

**CITY OF PANAMA CITY BEACH
PLANNING BOARD MEETING MINUTES
April 12, 2023
MINUTES TO THE REGULAR MEETING**

The meeting was called to order by Chairman Wakstein at 1:00 p.m. and Ms. Deese was asked to call the roll. Members present were Mr. Scruggs, Mr. Johns, Mr. Coleman, Mr. Morehouse, Mr. Register, and Chairman Wakstein. Mr. Houk was absent. Mr. Johns led the Pledge of Allegiance.

ITEM NO. 3 Approval of the December 14, 2022, Planning Board Meeting Minutes

Chairman Wakstein asked if there were any comments or corrections to the meeting minutes. Mr. Johns made a motion to approve, it was seconded by Mr. Scruggs. Ms. Deese called the roll.

Mr. Johns	Yes	Mr. Coleman	Yes	Mr. Morehouse	Yes
Mr. Register	Yes	Mr. Scruggs	Yes	Chairman Wakstein	Yes

ITEM NO. 4 Public Comments – Non-Agenda Items

There were no public comments.

ITEM NO. 5 S & L Karian Properties is appealing City Manager’s decision that Transient Residential Rentals are not a permitted Use within the Kelly Street PUD. The appeal is specifically for the portion of the PUD located on Parcel 35351-090-030.

Chairman Wakstein called the quasi-judicial hearing to order.

Mr. Mike Burke, acting agent for the applicant requested to move item number 5 after item number 6 on the agenda to allow additional time for presentation materials to be delivered.

Mr. Scruggs made a motion to amend the agenda by moving item number 5 after item number 6. **Mr. Johns** seconded the motion.

Mr. Johns	Yes	Mr. Coleman	Yes	Mr. Morehouse	Yes
Mr. Register	Yes	Mr. Scruggs	Yes	Chairman Wakstein	Yes

Chairman Wakstein announced the public hearing that was just opened is continued until the next agenda item.

ITEM NO. 6 Scenic Highway Partners LLC is requesting authorization of a variance from Land Development Code 4.04.01.B.4 to reduce the required 35’ minimum distance between driveways to 21.8’ for a variance of 13.2’. The property is located at 16420 Front Beach Road.

Chairman Wakstein introduced the item and read aloud the proceedings for a quasi-judicial hearing. The application was entered into the record and all participants identified as affected parties were sworn in for testimony. **Ms. Deese** acknowledged that all the requirements of the application notices were satisfied and was asked to call Jennings Act.

Mr. Johns visited the property. Mr. Coleman visited the property. Mr. Morehouse visited the property. Mr. Register visited the property and spoke with City staff. Mr. Scruggs visited the property. Chairman Wakstein visited the property and spoke with City staff.

Brandon Poole, Poole Engineering and Surveying, acting agent for the applicant presented the application. He stated the variance would allow a fourth driveway on Gulf Lane. Without the variance his client has two (2) options. The first option is to move two (2) driveways to Front Beach Road, congestion and safety would be a concern. The second option is to subdivide the parcel to allow for four (4) driveways, the stormwater requirements would not be the same as they are proposing. He said this is a significant improvement from the property’s previous condition that was almost 100% impervious, no stormwater plan, as well as continuous drives across both frontages.

Ms. Chester presented a summary of the staff report. Staff agreed that if the parcel was divided it would allow four (4) driveways. The public benefit would be that stormwater issues would be addressed and there would be less traffic congestion on Front Beach Road.

Chairman Wakstein asked if there were any questions for Ms. Chester, there were none. He read aloud the definition of an affected party. He called for any affected parties, public comment, and rebuttal to speak at this time and there was none. He asked Mr. Poole about number three (3) of the Required Findings, how the physical shape of the lot distinguishes it from other adjacent lots and prevents from developing the way he would like.

Mr. Poole responded that without the variance, the project does not allow for four (4) driveways unless they put two (2) of them on Front Beach Road.

Chairman Wakstein added the file, staff report, application, and public comments to the record. He called for closing arguments, there was none.

During Board discussion **Chairman Wakstein** voiced that he found positive on 6 of the 8 criteria and did not believe that a variance was the right vehicle for the project. **Mr. Scruggs** was concerned that a denial would cause the project to connect the driveways to Front Beach Road and would create an unsafe condition. **Mr. Register** said he liked the added stormwater component and keeping the traffic off Front Beach Road. **Mr. Coleman** noted the project fits the Land Development Code (LDC) and Front Beach Overlay (FBO). **Mr. Morehouse** agreed with Chairman Wakstein that some of the boxes were not checked for a variance. **Mr. Johns** asked if there could be a commonsense approach when looking at ingress and egress not just the letter of the law. **Chairman Wakstein** asked Mr. Leonard if there was another way for the project to work without a variance. **Mr. Leonard** responded that the LDC would need to be changed. **Mr. Scruggs** noted that he did look at the variance request as a hardship.

Mr. Scruggs made a motion to approve the variance. **Mr. Coleman** seconded the motion.

Mr. Johns	Yes	Mr. Coleman	Yes	Mr. Morehouse	Yes
Mr. Register	Yes	Mr. Scruggs	Yes	Chairman Wakstein	No

ITEM NO. 5 **S & L Karian Properties is appealing City Manager’s decision that Transient Residential Rentals are not a permitted Use within the Kelly Street PUD. The appeal is specifically for the portion of the PUD located on Parcel 35351-090-030.**

Chairman Wakstein reopened agenda item number 5. He called the hearing to order, affected parties were sworn in, the application and public comments were added to the record. **Ms. Deese** acknowledged that all the requirements of the application notices were satisfied and was asked to call Jennings Act.

Mr. Johns drove by the property and on Kelly Street. Mr. Coleman drove by the property. Mr. Morehouse drove by the property and toured the neighborhood. Mr. Register drove by the property. Mr. Scruggs drove by the property and on Kelly Street. Chairman Wakstein drove by the property and spoke with City staff.

Mr. Burke provided copies of presentation materials to the Board members. He stated his client previously brought before the Board a PUD Modification Request that was denied, so they have now gone back to the 2019 Modification. It is a matter of interpretation of the Panama City Beach Land Development Code and how it affects PUDs. He read aloud from several sections of the City’s LDC. The applicant’s position is that staff should allow the actual Use being developed is Townhome and staff should apply the Uses that are permitted in the R-TH zoning district. The 2019 Recommended Order allowed 102 townhomes which is a Multifamily Use as part of the PUD Modification. The Recommended Order was found consistent with the Comprehensive Plan and procedural requirements of the LDC. Staff’s position is that a PUD is a zoning district. He read the definition of Townhome from the LDC. A Townhome is a permitted Use and Multifamily is also a permitted Use in the Comprehensive Plan, mixed use category. Chapter 2 of the LDC, zoning districts govern the use of land and water in the City. Issuance of local development orders or building permits for any specific land use requires compliance with the Use standards referenced in Table 2.03.02 as well as with Site Design Standards. The table established permitted Uses in zoning districts under the LDC. The zoning district PUD is not listed in Table 2.03.02, by default there are no Uses which are permitted or prohibited. 4.02.05C requires the PUD to have at least one (1) residential, one (1) non-residential, and a total of not less than three (3) Uses. Mr. Burke concluded his presentation with a summary of his report and the belief that there is a gap in the City’s LDC. He requested the Board apply the Uses that are permitted by the underlying zoning district for the Uses that are approved by a PUD Master Plan and specifically that Transient Residential Rentals are a permitted Use in the 2019 Modification of the Kelly Street PUD.

Chairman Wakstein asked if there were any questions from the Board, there were none.

Ms. Myers said that her interpretation of 5.04.03 is clear and unambiguous, it does not say PUD. There is no right to Transient Residential Rentals that can be implied 4.02.05.D, it speaks to design standards. Development is a defined term and speaks to how things are constructed and then speaks to certain uses in a PUD. It is meant to be what the developer wants, and the Board uses it as a tool to encourage innovation as long as it sees a public benefit. There is no legal right for use as a Transient Residential Rental. She doesn't believe it was a vested use in 2019. Concerns were raised and the applicant responded "no" when asked and the conversation stopped and was no longer considered. There are no unused or implied rights. The most restrictive zoning district classification is true for design standards. The developer creates the zoning category, it requires specificity, and the City's position is consistent with prior positions with regard to the permitted use of Transient Residential Rentals in a PUD.

Mr. Scruggs asked Ms. Myers to confirm that there is a PUD in place with specific Uses and now the developer would like to make changes.

Ms. Myers said that her understanding is the applicant is trying to imply a Use. Transient Residential Rentals are allowed in R-TH and are allowed in a PUD, because the PUD allows townhomes. The distinction is the zoning district PUD, R-TH is not a player and not the zoning distinction. The zoning district for this parcel of land is PUD, it is not R-TH. Compatibility and public benefit are the biggest criteria for the Planning Board to consider.

Chairman Wakstein asked Mr. Davis to clarify for the Board that they are to determine whether the Board disagrees with the interpretation of 5.04.33 by the City Manager if Transient Residential Rentals are allowed in a PUD.

Mr. Davis responded that Chapter 8 of the LDC gives the Board the authority to provide interpretation of the LDC and hear appeals of interpretation of the Code by the City Manager. They are not asking to add a new Use, they are asking to interpret the LDC to find that the Use was already allowed.

Chairman Wakstein called for affected parties at this time.

David Howard, 21905 Sunnyside Lane said the Board's job is to look at the cost and the benefit. The benefit question should be at the forefront. The community is adamantly opposed to this development, and it benefits only the developer.

Marilyn Whatley, 21517 Pompano Avenue addressed Required Findings and stated that the hardship was brought on by the developer.

Mr. Davis clarified that the applicant has made an appeal and the Required Findings on the application are only for a variance request.

Tina Bryant, 133 Sun Lane voiced concerns of parcel Use and density, there are two (2) traffic speed hump surveys, and inadequate beach access. She asked what entity enforces the property Use in the City.

Jeff Bryant, 139 Sun Lane stated he is not against development, but transient rentals do not fit into the community and are a current problem. People walking already dodge traffic on the narrow streets and there are no sidewalks.

Karim Fernandez, 21416 Marlin Avenue said there is a need to provide housing for those wanting to live long term in the area, there will be more calls to emergency services, and gave an example of an instance that he called the police.

Allison Schmitz, 21624 Marlin Avenue voiced safety concerns for children walking to the bus stop and would like to see long term homes constructed.

Chairman Wakstein asked for public comment at this time, there was none. He called for rebuttal from the applicant, staff, and affected parties at this time.

Mr. Leonard said section 10.02.05 states a Master Plan shall not be implied and gave the definition dwellings from the 2005 code. If not specifically listed or explained, it is not implied or inferred.

Mr. Burke said there is no difference from Use in the adjacent neighborhood since Bay County does not have a prohibition on short term rentals. There is nothing within table 2.03.02 that states Multifamily Use. Multifamily is defined within the City's Comprehensive Plan and there are zoning

categories that are multifamily. The 2005 code does not apply, it is the 2019 code that applies. If developing property in a PUD, refer to the most restrictive category. Design standards also refer to Use. If you follow as an interpretive guide, 4.02.05.D (Design Standards), development of each Use in a PUD shall comply with the provisions for the most restrictive zoning district classification in which that Use is allowed unless the City approves deviations from the strict application of requirements of the applicable zoning districts. With code interpretation if it is not listed, you look for something that is similar. When you have a PUD, you are creating a new zoning district. The underlying zoning district is not PUD, it does not have a restrictive application. His client purchased with understanding that Transient Residential Rentals were allowed.

Chairman Wakstein asked for questions from the Board.

Mr. Morehouse said he didn't believe that it was intended, because Mr. Carroll stated it was not intended to be rented.

Mr. Burke gave examples of not intending to use property a certain way, but the Use may still be permitted.

Mr. Coleman stated there doesn't seem to be a final Development Plan submitted for this project from the information he has reviewed.

Mr. Burke stated that his client did not execute the 2019 application. They met with staff and came up with the new design that was presented to the Board and a development order was issued. When it came time to approve the plat, Ms. Myers caught it and said that there was a substantial deviation and an application for a PUD Modification needed to be submitted.

Chairman Wakstein added Mr. Burke's presentation package to the record and asked for closing arguments at this time.

David Howard, 21905 Sunnyside Lane spoke of historical changes of the development and asked the Board to not let someone from the outside determine their code for them.

Karim Fernandez, 21416 Marlin Avenue said the community depends on the Board to make decisions and be their voice. He asked to find against the developer's interpretation.

Tina Bryant, 133 Sun Lane stated that her Southfields neighborhood does have restrictions.

Chris Jones, owner said when purchasing the property, they looked at the LDC and referred to the 2019 Order. What was said by Mr. Carroll wasn't in the Order. They have a Development Order and the multifamily was approved.

Chairman Wakstein opened Board deliberation.

Mr. Scruggs asked Mr. Leonard how Transient Residential Rentals are monitored. **Mr. Leonard** responded that Code Enforcement and Business Licensing work together to identify short-term rentals, whether they are allowed to be there, make they are paying their 1%, and take appropriate action if needed. **Chairman Wakstein** read 5.04.33 and said it does not mention PUD. **Mr. Register** agreed with Chairman Wakstein, it was not mentioned. **Chairman Wakstein** said it can be requested and negotiated, but it is not inherently granted. **Mr. Coleman** revisited comments made by Mr. Jones. In 2019, the PUD was approved for multifamily. **Chairman Wakstein** said there was an application for modification to the original PUD and was approved for 102 townhomes and at that time there was no mention of Transient Residential Rentals. **Mr. Coleman** noted that when watching the meeting video, the Chairman of the Board said the issues of rental were addressed, it was an owner thing, and that this was not to be marketed as such.

Mr. Morehouse made a motion to accept the City Manager's interpretation of the code. **Mr. Coleman** seconded the motion.

Mr. Johns	Yes	Mr. Coleman	Yes	Mr. Morehouse	Yes
Mr. Register	Yes	Mr. Scruggs	Yes	Chairman Wakstein	Yes

ITEM NO. 7 Medical Campus Overlay District

Mr. Davis introduced the item and gave a brief history of the 4 Corners PUD that encompasses the medical campus.

Catherine McCloy, St. Joe Company introduced Paul Macheske, Health Care Architect with Hunton Brady Architects.

Mr. Macheske described the purpose of the overlay and explained compliance with the Florida Building Code. He then described the proposed building heights and sign needs of hospitals and medical office buildings.

Chairman Wakstein asked for questions from the Board and explained that they are approving the tool not the actual signage plan.

Mr. Morehouse asked if lighting needed to be addressed for helipads.

Mr. Leonard explained that light at the property line over .5 foot candles it is considered a nuisance.

Mr. Macheske said that he would encourage updating the lighting standards.

Mr. Scruggs added there is a trend toward dark sky compliant lighting.

Chairman Wakstein noted that currently the standard lighting code would apply.

Mr. Macheske said the helipad may be roof top or grade and they would follow FAA guidelines.

Mr. Davis asked the Board for direction on how they would like him to address lighting standards and glare.

Mr. Scruggs said that the signage needs to be seen but would like to eliminate light trespass.

There was discussion about the ingress and egress of the facility, median cuts, and internal circulation.

Mr. Davis stated there are some points that he would like to add after discussion parking lot lighting should be directional all other lighting should be hooded or shrouded. To avoid inconsistency, add a reference to measurement of building height from the crown of the road as stated in the LDC, language to clarify the allowable accessory uses, change the buffer along the right of way to be lined with hedges instead of trees to increase visibility. The setback won't change, and the vegetative buffer will not be lowered on the back side.

Mr. Macheske asked that one of the accessory uses include parking garage structures.

Mr. Coleman made a motion to accept with the changes given to Mr. Davis. **Mr. Johns** seconded the motion.

Mr. Johns	Yes	Mr. Coleman	Yes	Mr. Morehouse	Yes
Mr. Register	Yes	Mr. Scruggs	Yes	Chairman Wakstein	Yes

ITEM NO. 8 Large Conditional Use for Multi-Family Apartments

Chairman Wakstein opened Board discussion and asked Mr. Davis to increase the vegetative buffer to every 15 linear feet instead of the proposed 20 linear feet, preserve the natural existing vegetative buffers, include an 8-foot fence, and for 150 or more units they must have two (2) access points.

Mr. Johns made a motion to ratify the Large Conditional Use for Multi-Family Apartments with changes. **Mr. Scruggs** seconded the motion.

Mr. Johns	Yes	Mr. Coleman	Yes	Mr. Morehouse	Yes
Mr. Register	Yes	Mr. Scruggs	Yes	Chairman Wakstein	Yes

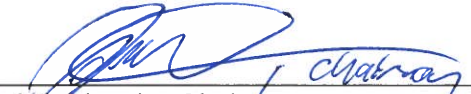
ITEM NO. 8 Code Enforcement Update

Mr. Smith provided an update for mid-November through mid-March. He highlighted the Division's proactive approach to the City's Doggie Dining Ordinance, Special Event meetings, and efforts to educate realtors of the City's sign ordinance.

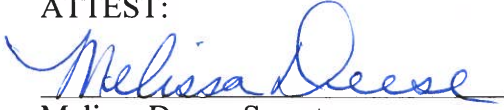
Chairman Wakstein asked if there were any comments from the Board. **Mr. Johns** advised the board of his resignation.

The meeting adjourned at 3:20 p.m.

DATED this 10th day of May, 2023.


Josh Wakstein, Chairman

ATTEST:


Melissa Deese, Secretary