



Planning and Zoning Board Meeting  
May 9, 2022 at 5:45 PM  
*Zoom Meeting Application was Utilized for the Meeting*

Bradenton Area Convention Center  
Longboat Key Room  
1 Haben Blvd.  
Palmetto, FL 34221

Planning and Zoning Board Members Present

Randy Iaboni, Chairman  
Jon Moore, Vice- Chair  
Paul Marchese  
William Price, III  
Pamela Roberts

Staff Present

Kera Hill, Development Services Supervisor  
Mark Barnebey, City Attorney  
Marisa Powers, City Attorney  
Todd Williams, IT Consultant  
Penny Johnston, Executive Assistant

Chairman Randy Iaboni called the meeting to order at 5:49 p.m., followed by a moment of silence and the Pledge of Allegiance. Roll call revealed all board members were present. All persons intending to address the Planning and Zoning Board were duly sworn. He asked everyone to remain civil during this potentially emotional discussion.

1. PLANNING & ZONING BOARD AGENDA APPROVAL

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**MOTION: Mr. Price moved, Ms. Roberts seconded, and the motion carried 5-0 to approve the May 9, 2022 Agenda with the date modification.**

2. PUBLIC COMMENT

There were no public comments for non-agenda items.

Each Board member confirmed that they had not had any ex-parte communications regarding the potential Riviera Dunes development.

Each Board member was asked to disclose their relationship to the Riviera Dunes development. Mr. Marchese stated he lived in the Homes of Riviera Dunes, in an area called the Peninsula. Attorney Powers asked Mr. Marchese if he felt he could still vote on the application in a fair manner free from bias and/or prejudice. He said yes.

Mr. Moore stated that he had a professional association with the attorney of record, Mr. Voegler for a number of years and they were currently working on a small project, which in no way would effect this project. Attorney Powers asked Mr. Moore if he felt he could still vote on the application in a fair manner free from bias and/or prejudice. He said yes.

Mr. Price stated he lived in the Homes of Riviera Dunes, in an area called the Peninsula. Attorney Powers asked Mr. Price if he felt he could still vote on the application in a fair manner free from bias and/or prejudice. He said yes.

Mr. Iaboni and Ms. Roberts had no connection to Riviera Dunes.

**Mr. Cornelius, with Wade Trim** reiterated that he serves as a Consultant/ Planner for the City of Palmetto, he is under contract with the City, his role is to support the City staff, and he has no relationship with the developer or the developer's team to this project.

He continued that there was a hearing on this issue last year. Additional information has been submitted, and some concerns came forward which have been addressed. The Development of Regional Impact (DRI) had expired and the Land Use Equivalency Matrix had not been adopted within Ordinance 663. Under Florida law, the deadline for the DRI fell within COVID, so it was properly extended to June 15, 2022.

**Regarding Ord. 2022-05:** Mr. Cornelius gave an extensive presentation as a summary of the request, which has been made a part of these minutes. He said the DRI has been amended. He talked about density, transportation issues of the DRI, traffic studies, Coastal High Hazard Areas, Open Space, the 100-year flood plain, and deviation requests which are consistent with similar deviations afforded Riviera Dunes, including Bel Mare. Current traffic studies are estimates. Staff is recommending to re-address the traffic study when the units have actually reached 75% occupancy.

Mr. Marchese inquired about the traffic level of service, but US 41 is already operating at the lowest level of service. Studies indicate the new development would have a minimal impact, estimating 100 trips at the p.m. peak hours.

Mr. Price inquired more about the traffic studies. Mr. Marchese asked about who is exempt from paying their share of transportation improvements.

Mr. Cornelius stated the amendment to Map H would just be an update of the map from 1999, to reflect the current conditions of the property. It is not making any changes to the density or dwelling units. Mr. Cornelius recognized there are current traffic concerns and intersections have unacceptable delays. He stated the State and local government cannot hold new developers responsible to fix the problem but they are subject to traffic impact fees.

**Regarding Ord. 2022-06:** Mr. Cornelius explained that this ordinance adopts the Land Use Equivalency Matrix that had been amended and adopted in the DRI, but the updates were not reflected in Ordinance 663. There were also amendments of quality restaurants, specialty retail and office space in the Matrix. Mr. Cornelius opined it was good to remove a layer of disconnect and inconsistency in Ordinance 663. *Specialty retail* and *quality restaurants* are terms used by the Institute of Traffic Engineers.

**Regarding Ord. 2022-07:** Mr. Cornelius noted his recommendation this year is different from his recommendation last year about this project, because he has had a year to do review and work with City staff. Mr. Cornelius stated the maximum number of dwelling units and density of a comprehensive plan is regulated within the overall DRI. The entire DRI is in the Coastal High Hazard area but this development is not increasing the density, it is already part of the DRI.

Deviations included compact parking spaces, spacing between the internal buildings of the project, easements, and buffers for the perimeter boundaries on US 41 and Haben. Staff did not recommend to approve the 10 foot landscape buffer.

Mr. Marchese questioned if FEMA had approved the plan. Ms. Hill reminded him that this is a general development plan not a construction plan or a building permit plan and the flood plan requirements will have to be in compliance with City building codes, the Water Management District, and FEMA regulations.

**Justin Sand with EPOCH Residential** gave a brief overview of their qualifications and 5 decade history of building rental properties. He stressed the City needs quality rental housing.

**Ed Voegler, land use attorney for the applicant** hoped the board would rely on the law, the code and good judgement to review this with an open mind. He provided a detailed review of the request. Independent professionals have recommended approval of this project. Staff submitted a 34-page report with legal and code analysis recommending this project. That report has been made a part of these Minutes.

Mr. Voegler stated EPOCH agreed with Staff's recommendation not to reduce the perimeter landscape buffers to 10 feet. Mr. Voelger stated they revised their request for a 13 foot perimeter landscape buffer on the US 41 frontage. He described the remaining variances in detail. He explained the request for the number of compact car parking spaces, the number of parking spaces, building to building separation from 25' down to 20', building setbacks along the right of way to 20'. He compared the Bel Mare variances to the EPOCH requests. Between 1999 and today, the DRI has been amended by others to increase the density for multifamily units from

367 to 857. This increase shows that increased density in this area is allowed and preferred. He listed several benefits of urban density.

Mr. Voegler recognized the existing traffic concerns on Haben and US 41, but two traffic studies have been submitted agreeing the development would not have a large impact. The State of Florida and Manatee County are responsible to make transportation improvements. By law, the applicant cannot be required to fix existing deficiencies.

#### *OPENED PUBLIC COMMENT*

**Dan Lobeck**, attorney for Riviera Dunes residents, opined the Board is not *forced* to amend the laws in this flood prone, traffic constrained property. He concurred that the plan is not complete. He felt the project was border-to-border concrete and subject to flooding. He opined retail shopping would be much more attractive at their Riviera Dunes entrance than rental housing. Mr. Lobeck questioned the accuracy of the comments from Mr. Cornelius and Mr. Voegler.

Jacqueline Picone, Riviera Dunes Laguna resident opposed, was concerned about response time for emergency vehicles with all the additional traffic.

Hayley Hawkinberry, Riviera Dunes resident, was in favor of the development and stressed the need for affordable housing.

David Swanson, Riviera Dunes Laguna resident opposed, was pointing out the congested traffic at Riviera Dunes and Haben Blvd., not just the traffic at US 41.

Deborah Sperry, Riviera Dunes resident opposed, felt that 255 units did not fit the existing ordinances. Why not change the proposal instead of changing the rules.

Jeff Conwell, Riviera Dunes resident opposed, opined that with the Reef Apartments, a larger school, a new hotel, these apartments and the extension of 7<sup>th</sup> Street... it was just common sense that it is too much traffic.

Lynn Daniel, Riviera Dunes resident opposed, stated they were not an emotional crowd, they were an educated crowd. Her concern was the response time for emergency vehicles, which is already hindered by traffic. When she needed one, it took an ambulance 20 minutes to get to her house during peak p.m. traffic. (5:30)

Douglas Cardente, Riviera Dunes resident opposed, suggested that an elected official should abide by the rules, support the will of the people and do the best for the City.

Keith Ewer, Riviera Dunes resident opposed, stated Estuary Park is filthy, inhabited by homeless people, and one would have to cross a busy highway to get there. It should not be considered green space for this complex.

Shay Hawkinberry, Riviera Dunes resident, was in favor of the project and said the DRI was approved 30 years ago to revitalize the area. She said there are 13,788 residents in Palmetto, 4% live in Riviera Dunes. As a Riviera Dunes resident, she would rather look at luxury housing than the back of retail stores.

*Board took a break from 8:21 p.m. – 8:28 p.m.*

Mr. Cornelius clarified that density matters, but density was established under the DRI.

Mr. Voegler rebutted the existing elevation of the site is 7 feet +/- so meeting the current flood plain elevations will be easy. He added that the traffic studies are current. Ordinance 663 was adopted in 1999 and was never amended, even though the DRI was amended 3-4 times. Mr. Voegler opined the testimony of the other attorney was purposefully misleading. He closed saying staff and independent consultants have recommended approval, and this project follows the laws.

*CLOSED PUBLIC COMMENT*

Pam Roberts had no comment.

Bill Price opined that there is a serious traffic problem and this project would make it worse. He hoped there was some middle zone, for the sake of the City.

Jon Moore had no comment.

Paul Marchese stated he was a professional architect, with professional standards. He still had unanswered questions about multiple deficiencies, so he voted no.

Randy Iaboni agreed area traffic is the biggest problem, but not developing a prime parcel of land will not change traffic, it would only create more blight. He opined we do not have the demographics in Palmetto to support retail development. The City needs work force housing, and this development would be less dense than the current high rises that are standing in Riviera Dunes.

**3. ORDINANCE 2022-05 (B. CORNELIUS)**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING ORDINANCE 663, AS AMENDED, THE DEVELOPMENT ORDER FOR THE RIVIERA DUNES DEVELOPMENT OF REGIONAL IMPACT, GENERALLY LOCATED EAST OF U.S. 41 AND SOUTH OF HABEN BOULEVARD; PROVIDING FOR FINDINGS OF FACT; AMENDING SECTION 6, SUBSECTION G - TRANSPORTATION AND ADDING NEW CONDITIONS FOR TRANSPORTATION MITIGATION AND TRAFFIC MONITORING CONSISTENT WITH SECTION 380.06, FLORIDA STATUTES; ADDING A NEW TABLE A(1) RELATED TO THE PROPOSED RIVIERA DUNES APARTMENTS GENERAL DEVELOPMENT PLAN; AMENDING MAP H TO REFLECT CURRENT CONDITIONS; AND PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

**MOTION:** Mr. Moore moved, Ms. Roberts seconded, and based upon the staff report, the comments made at the public hearing, and finding the request to be consistent with the City of Palmetto Comprehensive Plan and Zoning Code, the motion carried 3-2 to recommend to the City Commission the adoption of Ordinance No. 2022-05. Mr. Marchese and Mr. Price voted nay.

4. ORDINANCE 2022-06 (B. CORNELIUS)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING ORDINANCE 663, AS AMENDED, FOR THE RIVIERA DUNES PLANNED DEVELOPMENT-MIXED USE PROJECT, GENERALLY LOCATED EAST OF U.S. 41 AND SOUTH OF HABEN BOULEVARD; PROVIDING FINDINGS OF FACT; AMENDING SECTION 1 - SUBSECTION 8 - TABLE 1 AND TABLE 2 TO UPDATE PARCEL IDENTIFICATION, DEVELOPMENT AREAS AND USES CONSISTENT WITH CURRENT CONDITIONS; AMENDING SECTION I-SUBSECTION 13 TO UPDATE THE LAND USE EXCHANGE CONDITIONS AND TABLE 3 LAND USE EXCHANGE MATRIX TO REFLECT PREVIOUS CHANGES IN THE LAND USE EXCHANGE MATRIX THAT WAS ADOPTED WITH THE RIVIERA DUNES DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER AMENDMENTS PROVIDED IN ORDINANCE 03-774 AND ORDINANCE 08-956; AND UPDATE THE CONCEPTUAL DEVELOPMENT PLAN TO REFLECT CURRENT CONDITIONS; AND PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

**MOTION:** Mr. Moore moved, Ms. Roberts seconded, and based upon the staff report, the comments made at the public hearing, and finding the request to be consistent with the City of Palmetto Comprehensive Plan and Zoning Code, and the motion carried 3-2 to recommend to the City Commission the adoption of Ordinance No. 2022-06. Mr. Marchese and Mr. Price voted nay.

5. ORDINANCE 2022-07 (B. CORNELIUS)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA; APPROVING ADOPTION OF A GENERAL DEVELOPMENT PLAN WITHIN THE RIVIERA DUNES DEVELOPMENT OF REGIONAL IMPACT FOR A MULTI-FAMILY, PLANNED DEVELOPMENT CONTAINING 255 MULTI-FAMILY RESIDENTIAL UNITS ON 8.37 ACRES OF PROPERTY; GENERALLY LOCATED ALONG THE EAST SIDE OF U.S. 41 SOUTH OF HABEN BOULEVARD AT THE WESTERN ENTRANCE TO THE RIVIERA DUNES DEVELOPMENT; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

**MOTION:** Mr. Moore moved, Ms. Roberts seconded, and based upon the staff report, the comments made at the public hearing, and finding the request to be consistent with the City of Palmetto Comprehensive Plan and Zoning Code, the motion carried 3-2 to recommend to the City Commission to adopt Ordinance No. 2022-07, with conditions recommended by City staff. Mr. Marchese and Mr. Price voted nay.

Chairman Randy Iaboni adjourned the meeting at 8:54 p.m.