •
ROB BLUE, JR.
EDWARD A. HUTCHISON, JR.
ELIZABETH J. WALTERS *
DOUGLAS L. SMITH +
MICHAEL S. BURKE
WILLIAM S. HENRY**
WILLIAM C. HENRY***
JOY MARLER MASTERS +++
J. CHRISTOPHER BARR
MICHAEL J. HENRY
CLARK T. ROGERS
NEVIN J. ZIMMERMAN
SANDRA A. WILSON •

September 12, 2017

• OF COUNSEL
* ALSO ADMITTED IN ALABAMA
** ALSO ADMITTED IN GEORGIA
*** ALSO ADMITTED IN NEW YORK
+ CERTIFIED CIRCUIT COURT MEDIATOR
+++ LL.M. IN TAXATION

Panama City Beach Building and Planning Department
ATTN: Mel Leonard, Director
110 S. Arnold Road, Panama City Beach, FL 32413
via email: mleonard@pcb.gov
achester@pcb.gov

Re: Appeal of Denial of Variance Request for Property Located at
502 Petrel, Panama City Beach, FL; Parcel Id. No.: 34740-000-000

Dear Mel:

This letter shall serve as Donald and Mary Ellen Rice's ("Rice") notice of appeal of the Planning Board's August 31, 2017, Order denying their request for variance for the property located at 502 Petrel, Panama City Beach, FL, Parcel Id. No.: 3474-000-000.

Respectfully submitted,

Michael S. Burke
**BURKE BLUE HUTCHISON
WALTERS & SMITH, P.A.**

cc: Mario Gisbert, City Manager
Amy Myers, City Attorney
Don and Mary Ellen Rice

PANAMA CITY
221 MCKENZIE AVENUE
PANAMA CITY, FLORIDA 32401
TELEPHONE (850) 769-1414
FACSIMILE (850) 784-0857

PANAMA CITY BEACH
16215 PANAMA CITY BEACH PARKWAY
PANAMA CITY BEACH, FLORIDA 32413
TELEPHONE (850) 236-4444
FACSIMILE (850) 236-1313

OPPOSITION TO APPEAL

Jo Smith

From: Andrea Chester
Sent: Tuesday, December 5, 2017 8:01 AM
To: Jo Smith
Subject: FW: Variance Hearing on Dec. 14th

Good Morning,

Please see the response below from a neighbor of 502 Petrel asking the council to deny the appeal request.

Andrea Chester



PANAMA CITY BEACH

Planning Department, 116 South Arnold Road, Panama City Beach, FL 32407
850-233-5054 ext. 2313
achester@pcb.gov

Under Florida Law, e-mail addresses are public records. If you do not want your e-mail address released to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

NOTICE: This message is intended only for the use of the individual or entity to which it is addressed. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error, then delete it. Thank you.

From: Robyn Logan [mailto:robynlogan@yahoo.com]
Sent: Monday, December 04, 2017 7:01 PM
To: Andrea Chester
Subject: Variance Hearing on Dec. 14th

My name is Robyn Logan and I own the house at 503 Argonaut St., PCB. The property behind my house is 502 Petrel St., PCB. This property has been denied a variance in the past. I'm requesting that this denial be upheld at the Dec. 14th City Council Meeting. I do not want this variance to be allowed. The buildings are just too close to the property line. Thank you for considering my comments.

Robyn Logan
503 Argonaut St.
PCB, FL 32413

Mailing address: 1565 Kincaid Rd.
Marietta, GA 30066

PLANNING BOARD ORDER

**PLANNING BOARD OF THE
CITY OF PANAMA CITY BEACH**

IN RE: Variance Request for Property Located at 502 Petrel, Panama City Beach, FL Parcel ID 34740-000-000

Submitted by: Donald Rice

ORDER

THE PLANNING BOARD OF THE CITY OF PANAMA CITY BEACH, having received testimony and reviewed the exhibits produced at the Quasi-Judicial Hearing held on this matter on August 14, 2017 for a Hardship Variance Request, hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On July 25, 2017 Donald Rice, owner of property located at 502 Petrel St., Panama City Beach, submitted an application for the following variances:
 - a. Section 1.07.02, so as to permit the use of an accessory structure for human habitation;
 - b. Section 5.02.01(D)(3), so as to reduce setbacks to permit a 7.5' side and rear setback where 10' is required for a two story accessory structure and a 5' side setback for a two story primary structure where 7.5' is required.
2. Staff reviewed the application and prepared a Staff Analysis addressing the request, which was delivered to the Planning Board in anticipation of the hearing scheduled in this matter.
3. At the properly advertised public hearing held on August 14, the Applicant testified that:
 - a. he had hired an architect to design the plans for the proposed buildings, that he had submitted those plans to the City for approval, and that he received a building permit for such plans;
 - b. that he was acting as general contractor to construct the buildings;
 - c. that he learned the buildings did not meet the City's setback requirements

until after he began pouring the concrete slab, and that he continued construction of the buildings after learning of the violation and submitting his request for a variance from that requirement.

4. The City's Senior Planner testified that he believed the building permit was issued in error and without his review, and that the plans would not have been approved had he reviewed them prior to issuance of the building permit. The Senior Planner further clarified that the original variance requests concerned the accessory structure, but that the primary residence under construction was also in violation of the City's side setback requirements.
5. Public comment was received from a representative of an adjacent property owner.

CONCLUSIONS OF LAW

6. Pursuant to Section 166.041(3)(c), Florida Statutes and Sections 8.03.03(L), 9.03.00 and 10.03.00 of the City's Land Development Code, the Planning Board has jurisdiction to conduct a quasi-judicial hearing on this matter and authorize a variance.
7. The need for the requested variances do not appear to be borne of a hardship preventing the development of the lot arising from the strict application of the LDC or from the physical shape or configuration of the lot on which development has been undertaken.

THEREFORE, IT IS ORDERED AND ADJUDGED that the variance request is **DENIED**.

Parties with standing have the right to appeal this decision within ten (10) days of the date of this Order by filing a written request with the Secretary of the Planning Board.

If any part of this Order is deemed invalid or unlawful, the invalid or unlawful part shall be severed from this Order and the remaining parts shall continue to have full force and effect.

DONE this 31 day of Aug., 2017.



CHAIRMAN ED BENJAMIN

ATTEST:


Charles Silky, Senior Planner

EMAIL AND PHOTOS CONCERNING
STRUCTURE FROM
ROBYN LOGAN

8/7/17

Andrea Chester

From: Robyn Logan <robynlogan@yahoo.com>
Sent: Monday, August 07, 2017 3:52 PM
To: Andrea Chester
Subject: New structure at 502 Petrel Street

Andrea, I just spoke to you on the phone about this new structure. I understood that the city told Mr. Rice to stop work on this structure. It doesn't look like he heard you. He had a Crain out there today and set that truss on the top. He must be confident that he is going to get the variance. My neighbor also said that the variance notice is mostly covered at the street. Thank you for talking to me today. I am very concerned about this.







**MINUTES TO THE PLANNING
BOARD MEETING,**

ITEM NO 3,

PAGES 7-9

**CITY OF PANAMA CITY BEACH
PLANNING BOARD MEETING MINUTES
August 14, 2017
MINUTES TO THE REGULAR MEETING**

The meeting was called to order by Chairman Benjamin at 2:00 p.m. and Mr. Silky was asked to call the roll. Members present were Mr. Dowgul, Mr. Wakstein, Mr. Turner, Ms. Cook, Mr. Sheldon and Chairman Benjamin.

ITEM NO. 1 Request approval for a Large Site Development. The proposed plan is to create a mixture of a hotel, condominium, multi-family and commercial on the north and south side of the site. The subject property is approximately 13.28 acres located at 13623 and 13626 Front Beach Road.

Chairman Benjamin read aloud the agenda item and asked Mr. Silky to call for Jennings Act disclosure for the item.

Mr. Dowgul, nothing to disclose. Mr. Wakstein, nothing to disclose. Mr. Turner, nothing to disclose. Ms. Cook, nothing to disclose. Mr. Sheldon, nothing to disclose. Chairman Benjamin stated he had spoken to someone at length who lives in Bid-A-Wee, and nothing else to disclose. Chairman Benjamin mentioned the board had received numerous emails and those would be made part of the record. He asked Ms. Myers to explain the procedure of where this item would go after the meeting. She stated this was a Type V Request and the Planning Board has final authority, but may be appealed to City Council.

Chairman Benjamin read aloud to the audience a summary of the subject property history and outlined the roles and responsibilities of the planning board for this hearing. (Summary is attached for the record.)

Chairman Benjamin asked Mr. Silky, staff if the applicant had met all the requirements in the application. Mr. Silky responded that he had seven issues and the applicant has addressed all the issues with the addendum that was submitted and distributed to the board. Mr. Silky stated he had met with the applicant and once the issues were addressed staff was comfortable with what had been submitted for consideration at this time.

Chairman Benjamin opened the meeting up for the applicant to present the request to the board.

Jason Alley, Chief Financial Officer of Premier Development Group, 495 Grand Boulevard, Suite 201J, Miramar, FL. He introduced his team on the project, Jason White, CEO, Vic Anderson, Project Manager, John Flagg, Development Partners, Mauricio Castro, Architect with PLACE Alliance, Mike Harper and Robert Carroll, local Engineers. Mr. Alley commented the City had done a great job in adopting the Form Based Code and it provided excellent parameters for future developments and felt that his company was presenting a plan for a responsible development. He gave a brief description of the development to be a family oriented, amenity centered, and pedestrian friendly resort. (Visual renderings were provided on overhead for the audience.) Mr. Alley described the proposal as a 240 key hotel, upscale resort hotel with restaurant, coffee shop, spa, retail shopping, event meeting and ballroom space. He stated there would also be a 2.9 acre swimming lagoon with sandy beaches, water slides, splash pads, and floating obstacle courses geared toward families. He showed where there would be a beach club in the middle of two condominium towers, which is in the second phase of development, each containing 126 units and parking on both south and north side of the property. He stated the final phase of the development on the north side would be two additional condominiums and single family cottages along with a parking deck that will be available for additional parking. He noted they were beyond the parking requirements. Mr. Alley stated this development would be built in three phases over a period of five to seven years. He stated this is a unique project Panama City Beach, a true destination resort and believe it will create a substantial economic impact, creating job opportunities and a new visitor base that PCB has never seen before. He commented he understands the traffic concern and that he had heard these concerns at the community meetings his company had held prior to this meeting. Mr. Alley stated the goal is to bring people in that will stay on site opposed to a shopping center where people are coming and going all day. He stated the goal is for everything to be on site to limit the coming and going which would manage the traffic difficulties in the area. He explained they are proposing substantial improvements at their expense to Front Beach Road in accordance with the Front Beach Road CRA. He stated the CRA current plans reflect it will be a long time before reaching this area, but they are willing to accelerate this plan within their piece of property. He commented he knew that this would not completely solve the problem, but you have to start somewhere and they are willing to start at their project. Mr. Alley stated they are members of the community and want to be responsible; therefore they are not taking the maximum density, but beneficial to the community.

Mr. Mauricio Castro, 121 South Orange Avenue, Suite 1200, Orlando, FL is the architect on the project. He outlined the development of the project and how it will be developed within the different overlay districts. (Visual renderings were provided on overhead for the audience.) He described the enhanced experience between the two properties on the north and south side of Front Beach Road. He described the access points into the properties, the parking being contained below the hotel on the south side and expressing all the amenities and parking will be contained on site. Mr. Castro pointed out on the visuals that each hotel and condominiums on site will have their own individual amenities and adding additional accesses to the beaches. He gave an overview of how the deliveries will be made to the site, guests' access to the site and parking available for each building on site. Mr. Castro described the cottages that would be on the backside of the property on the north side of Front Beach Road, decreasing the density in the area. He explained that this point of access onto the property from Crane Street is a controlled access, as requested. He stated the access from Crane Street is very limited for the cottages and one small parking garage. Chairman Benjamin asked for the access from Crane Street to be shown on the visual for the audience. Mr. Castro explained in detail the parking available on both sites. He explained the different phases the project will be built, Phase One will include the hotel, swimming lagoon on the north side and the beach club. He commented the parking for Phase One will be contained within the parcel of the hotel itself. Phase Two will include the condominium towers on the south side and will be completed with Phase Three on the north side, which will bring the complimentary condominiums, the cottages, and the parking structure.

Chairman Benjamin opened up questions from the board at this time. Mr. Wakstein asked about the hotel service courtyard and that it was described as having limited access going in past the parking garage, his question was would a semi-tractor trailer truck have access in the courtyard to turn around and get back to Front Beach Road. Mr. Castro explained there were bays available for the deliveries allowing the trucks to back into the bays and then pull out.

Chairman Benjamin asked how many entry points would be on Crane Street. Mr. Castro used the visual to show where there will be a driveway for access to a parking area for some of the cottages, a second access through a controlled gate with possible stacking entry to eliminate traffic backing up on Crane Street and a third access through a controlled gate for the small condominium along Crane Street.

Mr. Dowgul asked a question pertaining to the gulf front parking and the mention of the bottom level being the below the base flood elevation. Mr. Castro explained no, there plan is to get approximately fourteen feet below the elevation of Front Beach Road. Mr. Dowgul asked if they had received any preliminary feedback from DEP and he replied not at this time, but the engineers on the project would be coordinating with the agency.

Mr. Sheldon asked how many total parking spaces are there for the planned cottages. Mr. Castro commented it is labeled as surface or on-street parking on the plans. Mr. Silky pointed out there were 57 spaces designated for the cottages. Mr. Sheldon asked how many bedrooms were projected for the cottages. Mr. Castro explained the footprint available for the cottages the size would be approximately 1800 square feet, but had not yet been finalized.

Ms. Cook commented the hotel would be in Phase One and the adjacent parking area was not planned until Phase Three; therefore she asked were they planning to accommodate parking for the ballroom use, such as conferences. Mr. Castro showed on the visual the surface parking that would be available before the parking deck was completed. Mr. Alley also commented that this is not intended to be a large convention center and that the ballroom is there to service the hotel guests.

Mr. Wakstein referred to the parking counts on the amended submittal and there are different numbers for Required and Provided. Mr. Alley explained their numbers for parking reflect at least one parking space per unit, but also there is parking from the hotel parking lot and the additional parking across the street, stating once the project is complete they will exceed the number of parking spaces required for the entire project.

Mr. Sheldon asked what the threshold is for a DRI and would this development meet the criteria. Mr. Leonard commented that a DRI is normally around 1,000 lodging units and the State exempts projects that are in a CRA, which this project is located in a redevelopment area. Chairman Benjamin added that his review of the amended submittal states the project has 588 units with 1039 spaces for parking.

Chairman Benjamin opened the meeting up for public comment.

Janice Olson, 202 Oleander Court, stated she lives in Open Sands, the next subdivision over from the project. She commented they have the same traffic problem. She stated it was mentioned that

there may not be enough parking for Phase One to use Phase Two as an overflow area, but what about when the construction occurs on Phase Two, what happens to the overflow parking. She stated she didn't have a clear picture of how Phase One would be competed and contained. Ms. Olson stated she was not excited this was happening and street road improvements and traffic had not been addressed. She commented if this is all about tourism then how are the permanent residents going to survive.

Gail LaBelle, 1121 Front Beach Road, referred to the transportation standards in LDC and commented she didn't feel the impact of the traffic infrastructure could handle the magnitude of the influx of traffic this project would create in the area. She stated the residents in this area see traffic already, too much and it is impacting the enjoyment for the residential area. She stated this project should be tabled until a traffic solution is addressed in this area.

Jim Smith, 506 Tarpon Street, stated Bid-A-Wee Beach for over 80 years to protect and preserve the beach and community property. He stated since 1934 this area has had a highly restrictive covenant protecting our beach property. He commented during this time of 80 years they have never had outside traffic, access and egress across Nautilus Street or across Crane Street. He stated Crane Street is a community street, not a thoroughfare like Nautilus, Lantana and Argonaut. He mentioned Crane Street is mentioned specifically in the dedication of Bid-A-Wee covenants. Mr. Smith stated he was confused when it was said according to LDC that it was not allowed access or egress from a community into a commercial development, yet there were three streets aligning with Crane, Bay, and Lantana. Mr. Smith stated the precedent has been set with a project that attempted to go between Crane Street and Nautilus Street having an access of egress and the City Council at that time voted unanimously to not allow this to happen. He stated precedent two was a condominium tower being built next to an old beach community, the Bay County Commission unanimously voted for this not to be allowed, stating the old beach communities need to be protected and preserved and have overwhelming traffic through the communities. Mr. Smith read aloud the Dedication document from 1935 for Bid-A-Wee Beach. Mr. Smith stated that Crane Street lies within the highly restrictive Covenant and Dedication of Bid-A-Wee.

Tom Mallalieu, 110 Sea Oats Drive, stated he understood there to be three accesses from Crane Street and were these controlled access with gates. He asked to be shown on the visual the routes within the development that could possible lead out onto Crane Street. Chairman Benjamin stated there were three proposed access points.

Martha Hoke, 508 Lantana Street, stated that her daughter lives on Crane Street and the traffic can be so congested in the summertime that it can take her 30 minutes to reach her daughter's home. She stated traffic needs to be addressed and that the developer's will work with the neighborhood on the traffic. She commented she is pleased to see a high-end complex come to Panama City Beach and she will be living directly behind the development. Ms. Hoke asked if the car garages would be enclosed and if the controlled access will be for cars only. Chairman Benjamin asked Mr. Silky to address the access points on Crane Street since this was a staff recommendation. Mr. Silky explained that in Chapter 4 of LDC there are Access Management Standards, which do not allow access from a commercial property across from a residential zoned property; it forces the access to a commercial zoned property. He stated in this situation it effectively distributes traffic and the access is limited to 24 condominium units and 27 cottages, which are similar to a subdivision. Mr. Silky stated these are to be limited gated access for the mentioned condominium and cottages and also the access is controlled on the eastern roadway within the development.

Donna Martin, 116 Crane Street, commented the cottages are going to be at the same street level as Bay Avenue and anything from Bay Avenue and below at this point is permissible for short-term rentals. She stated they were told the cottages were going to be short-term leased; therefore this is different to have 57 cottages that are allowed for short-term rentals. She stated if they are short-term rented then this will add to the traffic within the neighborhood, transient traffic and noise that is up against there all year round homes. Chairman Benjamin commented there were 27 cottages not 57. He then asked Mr. Leonard to comment to short-term rentals in R-1C zoned property. Mr. Leonard stated they are allowed in a CH district and they are allowed south of Bay Avenue where it is zoned R-2 and not allowed north of Bay Avenue where it is R-1C.

Juddy Stephenson, 14208 Millcole Avenue, commented that he didn't feel the developers were addressing the problems the neighborhood as mentioned regarding traffic. He commented to Mel's comment regarding short-term rentals were not allowed north of Bay Avenue, but there is no code enforcement on the issue and this does exist. He commented the impact this development will have on the community will be devastating in his opinion.

Julie Hilton, 13615 Front Beach Road, stated she owns property east of the property site. She commended the efforts of the developers willing to make a nice development. She explained

historically there have been a lot of accidents in this area on Front Beach Road; she commented that she hoped that whatever is done as a community will help eliminate this problem area. Ms. Hilton asked if the overpass were for pedestrians and were there medians of landscaping going to be on Front Beach Road and what were the side beachfront setbacks, east and west of the property. She asked if there was a proposed public beach access and where it is located.

Tom Evans, 504 Lantana Street, stated he agreed with most of the comments regarding the traffic. He stated his concern is going to be the noise that is driven by this large group of people that are enjoying their recreation around the lagoon pool up until all hours of the night. He commented the shape of the hotel, the parking garage, and condominiums on this site turn this area into an amphitheater. Mr. Evans stated all this noise would be projected out into the neighborhoods, both on Crane and Lantana side. He stated he felt this noise would greatly exceed the allowed decimal readings and allowance stated in the current noise ordinance.

Mr. Leonard replied to the noise ordinance statement. He explained that it is enforced by the police department, trained with the meters and is very complicated. He explained how the readings are read from the ambient noise during the day and night.

Alfredo Martin, 13407 Oleander Drive, he shared pictures of traffic from Middle Beach Road and Front Beach Road. He stated if approved and the traffic issues are not addressed there will be a problem.

Maylon Clinkscales, 13700 Front Beach Road, lives at the corner of Front Beach Road and Crane Street. He commented the parking requirement of 1.5 spaces per unit is not enough; speaking from experience of managing condominiums a two-bedroom can average 2 to 3 cars and more with increase in bedrooms. He stated hotels are different; travelers are driving one car or flying to destination. Mr. Clinkscales commented he watches traffic each night and there is one westbound lane, but fed by two westbound lanes from Front Beach Road. He stated if Front Beach Road was a four-lane to Pier Park problem solved, but this will not occur due to the CRA improvements.

Mary Kay Kassiris, 120 Seclusion Drive, she asked if the project had been reviewed by the EPA for the proposed underground parking. She commented this parking area will definitely flood. Ms. Kassiris also asked about retention ponds on the site, commented she thought these were required, but did not see one on the plans. She then commented, what will we do if we should have to evacuate, there is too much traffic.

Mr. Leonard responded to the retention pond statement and added that they will be required. He explained the engineering department reviews and approves these, along with the state and they will have to meet all the storm water requirements. He stated they will have to handle storm water and it will be contained on site, cannot increase the flow coming off the site onto other surrounding properties.

Peter Fischetti, 308 Tarpon Street, referred to an article in the News Herald from the CFO stated, "Everything that will be needed will be on site of the development and there will be no reason to leave the resort and create a traffic problem on Front Beach Road or within Bid-A-Wee or anywhere else." Mr. Fischetti commented they are assuming their guests will not go out and enjoy the other amenities throughout Panama City Beach, such as Pier Park, miniature golf, other restaurants, etc. Mr. Fischetti commented the board members are responsible to ensure that any project they recommend or approve has no adverse effect on your constituents. He stated if this means the project requires improvements to the infrastructure the developer must commit to paying the bill before construction begins and no action on the project should be taken until this occurs. Chairman Benjamin commented the board is not here to protect residents or businesses or any particular group, but here to follow the rules and regulations that are outlined to hear, consider and make recommendations to the City Council regarding proposals, amendments, conduct public hearings, render decisions, etc.

Mark Lane, 13803 Pelican Street, asked if the hotel guests would be able to go through the controlled gates along Crane Street.

Stanley LeCain, 14104 Pelican Street, stated of any place to put a high density development such as this is the last place it should go. He stated it is a nice development, but at this location at the intersection is already a traffic nightmare. He stated the people who live, play, ride bikes and their golf carts in this area will not have an enhancement to the neighborhood as the developers were describing as an enhanced urban area.

Chairman Benjamin closed the public portion of the meeting and allowed the Mr. Alley, developer to address the issues that were mentioned from the audience. Mr. Alley answered the following questions:

Access Points - no visitors cannot leave from the hotel around the access points to access Crane Street, There will be zero access from the hotel parking or from the onsite parking garage. He

explained the access points will be gated and key carded for use only from cottages and small condominium.

Parking Garages – will all be lined and not visible from the outside.

Water Retention – there is a plan for sub-surface water retention, there are parameters set by the City that they will have to follow, which includes plan for a 100 year storm.

Agency Filings – there are different agencies they are required to file with, such as DEP and all the filings and permits will have to be in place before construction can begin.

Noise and Other Items – he stated at one time there was an amusement park on site and a hotel. He commented there are a lot of things that could be here on this site and they have prepared what they feel is a project that will enhance the area. He stated he knew the question was, will it enhance the neighborhoods around, but then the question is...where do we stop. He stated they have control over their property. He agreed with the idea of enhancing Front Beach Road all the way down to Pier Park, but they are only able to do their part, which they have plans to do at their costs.

Median and Beach Accesses – there are plans for a tree-lined median. He stated there is a beach access that will be east of Ms. Hilton’s property they are proposing to enhance at their cost. He stated they don’t own the access, but want to enhance and provide to the community at large. Mr. Alley commented they have met all the required setbacks. Mr. Dowgul asked where the public parking would be located for the public beach access. Mr. Alley commented they do not have public parking for the access and that it is not a code requirement.

Phasing Parking – he explained how the phases would take place and where all the parking would be located during construction. He commented they are not able to build the development all at once, but they plan to stage parking to provide ample excess parking to have above and beyond what is required. He commented they have actually planned for 2 parking spaces per condominium unit, not the required 1.5 stated in the code.

Chairman Benjamin explained to the audience about owner’s property rights and an owner has the ability to develop as long it meets the LDC requirements. He opened up for board discussion. Mr. Dowgul commented he was surprised there were no provisions for public parking for the public beach accesses. Ms. Cook commented that is not required for them to provide. Mr. Wakstein asked who pays for the road maintenance on Crane Street. Mr. Silky commented it is a public street and it is maintained by the City. Discussion ensued.

Ms. Cook made a motion to accept the applicant’s request based on their submittal meeting all the requirements from staff and it was seconded by Mr. Sheldon. Mr. Wakstein asked if the motion was to accept the amended application from August 8, 2017 and it was confirmed by Ms. Cook yes that was the application in her motion. Mr. Silky was asked to call roll.

Mr. Sheldon	Yes	Mr. Wakstein	Yes
Ms. Cook	Yes	Mr. Dowgul	No
Mr. Turner	Yes	Chairman Benjamin	Yes

Mr. Silky stated the application is approved.

ITEM NO. 2 Request for Height Incentives to increase the allowable height in the FBO-2 District from 45 feet to 65 feet and the allowable height in the FBO-4 District from 150 feet to 220 feet. The subject property is located at 13623 and 13626 Front Beach Road.(Land Development Code, Table 4.02.02B.).

Chairman Benjamin read aloud the agenda item and asked Mr. Silky to call for Jennings Act disclosure for the item.

Mr. Dowgul, nothing to disclose. Mr. Wakstein, nothing to disclose. Mr. Turner, nothing to disclose. Ms. Cook, nothing to disclose. Mr. Sheldon, nothing to disclose. Chairman Benjamin, nothing to disclose.

Mr. Silky commented staff had questions regarding the incentives and thoughts were they were proposing to increase density, but through the addendum Alternative Plan submitted it clearly reflects the height requests are mainly for design. He stated staff is comfortable with what they have proposed and all of staff’s earlier issues have been addressed.

Mr. Alley commented the public beach access is for the community, hoping to create a more pedestrian friendly development for the community. He stated adding additional parking in the area for public parking would only increase the amount of traffic in the area.

Mr. Castro displayed a visual for the audience a summary of the height incentives that were used from the current LDC. He stated their intent is to have balance between the project, building types, the frontages, the LDC requirements, and the actual place making aspects of the overall development. Mr. Castro highlighted the following height incentive requests as follows:

Green Development	Roofing Materials and/or Vegetative Roof	5 ft.
	Place minimum of 50% parking spaces undercover	10 ft.
	Water Conservation Measures	
	50% or more of FL Friendly Plants	5 ft.
	Irrigation from non-potable water	10 ft.
Architectural Amenities	Lighting – Architectural Lighting	5 ft.
	Skyline Features	5 ft.
	Outdoor Civic Spaces	5 ft.
	Recognizable Building Base	5 ft.
	Entryways – Incorporated in the Design	5 ft.
	Enhanced sidewalk design	5 ft.
Public Beach Amenities	View Windows – Permanent	10 ft.
	Beach Access	
	(3 Beach Access Points at 8 feet wide min.)	48 ft.
TOTAL		118 ft.

Chairman Benjamin asked if the plan was to complete all the above mentioned incentives to achieve the 118 feet. He asked what the height requests for the buildings adjacent to Crane Street. Mr. Alley explained through a visual that they were not requesting any height incentives for the buildings that border Crane Street and Bid-A-Wee, commenting they were below the allowable height without incentives. Mr. Alley also showed that buildings bordering Lantana Street were also below the allowable building height. Discussion ensued. Chairman Benjamin commented there is an Alternate Plan that was submitted that reflects what they could do by right and what the code allows. Mr. Alley explained the Alternate Plan, which was shown on a visual of what they could do, but does not enhance the area. He stated they are asking for the incentives to not for the purpose of increasing density; in fact he stated they are not maximizing density with the height incentives, but to meet the intent of the code and enhance the project overall.

Mr. Wakstein commented there are three beach access points, asking if they are accessible from Front Beach Road and it was stated yes. Mr. Wakstein commented the plans reflect 188.5 feet, but you are requesting 220 feet. Mr. Alley commented they do not have plans to go to 220, but since they requested the extra height it provides them with some room to work with if needed, but they do not intend to go to the height of 220 feet.

Chairman Benjamin opened the meeting for public comment.

Julie Hilton, 13615 Front Beach Road, asked for explanation of plans and the width for each beach accesses and the intended upgrades for the beach access east of the Casa Loma.

Charlotte Miserez, 113 Crane Street, she commented her home is across from one of the access gates of the cottages. She commented she didn't think there was enough room on the site for all they were planning to build.

Chairman Benjamin explained the board was discussing height incentives at this time, but that her comments were valid.

Chairman Benjamin closed the public portion of the meeting and asked Mr. Alley to respond the public comments.

Mr. Alley commented there is a minimum of eight feet for the beach access points for all three. He explained the enhancement planned for the access on the east side would be vegetation and dune walkover enhancement; commented this is not their property, but willing to do the enhancements. Mr. Alley stated the other two beach access would be constructed in same manner, eight feet in width, vegetation and dune walkover enhancements.

Ms. Cook made a motion to accept the height incentives as presented and it was seconded by Mr. Sheldon with the condition that the off-site beach access improvements are going to be completed and not as a proposal only. Mr. Alley agreed to put the agreement in writing. Ms. Cook amended her motion to accept the request and include the beach access improvements be included in writing and it was seconded by Mr. Sheldon. Mr. Silky was asked to call roll.

Mr. Sheldon	Yes	Mr. Wakstein	Yes
Ms. Cook	Yes	Mr. Dowgul	Yes
Mr. Turner	Yes	Chairman Benjamin	Yes

Mr. Silky stated the height incentive will request is recommended to City Council for approval.

ITEM NO. 3

Donald Rice is requesting authorization of a variance to reduce the required 10 foot rear and side yard setback to allow for a 7.5 foot rear and side yard setback. The second request is to allow an accessory building to be used as a habitable structure. The property is located at 502 Petrel Street.

Chairman Benjamin introduced the item and Mr. Silky added to the introduction. He explained the primary structure does not meet the side setback of 7.5 feet on the north side; therefore there is an additional variance request for the primary structure, which is to reduce the required side setback of 7.5 feet to 5 feet on the north side of the primary structure. Mr. Silky recapped by stating there were three requests for the accessory structure and one for the primary structure.

Chairman Benjamin asked Mr. Silky to call for Jennings Act disclosure for the item. Chairman Benjamin announced the action from the planning board on this item can be appealed to the City Council.

Mr. Dowgul, nothing to disclose. Mr. Wakstein, stated he had driven by the property. Mr. Turner, nothing to disclose. Ms. Cook, stated she had driven by the property. Mr. Sheldon, nothing to disclose. Chairman Benjamin stated he had driven by the property twice.

Mr. Silky explained the events of this application to the board. He stated when a single-family residential home plans are submitted to the building department they are processed through the planning department where three individuals check the plans for zoning and setbacks. He stated in this situation the submission of the building plans never made it back to the planning department for review, explaining there had been a transition in the building official personnel and administrative staff at the time of submission. He explained a building permit was issued for the structure that did not meet the requirements of the land use and setbacks in the LDC. He stated this was brought to our attention during the middle of construction and therefore the reason for this meeting. Ms. Cook asked if building permits were issued from the City's Building Department. Mr. Silky commented yes and noted that of the last thousand building permits that have been processed this is the first time this has happened. Chairman Benjamin asked if on more than one occasion did city officials let the applicant know that he was in violation and he should cease and assist. Mr. Silky explained he was in one meeting with the applicant and the building inspector where it was explained that he needed to stop construction until this was figured out and also Mr. Leonard, the director had also informed him to stop, but it did not happen. Mr. Wakstein asked when these conversations occurred with the applicant for him to stop construction. Mr. Leonard commented it was when the process of the variance begin, he instructed Mr. Rice to stop construction. He stated Mr. Rice indicated that he had contracted subs and their pricing may go up if he stopped construction and he advised him that this would be taking a risk and advised him not to continue, but that Mr. Rice did not indicate if he was going to stop or not. Mr. Silky stated he came into the office on July 24th. Ms. Cook asked when did the building inspector ask him to stop construction; before or after the meeting with planning. Mr. Silky replied he felt it was before meeting with Mr. Leonard at the time he and the building inspector met with the applicant. Chairman Benjamin commented at the next meeting the board may be meeting to discuss the setbacks on accessory structures and the habitability of an accessory structure in an R-2 district.

Chairman Benjamin asked Ms. Myers what were the possible outcomes of today's meeting. Ms. Myers commented legal options are first the City needs to issue a stop work order while the City figures out what needs to happen next. She explained any affected party has a right to appeal the issuance of the permit, which there is a letter today asking an appeal on the permit that was issued, which would be heard before this board and there could be the appeal of the decision from the board today from an affected party. Chairman Benjamin asked if the final outcome of the board is that the structures do not meet the rules of the LDC what happens...Ms. Myers replied the structure would have to reconstruct the house within the law. Chairman Benjamin asked who would pay for the reconstruction and Ms. Myers answered the homeowner. She explained that he had continued at his own risk after being told to formally stop and a stop work order should be issued now so that it is on paper and any further construction should stop until it is resolved. Discussion ensued on whether an official stop work order had been issued; Ms. Myers indicated it appeared that only a verbal had been given and that an official stop work order needed to be issued. Chairman Benjamin commented that if the City made a mistake then there is no liability on the City and Ms. Myers stated there is no liability on the City for issuing a permit. Chairman Benjamin called on the applicant.

Don Rice, 113 Bid-A-Wee Court stated he had lived at this address since 2009 and visiting here for thirty years. He purchased the property of 502 Petrel in April 2013. He explained how the original structure was a 700 square foot home with asbestos on the shingles. He met with professionals over several years on how to utilize a 60 x 150 square foot lot with two structures and in the end decided it was best to tear down the existing and build new. He explained that he went through the proper channels of obtaining a demolition permit from the City and had the home removed. Mr. Rice

indicated that his neighbor was very upset about the old home being torn down without the asbestos being tested. Mr. Rice stated he submitted building plans and paid his impact fees where all the setbacks were indicated on the submitted drawings. He stated that all impact fees were paid for the accessory structure for a habitable space at that time also. Mr. Rice stated that his architect pointed out to him that the setbacks were 7.5 feet on the left and north and 5 feet on the east and the south because that side is one story and not a two story. He explained the accessory structure has a 7.5 foot setback and is also a two story structure. He stated he submitted all of these plans to the building department when impact fees were paid to the water department along with the paid receipt from water department. He was given the demo permit on March 20 and also met with utilities and public works regarding his lot being built up with additional dirt and how he would not cause a problem to his neighbor. Mr. Rice stated the next step was to get a driveway permit, which he applied and paid for on 24th. (He did not mention the month.) He then applied for a Notice of Commencement on April 17, Building and Planning Application on April 12, Building Permit on May 9 along with Product Approval and Gulf Power applications; indicating all of these applications were submitted to the Building Department for their records. Mr. Rice then explained that all of his records were lost by the Building Department, including his house drawing plans. He then explained that he heard there was a problem with his setbacks on July 24 after pouring 70 cubic yards of concrete. He stated that was the day that he met with Charles and Mr. Leonard and they did not tell him to stop, but advised that if he didn't stop he may have to tear something out. He stated that he worked through the evening in preparing to submit the application by the deadline date of July 25. He expressed to the board that he had no idea that there was ever a problem with any of his setbacks or construction until July 24 and then he is notified today that there is an additional setback problem with his main house structure. He stated he couldn't understand why he had to ask for a variance on plans that had been in the office and approved for over 120 days. He stated that he didn't stop since he had not been issued with an official order, stating that he was only advised he should stop. Mr. Rice commented his architect lives in the subdivision of Bid-A-Wee; therefore how in his professional knowledge would he not know the required setbacks.

Mr. Dowgul asked if there were more plans that what the board had received. Mr. Rice stated yes, he had sealed drawings with the building department. Mr. Dowgul commented it appears that there were two design professionals working on the project, Mr. Rice explained yes throughout the entire process. Mr. Dowgul asked if he had pulled his own permit, Mr. Rice stated yes. Mr. Dowgul asked about the demolition permit and asbestos. Mr. Rice stated Charles issued the variance on asbestos and demolition permit. Mr. Silky commented Mr. Rice was confused, that DEP has exemptions for single-family dwellings and that he had not issued a variance for asbestos, Mr. Rice stated he was using incorrect terminology. Mr. Dowgul commented he was trying to establish that there were other players involved in the plans and that he had paid for professional guidance.

Ms. Cook asked about the signed off order dated April 20 and the May 9 Building Permit issued, who signed off on these two. Mr. Rice commented they were signed off by Tyson Scott. She asked who signed the building permit, Mr. Rice replied, MGTS were the initials. Mr. Scott explained that MG is Mike Gordon, interim building official and TS were his initials.

Mr. Sheldon commented to Mr. Rice that he didn't know about the main house setbacks, but knew about the accessory structure and continued to work on the structure. Mr. Rice answered no, everything that he had paid for stated on the drawing on the accessory structure was 7.5 feet and it stated there was a habitable second floor. Mr. Sheldon asked again, when you were notified there was a problem on the accessory structure you continued to build on that structure, Mr. Rice commented yes.

Chairman Benjamin asked Mr. Silky about the Findings listed in LDC Section 9.03.03, the eight requirements that must be met before a variance can be granted. Chairman Benjamin commented his opinion was that these had not been met. Mr. Sheldon and Ms. Cook agreed.

Chairman Benjamin opened the meeting up for public comment.

Brian Hess, representative for Sue Spencer who lives at 500 Petrel immediately adjacent to this property to which this structure is encroaching. He commented it appears that Mr. Rice has had some bad luck, but does not warrant receiving a variance. Mr. Hess commented there are certain provisions that have to be found before a variance can be granted and he has not met those provisions. He commented this lot is big enough to build upon, 60 x 150 sq. foot lot, clearly a lot to build on, but he had not fit within the required setbacks. He stated the structure alone is currently 5 feet from the side and they are clearly listed in the LDC, which states the requirement if 7.5 feet on the side for a two-story structure. Mr. Hess stated the accessory structure has clearly not met the side setback requirements. He stated he understands that Charles has suggested the board may want to reconsider this, but that the code clearly states the accessory structure does not meet the current code; therefore there is nothing to justify the board granting a variance. He stated if the board applies Section 9.03.03 there is no alternative but to deny every request and issue a stop work order at this time.

Ms. Hollis, 14103 Millcole Avenue stated she wasn't in this fight, but that she walks the neighborhood and admired the new construction. She stated the structure has been built and should not be denied due to a clerical error that occurred.

Juddy Stevenson, 14208 Millcole Avenue stated he couldn't imagine the decision before the board and all the codes that must be met, but where is the City's responsibility and how was the building permit issued if there were that many errors. He commented Mr. Rice should not be held to a code he was not aware of the City approved, but now he is being held accountable.

Damon Osbourne, 502 Albatross Street, stated his home is located directly in front of this property. He commented the lawyers stated that there is a two-story building on the north side, which it is a one-story on the north side. He commented on the south side there is a portion that is a two-story.

Chairman Benjamin closed the public portion of the meeting and opened it up for board discussion. Chairman Benjamin commented there are at least two members who feel the eight questions were not answered properly.

Mr. Rice commented that when he was asked to complete the application for a variance he did not understand since he had approved drawings and a building permit. He admitted that he did not understand since he had paid professionals to do their jobs. He once again reiterated that he was never told to stop work and did not know about the problem on the main house until today. He commented this whole thing does not make sense to him.

Mr. Dowgul commented Mr. Rice's recourse lies somewhere else. Mr. Turner asked how a stop work order is to be given. Ms. Myers explained stated it is to be issued by the Building Official or their designee and generally yes, it is in writing. She stated a written order is the most effective and can eliminate argument before a judge. She stated she was unsure if the Building Code permits a verbal as being sufficient.

Ms. Cook asked Tyson Scott, Building Inspector if he was aware if Mr. Rice had been asked to stop work prior to a meeting with Mr. Leonard and Mr. Silky on July 24. Mr. Scott replied that he had never issued a stop work order at the site. Mr. Silky stated he was referencing a meeting with Mr. Rice that involved Mr. Scott advising Mr. Rice to stop and that there was not an official written notice at that time. Mr. Scott stated he did not issue a stop work order. Ms. Cook commented that the eight questions outlined on Section 9.03.03 have not been answered that will allow the board to grant this variance.

Mr. Rice commented he was unsure on how to answer those questions and Mr. Silky commented that staff had attempted to help him in addressing the questions. Mr. Sheldon commented his contractors who drew the plans should have helped in preparing the questions.

Ms. Cook asked when the setbacks were put in place for accessory structures. She commented he had purchased his property in 2013. Mr. Leonard explained in 2012 with the new LDC the setbacks for accessory structures were set. He also stated the definition of an accessory structure states that it cannot be used for human habitation. Chairman Benjamin asked if the accessory structure allowances should change and be approved Mr. Rice would still have to sit until any changes were made, if any. Mr. Leonard commented yes.

Mr. Wakstein made a motion to deny the variance request and it was seconded by Ms. Cook. Mr. Silky was asked to call roll.

Mr. Dowgul	Yes	Ms. Cook	Yes
Mr. Wakstein	Yes	Mr. Sheldon	Yes
Mr. Turner	Yes	Chairman Benjamin	Yes

Mr. Silky stated the variance is denied.

ITEM NO. 4 **Bill Buskell is requesting authorization to not meet the landscape requirements in Ordinance 1410 in order to construct a deck to serve as a holding area for patrons. The property is located at 9875 South Thomas Drive.**

Chairman Benjamin introduced the item and asked Mr. Silky to call for Jennings Act disclosure for the item.

Mr. Dowgul, stated someone called him and emailed him from Pineapple Willy's for support. Mr. Wakstein, stated he received a phone call from Mr. Buskell about his application and

received an email from Pineapple Willy's staff with information. Mr. Turner, received a phone call from Mr. Buskell about his application and also received the history of Pineapple Willy's. Ms. Cook, received a phone call from Mr. Buskell about his application and received an email from Pineapple Willy's staff with information. Mr. Sheldon, received a phone call from Mr. Buskell about his application and also received an email from Pineapple Willy's staff with information. Chairman Benjamin stated he has not spoken to anyone, has visited the property two times.

Chairman Benjamin asked comments from the board, there were none; he noted that he did not feel as though all the requirements of 9.03.03 had been fully met. He read aloud a part of the answered portion, commenting he felt the proposed deck was wanted rather than needed.

Mr. Evans, 8215 North Lagoon Drive, representing Mr. Buskell and stated he had completed the drawing along with the application submitted. He stated he had met both with Mr. Silky and Mr. Leonard regarding the issues. He explained the reason for the request is that they want to add a fifteen foot wide deck on the gulf side of one of the buildings on the primary site for Pineapple Willy's. He stated the process for DEP approval had been started, but were not able to get the final approval for zoning. He explained at this time it was pointed out by planning staff that there were issues regarding parking and twenty percent required interior landscaping requirements. He explained the primary lot is mostly used for parking, but there are few places where the asphalt could be torn up and landscaped, but very minimal. He stated the second site is landscaped in every place available with a controlled access. He commented the third site is a bare fenced lot, primarily used for employee parking and is maxed out with parking. Mr. Evans stated he had submitted a plan reflecting that they could achieve possibly seventeen percent of the twenty percent landscaping, but would not be able to irrigate; therefore would request to use native vegetation. He stated the two primary lots are already landscaped and it looks nice, leaving the employee parking site the only one needing landscape. He stated the drawings indicated they can achieve seventeen percent of the parking area with landscape, which they will do and other than that the request meets all the requirements with signage and driveways. He explained the variance is meeting irrigation requirement and maybe the three percent on the one lot and they will do whatever is available on the other two lots as far as landscaping to equate the required twenty percent. Mr. Evans commented the deck they are proposing to build is to be used for primarily seating for the overflow of people waiting; currently people are blocking the exits out of the restaurant. He explained this deck would take the people out of the pathway and out of the egress from the building and deck bar area.

Chairman Benjamin asked for background on Ordinance 1410. Mr. Silky explained City Council wanted staff to address the non-conforming uses, beautifying structures when there is a change of use or an expansion. He explained in the past staff would work with the applicant to however possible add landscaping or any modifications to beautify the site and it seemed not effective enough; therefore Ordinance 1410 was adopted. Mr. Silky commented since then staff has to require the applicant meet the requirements or they are able to ask for a variance to this board. Mr. Silky commented his staff report recommends allowing staff to work with the applicant to try to find areas to meet the requirements of landscaping. Chairman Benjamin commented the primary intent is to clean up the City and make it look better when there is an opportunity. Discussion ensued regarding the staff analysis. Mr. Evans commented they are willing work with staff to do the necessary improvements in order to meet the twenty percent requirements.

Chairman Benjamin asked for public comment. An elderly gentleman in the back of the room stated he was not opposed to the request; he lives along Thomas Drive near the site. (Name was not provided.) For the record, there were two emails the board members received that stated they were against the request.

Mr. Turner made a motion to approve the variance with the condition that the owner work with staff to maximize possible landscape on the site and it was seconded by Mr. Wakstein. Mr. Silky was asked to call roll.

Mr. Dowgul	Yes	Ms. Cook	Yes
Mr. Wakstein	Yes	Mr. Sheldon	Yes
Mr. Turner	Yes	Chairman Benjamin	Yes

Mr. Silky stated the variance request is approved.

Chairman Benjamin commented he would like for the board to discuss the minutes from the last meeting at this time. He explained the board has had a lot of discussion regarding occupancy of the buildings on Front Beach Road, whether used for short-term rentals or single-family homes. He stated Mr. Leonard's staff has created an Occupancy Certificate. Mr. Leonard commented there has always been a check with there is an occupancy change, but since there has been so many of the short-term rentals that were previously used as single-family residential we've made this certificate more visible. He explained the procedures and standards to the board.

Chairman Benjamin called out the following items from the meeting minutes to Ms. Myers and asked that she get these to City Council for consideration:
 Podium Requirements in the FBO-4 Overlay District
 Single Family Residential Setbacks in the FBO-4 Overlay District
 Location and Procedures of Used Vehicle Sales Businesses
 Height Incentives – discussing today
 Cell Towers in the Right-of-Way – discussing today

Chairman Benjamin asked that Mr. Beninate summarize the portion of the Sign Code discussion from the meeting and resubmit for approval. Ms. Cook made a motion to have a summary written for the minutes pertaining to Item 6, Sign Code Ordinance before they can be approved and it was seconded by Mr. Turner. Mr. Silky was asked to call roll.

Mr. Dowgul	Yes	Ms. Cook	Yes
Mr. Wakstein	Yes	Mr. Sheldon	Yes
Mr. Turner	Yes	Chairman Benjamin	Yes

ITEM NO. 5 Height Incentives – Continuation

Mr. Leonard introduced the item by explaining he had eliminated most of the current height incentives but keeping those related to cross access easements, wetland protection, view windows, public parking spaces, beach access and providing additional parking. He commented with the significant decrease in potential incentives, the amount of each remaining incentive is proposed to be increased in order to allow a property owner an opportunity to achieve the maximum height. He mentioned with the removal of the “Recognizable Top” as one of the incentives though it was good to make as a requirement. He stated this is a starting point for the board to have discussion.

Chairman Benjamin asked how important is it to have the incentives to allow for increased height, but why not make more of them mandatory and keep the height at 150 feet. He asked if the height of 220 feet had to remain or do open an opportunity to be sued. Ms. Myers explained at this point the City is probably less vulnerable to attack since it has been longer than five years when the LDC was adopted. She explained someone’s vested right. Mr. Leonard commented 150 feet was established as entitlement and then someone could make a way back to 220 feet. Mr. Leonard commented that Calypso Tower Three and Seakove have an active Development Order, but that everyone else would have to start over. Discussion ensued. Mr. Leonard commented the board could look at all the districts, take the maximum without incentives in each district and then have requirements added to each from the current incentive list. The board instructed staff to prepare a new proposal and a special meeting was scheduled for Monday, August 28 at 2:00 p.m.

ITEM NO. 6 Cell Towers in the Right-of-Way – Continuation

Ms. Myers shared photographs with the board regarding some of the examples that were discussed at the last meeting by Mr. Beninate. She stated the changes requested by the board in the last meeting have been made to the ordinance such as, 1.) the minimum distance of 200 feet increased to 250 feet between Small Wireless Poles, 2) increase the minimum distance of other ground mounted equipment from a dwelling from 400 feet to 500 feet, unless it is installed underground below grade, and 3) increased the minimum distance between utility poles over 15 feet from 50 feet to 75 feet unless a variance is granted.

Ms. Cook made a motion to approve and it was seconded by Mr. Sheldon. Mr. Silky was asked to call roll.

Mr. Dowgul	Yes	Ms. Cook	Yes
Mr. Wakstein	Yes	Mr. Sheldon	Yes
Mr. Turner	Yes	Chairman Benjamin	Yes

Mr. Silky stated this is recommended to City Council for approval.

ITEM NO. 7 Code Enforcement Update

James Tindle, Code Enforcement Officer distributed a report on code violations. He explained the City is divided into two territories, east and west. Currently Mr. Tindle is responsible for the west side while Mr. Williamson is responsible for the east side and Nautilus Street is the dividing line. He read aloud the current code violations, such as overgrown grass, trash cans visible from the scenic corridor, collected garbage at homes etc. Ms. Cook asked what height determines overgrown

grass; Mr. Tindle replied 12 inches for a lot with a structure or dwelling, a cleared lot that has been improved is 18 inches. He reported there were 167 cases opened up for the month of July and explained the monies that have been collected from violations. Mr. Tindle stated there had been 57 sign violations issued along Front Beach Road for signs that were located in the right-of-way. He continued to explain the report in detail.

Mr. Dowgul asked about the used car lot located on Back Beach Road and if it was in compliance. Mr. Tindle commented his submittal to the City had been completed. Mr. Dowgul commented he is still selling vehicles on the weekends. Mr. Silky commented that he has a completed Development Order, but is still waiting for a building permit to make the necessary modifications of changing use from a residential to commercial. The board thanked

The meeting was adjourned at 5:55 p.m.

DATED this _____ day of _____, 2017

Edward Benjamin, Chairman

ATTEST:

Charles Silky, Secretary

8/14/2017

1) T3 allows for apartments, arcades, game rooms, hotels, motels, condominiums, churches, clubs, lounges and lodges, parking lots, parking garages, business uses, professional uses, personal services, drive in facilities, retail sales and services, and single family dwellings.

2) There are sixteen (16) zoning districts (CH is included) and ninety six (94) land uses. Of that number eighty (80) are allowed in in CH. Options include; adult uses, amusement parks, arena, civic center, big box stores, hotels, motels, condminiums, RV sales. public/private schools, repair shops and a zoo.

3) LDC section 8.03.03 Planning Board Roles and Responsibilities;

To hear, consider and make recommendations to the City Council regarding proposals for amendments to the Comprehensive Plan, the LDC, and the Zoning Map, applications for conditional uses, conduct public hearings and render decisions regarding Master Plans of PUDs, TNODs, consider applications for annexations, variances and review large site development requests. In this case an appeal of the PB decision (including height incentives) will go to council.

4) In 2009 PCB operated under a development concept called 'concurrency'. "Planning and public policy goals may come into conflict with the requirement that adequate public transportation/water/sewer facilities and services be available concurrent with development. The legislature further finds that the unintended result of concurrency is often the discouragement of development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan."

The city of PCB created and adapted a Transportation Concurrency Exception Area (TCEA) which for us meant the FBR/CRA area was declared an exception and ultimately traffic overload was not to be considered as detrimental to development. In other words, tourism is of utmost importance to the State of Florida and traffic cannot be used as a consideration to halt construction/development.

Prior to June 2011 transportation concurrence was mandatory for local governments but it is now optional. The city has a Concurrency Management System which is well defined in our Comp Plan and "allows for proportionate share contributions to mitigate transportation impacts for all developments."

5) Based on numerous e-mail comments the following thoughts are given:

a) There is a rule that does not allow access to a commercial site off an residential street. That means you cannot access/egress the proposed development from Lantana St to the east or to Crane on the west. Property to the west (first two blocks) is R2 and to the east R1C. However,

in this case the PCB Staff has recommended three access point from Crane Street to aid in traffic distribution.

b) There are no side walks in the Bid-A-Wee subdivision. Side walks have to be built to code and will require 5-7 feet of space that will be taken from somebodies front lawns. There may be side walk funds available and speed bump funds as well. Contact Paul Casto for information.

c) Water and sewer concerns can be addressed to Al Shortt. Before any final development plans are approved they must be submitted and approved by the various departments.

d) The Planning Board makes recommendations to the City Council. The Planning Board does not set/make city policy. An example of policy would be a moritorium on building. We are not elected officials but appointed by the Council and serve at their discretion. We have a vacancy on the Board and any interested party is invited to submit an application.

e) "development is a necessary part of progress and growth but it should be done so responsibly." People running for office are always talking about 'managed growth'. If you wish to enter serious debate/discussion with anyone set the topic as 'responsibly managed growth' and have at it. Before you end the discussion please mention the concept of 'property owners rights' and see where that fits in.

f) There is no access to BBR from the proposed development.

g) Many residents are concerned with height and the height variance equating said height with the number of units. We will discuss this at length.

h) Mr. Silky, to the best of your knowledge has the applicant met all requirements regarding a large scale development? The applicant submitted the paperwork, you had questions, you met again, more answers/more questions, new drawings with options?

i) Cars speeding thru neighborhoods, failure to stop at signs, etc are not issues confined to Bid A Wee nor are those actions done by visitors alone. Access delays getting onto FBR and BBR are not issues confined to Bid A Wee either. Also, I have three condo towers in my neighborhood and a fourth one pending. Every community is unique in it's own way.

j) Does it really make a difference where the developer is from?

k) Questions regarding the purchase of this property for use as public beach access and parking should be directed to the City Council.

**APPLICATION TO PLANNING BOARD FOR
HARDSHIP VARIANCE**



CITY OF PANAMA CITY BEACH

Building and Planning Department

116 S. Arnold Road, Panama City Beach, FL 32413

850-233-5054. ext. 2313

Fax: 850-233-5049

Email: achester@pcb.gov

REQUEST FOR VARIANCE OR APPEAL

Applicant:

Name(s): DONALD E. RICE

Address: 113 BIODA WEE CT

City: PCB State: FL Telephone: 812 455 7804 Fax: _____

Email: DERICE8211@GMAIL.COM

Name of Acting Agent: N/A

Statement acknowledged before a notary public authorizing the representative to act on behalf of the property owner with regard to the application and associated procedures. Attached to the application.

Address of Property Seeking Variance or Appeal: 502 PETREL ST

Please provide a survey obtained no more than two (2) years prior to the filing of the application. containing legal description, land area and existing improvements located on the site. Please submit a total of ten (10) copies.

Variance Application Fee: \$500.00

Date Collected: Waived per MP 7/25/2017

The procedure for review of application is found in Sections 10.02.02 and 10.02.12 of the LDC.

All Site Plans and Plats shall be drawn to scale.

Basic Submittal Requirements - LDC Section 10.02.02

Plan or Plat Preparer

Name: BOOMERANG

Address: 15238 FRONT BEACH ROAD Email Address: _____

City: PCB State: FL Telephone: 850 867 1403 Fax: _____

Date of Preparation: 2-12-2017 Date(s) of any modifications: _____

Legal Description: (Consistent with the Required Survey) SEE SURVEY

A vicinity map showing the location of the property.

Future Land Use Map designation for the property: MULTI FAMILY Zoning designation: R-2

Deed Restrictions or Private Covenants apply to this property: Yes No (If so, please provide a copy with this application.)

Requested Action - Please mark the appropriate request.

SECTION 1.07.02

Variance Request from the following section(s) of the LDC:

SECTION 5.02.01 D3

Appeal of the Building Official's (or his/her designee) application of the following sections:

State specifically for Variance, the hardship to the subject property, or for Appeal, how has the specific regulation been incorrectly applied: VARIANCE FROM 10' TO 7.5 ACCESSORY 2ND STORY ALLOWED FOR HABITABLE STRUCTURE

Submittal Requirements for Requests for Variances – LDC Section 10.02.12 (B)

A statement setting forth:

1. All facts and circumstances upon which the applicant intends to rely for the requested Variance: and
2. An analysis of each of the criteria set forth in section 9.03.03(A)(1)-(8)

Required Findings – LDC Section 9.03.03

See ATTACHED

A. In order for an application for a Variance to be approved or approved with conditions, the Planning Board must make a positive finding, based on the evidence submitted, with regard to each of the following provisions:

1. There is a specific hardship affecting the Development of the Lot resulting from the strict application of the provisions of the LDC.
2. The hardship is not a result of actions of the owner and is not based solely on a desire to reduce Development costs:
3. The need for the proposed Variance is due to the physical shape, configuration or topographical condition of the Lot in such a manner as to distinguish it from other adjacent or nearby Lots or from other Lots in the district;
4. The proposed Variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby Lots or other Lots in the district;
5. The proposed Variance will not substantially increase congestion on surrounding Streets, will not increase the danger of fire or other hazard and will not otherwise be detrimental to the health, safety or general welfare of the public;
6. The proposed Variance will be compatible with adjacent and nearby Development and will not alter the essential character of the district;
7. The effect of the proposed Variance is consistent with the purposes of the LDC; and
8. The effect of the proposed Variance is consistent with the Comprehensive Plan.

B. The applicant for a Variance has the burden of proof of demonstrating that the application for a Variance complies with each of the requirements of section 9.03.03.

1. Initial hardship is being notified of a set back problem and an inhabitable problem. This occurred after prints were submitted and approved and impact fees paid. Also, building permit was issued and paid. All prints had always shown set back distance and upstairs living quarters.
2. The hardship has now affected our construction schedule. We have purchased cabinets, appliances, tile, lighting, bathroom fixtures, windows, doors, heating and air conditioner, water heater and numerous furnishings. These items were always shown on our approved drawings.
3. The lot was purchased because it allowed two structures. The existing structure was demolished. Prints were drawn by the architect which notified us of 40% maximum.

lot coverage and fire code requirements. The set backs were established by the architect. This architect lives in the Bid A Nee neighborhood. This made us feel confident in his knowledge of the requirements for that particular area. Our goal was to follow all the building rules without any requested variances.

4. There are numerous homes on the Bid A Nee within the first two blocks that the second building is habitable. These structures are not 25 feet off the back set back.

5. Neither variance will affect any of the listed conditions.

6. The proposed variance will be compatible with adjacent homes in the development. It will improve the character of the district.

7. WHEN THE VARIANCE REQUEST IS APPROVED BY THE BOARD WE WILL BE IN COMPLIANCE

8. Three stories are not allowed.
Second structures were not initially 25 feet off the back to be habitable. We purchased our property prior to the changes. Our intent was to create a living accommodation for our health care personnel on site (second structure). The main building is being constructed handicapped accessible. This will accommodate the crippling diagnosis for Mrs Rice.

Explain how granting the variance will allow the hardship to be overcome? Is the request the minimum necessary to overcome the hardship? THE VARIANCE WILL ALLOW THE USE OF

THE EXCESSORY STRUCTURE TO BE HABITABLE, ~~THE~~ REQUEST IS
FROM 10' REQUIRED TO 7.5'

How many feet away are all adjacent structures (also on surrounding properties) from structure located on subject property? Name specific structures. (N) 2 CAR GARAGE ~~15~~ 15 FT (NEIGHBOR,

(E) MY POOL, DECK + MAIN HOUSE 15-20 FT) (S) NOTHING
(W) OUT BUILDING + POOL EQUIPMENT 7 FT (NEIGHBOR)

If variance is granted, how will it impact the adjacent properties? Please give specific examples of light, air, noise, congestion, general welfare of the public. _____

WILL NOT AFFECT ANY OF THE ABOVE

Restricted or Conditional Variance and Termination – LDC Section 9.03.04

- A. The Planning Board may impose such conditions and restrictions as may be necessary to allow a positive finding for any of the factors listed in section 9.03.03(A)(5) and (6).
- B. After written notice of violation and reasonable opportunity to cure has been given to the property owner, the City Manager shall terminate a restricted or conditional Variance for a violation of the restriction or condition imposed that materially negated the related positive finding. This can be done at any point in time after expiration of the time to cure.

Limitation on Time to Use Variance – LDC Section 9.03.05

Any Variance authorized by the Planning Board and not used and acted upon in a real and substantial way by the applicant or the applicant's successor in interest: within one (1) year from the date on which the decision of the Planning Board is reduced to a written order or if appealed; the date on which the order becomes final, shall be deemed Abandoned and be void and of no further force and effect.

Applicant's Name(s):

DONALD E RICE

Print Name

Date:

7-25-2017

Donald E. Rice

Signature

Print Name

Signature

**CITY OF PANAMA CITY BEACH
PUBLIC NOTICE OF VARIANCE REQUEST OR APPEAL**

The City of Panama City Beach Planning Board will consider the following request:

APPLICANT(S): Donald E. Rice

ADDRESS/LOCATION: 502 Petrel Street

The Variance/Appeal is being requested because, the accessory structure requires a 10 Ft. setback, side and rear. Requesting a 7.5 side and rear setback. Also requesting to use accessory structure as habitable space

MEETING INFORMATION:

Date: August 14, 2017

Time: 2:00 p.m.

Place: City Council Meeting Room, 110 S. Arnold Road, Panama City Beach

The applicant for this variance/appeal request is required by the City of Panama City Beach to send you this letter because, the tax rolls show you own property, in whole or in part, within 150 hundred (~~150~~) feet of the subject property.

Any questions you may have regarding this request please contact someone at the City of Panama City Beach Building and Planning Department at 850-233-5054, ext. 2313.

DATA AND ANALYSIS

APPLICANT:	Donald Rice 502 Petrel Panama City Beach, Florida
PROJECT ADDRESS:	502 Petrel Panama City Beach, Florida
ZONING DISTRICT:	R-2
REQUESTED ACTION:	To allow the use of an accessory structure for human habitation and to allow a 7.5' side and rear setback where 10' is required for two story structures.
REASON FOR REQUEST:	The City's Land Development Code Section 1.07.02 does not allow human habitation of an accessory structure and Section 5.02.01.D.3. requires a 10' side and rear setback for an accessory structure
BACKGROUND:	<p>The applicant was mistakenly issued a Building Permit for the construction and human habitation of the subject accessory structure. Planning staff determined during construction that the location and use of the accessory structure was contrary to the City's Land Development Code.</p> <p>It appears the submitted plans were never reviewed by Planning staff to verify the requirements of the LDC were met. During this time, the Building Department was transitioning Building Officials and administrative staff.</p>

The proposed construction is contrary to the following section of the City's Land Development Code:

- *5.02.01.D.3 All Accessory Structures, other than fences and walls located in compliance with the requirements of section 5.02.03, shall be located in compliance with all site design requirements, except the side and rear Yard Setback. A single-story Accessory Building shall be located a minimum of five (5) feet from a Side or Rear Yard line. An Accessory Building greater than one-Story in height shall be located a minimum of ten (10) feet from a Side or Rear Yard line.*
- *1.07.02 Accessory Structure means, a structure that is located on the same Parcel of property as the Principal Structure, the Use of which is incidental to the Use of the Principal Structure and subject to the provisions of section 5.02.00. Accessory Structures should constitute a minimal investment, may not be used for human habitation (except screened enclosures). Examples of Accessory Structures are detached garages, carports, storage sheds, screened enclosures, pole barns and hay sheds.*

CONCLUSION: After reviewing the applicant's request, the circumstances of the issued Building Permit and considering the character and compatibility of the surrounding area, staff has no objections to this request.



Legend

- Address
- PCB_Parcels
- Major Road
- Minor Road



Prepared by The
City of Panama City Beach
Planning Department

DESCRIPTION

Lot 11, BLOCK L, BID-A-WEE SUBDIVISION, according to the map or plat thereof as recorded in plat book 2 page 23, of the public records of bay county florida

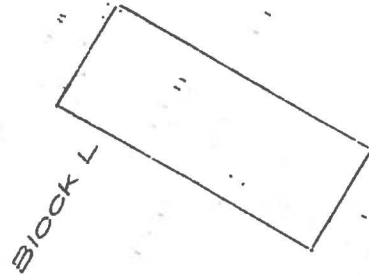
FLOOD ZONE

Flood Insurance Rate Map No 120005C0303H dated June 2, 2009 indicates the subject property lies within zone "X"

RELOCATE WELL TO THIS CORNER see site plan this sheet

RELOCATE EXISTING WELL AND PUMPO HOUSE TO NW CORNER OF LOT

DEMO EXISTING HOUSE FOUNDATION AND DRIVE



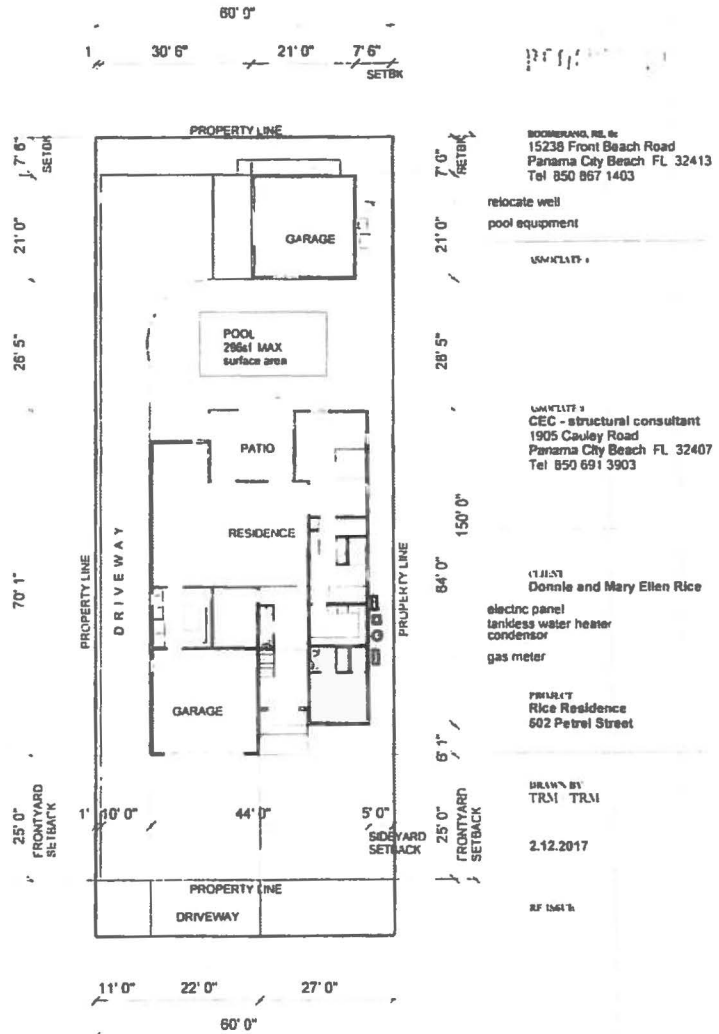
GREEN SPACE CALUCLATION

MAIN HOUSE and GARAGE and PORCHES	2843SF
GARAGE/GUEST HOUSE REAR YARD	441SF
POOL (maximum surface area)	296SF
TOTAL NON PERMEABLE LOT COVERAGE	3580SF
TOTAL LOT 58 X 150	9000SF
TOTAL LOT COVERAGE 1255/5000	39.77%
ALLOWABLE LOT COVERAGE	40.00%

ALL DRIVES, ON SITE WALKS AND TERRACES ARE PERMEABLE PAVERS

SURVEY PLAN

A 001



BOONERLAND, INC. 15238 Front Beach Road Panama City Beach FL 32413 Tel 850 867 1403

relocate well pool equipment

UNCLIPPED

UNCLIPPED CEC - structural consultant 1905 Cauley Road Panama City Beach FL 32407 Tel 850 691 3903

UNCLIPPED Donnie and Mary Ellen Rice electric panel tankless water heater condenser gas meter

PROJECT Rice Residence 502 Petrel Street

DRAWN BY TRM TRM

2.12.2017

RF 156178

SITE PLAN

A 002

CI