

Minutes
Orange Beach Planning Commission
April 11, 2022 4:00 PM
Council Chambers - Orange Beach Municipal Complex
4099 Orange Beach Boulevard

A. CALL TO ORDER

Chairman Stuart called the meeting to order at 4:00 PM.

B. INVOCATION

Commissioner Bauer gave the invocation.

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

Board Members Present:

Staff Present:

Commissioner Bill Jeffries
Commissioner Annette Mitchell
Commissioner Pat Simpson
Commissioner Jack Robertson
Commissioner Glenn Smith
Commissioner Nelson Bauer
Vice Chairman Kathy Lindsey
Chairman Robert Stuart

Kit Alexander, Community Development Director
Griffin Powell, Planner II
Sherri Descalzo, P&Z Coordinator
Sean Brumley, GIS Specialist
John Lawler City Attorney

E. APPROVAL OF AGENDA

There were no changes to the agenda and the agenda stands approved as submitted.

F. CONFLICTS OF INTEREST

Commissioner Simpson recused himself from Case No. 0402-SD-22, Emamalie Subdivision.
Chairman Stuart recused himself from Case No. 0403-SP-22, Phoenix Key.

G. APPROVAL OF MINUTES AND CERTIFIED RECORDS

There were no changes to the minutes and the minutes stand approved as submitted.

1. Approval of minutes from regular Planning Commission meeting on March 14, 2022.

H. PUBLIC HEARINGS

1. **Case No. 0104-SD-22, Black Burn Family Division Plat #1, Subdivision of Lot 2**

Lucido Engineering and Surveying LLC, on behalf of Elizabeth F. Taupeka, requests approval of **Preliminary and Final Minor Subdivision** to subdivide Lot 2 of Blackburn Family Plat #1 into two lots. The property is located on the north side of Canal Road behind 28295 to 28387 Canal Road in the RS-1 (Single-Family Residential) zoning district. *Deferred from the Regular Meeting on March 14, 2022.* Griffin Powell stated that the applicant had not met the required submittal deadline. Chairman Stuart said that this is the third deferral and a new application will be required for consideration by the Planning Commission.

2. **Case No. 0302-SD-22, Buena Vista RV Resort PUD Subdivision, Phases 3, 4 and 5**

75/25 Investments LLC requests approval of **Preliminary Major Subdivision** for Phases 3, 4 and 5 of the Buena Vista on the Beach Resort consisting of 56 lots (Lots 24-76 and 98-101). These phases are located at the end of Buena Vista Boulevard and Parkside Lane on the west and northwest side of the Buena Vista Planned Unit Development. *Deferred from the Regular Meeting on March 14, 2022.* Griffin Powell presented staff comments to the Planning Commission. Chairman Stuart opened the public hearing. No one had signed up to speak and the Commissioners had no questions.

Motion to approve Preliminary Major Subdivision subject to staff comments.

Motion made and seconded (Mitchell/Simpson) Jeffries; yes, Mitchell; yes, Vice Chairman Lindsey; yes, Simpson; yes, Smith; yes, Robertson; yes, Bauer; yes, Chairman Stuart; yes.
Approved (8-0)

3. **Case No. 0402-SD-22, Emamalie Subdivision, Lots 270 and 281, Bear Point Estates Subdivision**

Brandon and Alyson Emamalie request approval of **Preliminary and Final Minor Subdivision** to combine Lots 270 and 281, Bear Point Estates Subdivision into one lot. The property is located at 5316 East Perdido Avenue and 5311 Wolfhead Avenue in the RS-2 (Single-Family Residential) zoning district. Commissioner Simpson recused himself. Griffin Powell presented staff comments to the Planning Commission. Chairman Stuart opened the public hearing. No one had signed up to speak and the Commissioners had no questions.

Motion to approve Preliminary and Final Minor Subdivision subject to staff comments.

Motion made and seconded (Lindsey/Bauer) Jeffries; yes, Mitchell; yes, Vice Chairman Lindsey; yes, Simpson; abstain, Smith; yes, Robertson; yes, Bauer; yes, Chairman Stuart; yes.
Approved (7-0)

4. **Case No. 0405-PUDA-22, Turquoise Place PUD Modification, Turquoise Place Parking Garage**

Forrest Daniell and Associates, on behalf of Turquoise Place Condominium Association, Inc., requests recommendation to City Council for approval of **Major PUD Modification** to rezone 26456 and 26468 Perdido Beach Boulevard from RS-1 (Single-Family Residential) to PUD (Planned Unit Development) for inclusion into the Turquoise Place PUD for the purpose of constructing a 4-story, 80,300+ SF parking garage that will supplement parking at Turquoise

Place Condominium by adding 162 parking spaces. The project will also include a 20,800+ SF amenity area on the roof of the parking garage. The properties are located at 26350, 26456 and 26468 Perdido Beach Boulevard. Griffin Powell presented staff comments to the Planning Commission. Chairman Stuart opened the public hearing.

Casey Pipes stated that he is the attorney representing the Brockman family, owners of two lots to the east of the proposed parking garage, and also the attorney for the City of Foley. He stated that the Brockman are in support of the project. He stated that the Brockman should be allowed to rezone their lots to a higher residential density due to the surrounding high density zoning classifications and the high-rise hotel and condominium to the east and west.

Jason Voyles, President of the Turquoise Condominium Owners Association, stated that he supports the project.

Candace Burgin with Spectrum Resorts stated that cameras, slide attendants and limited hours of operation are proposed for the parking garage slide in order to ensure children's safety at the top level and at stairwell entrances. Commissioner Mitchell stated she has concerns about young children being in the stairwell by themselves. Commissioner Jeffries was concerned about the garage exits leading into the stairwell containing unsupervised children. Concern was also expressed about unsupervised children using the parking garage elevator. Forrest Daniell, project architect, said that people will be able to exit the garage into the stairwell but not able to enter into the garage from the stairwell. Commissioner Simpson asked if a key card can be issued for the slide. Candace Burgin said they could but that does not guarantee a parent will be with the children.

Parke McEnery stated that he represents the Kilpatrick family who owns a lot in the RS-1 zoning district to the east of the project, 26504 Perdido Beach Blvd. He stated that construction of a beach house is no longer possible due to the condo and hotel towers to the east and west. He stated that there are only 3.5 miles of beachfront containing two pockets of single-family lots.

Rodney Jones stated that he owns the single-family residential lot directly east of the proposed garage. He does not want a 45-foot wall directly west of his lot, blocking his view. He objected to the reduction of the 20-foot side setback to 15 feet. When he bought the property, the property directly west of his lot was RS-1 and it should remain RS-1. He asked whether his lot can be rezoned to high density multi-family if this proposed PUD is approved.

Chairman Stuart closed the public hearing and asked if the Commissioners had questions or comments.

Chairman Stuart asked for clarification on camera locations. Candace Burgin stated that cameras will be located on the amenity deck, top and bottom of the slide, in each stairwell access, in the elevator, and around the garage.

Commissioner Bauer asked the applicant about the need for a third stairwell. Forrest Daniel said if the capacity is over 500 a third stairwell will be needed and he will look into it. If needed, the stairwell will be located in the northeast corner of the garage. Kit Alexander stated this correction will need to be addressed prior to Council consideration. In addition, the camera placement needs to be documented and presented for Council consideration.

Motion for favorable recommendation of Major PUDA to City Council subject to staff comments and requiring cameras on the amenity deck/pool deck, the slide lower and upper levels, garage accesses to the slide stairwell, and elevator.

Motion made and seconded (Bauer/Jeffries) Jeffries; yes, Mitchell; yes, Vice Chairman Lindsey; yes, Simpson; yes, Smith; yes, Robertson; no, Bauer; yes, Chairman Stuart; yes.

Approved (7-1)

5. Case No. 0404-SD-22, Turquoise Place, A Condominium, Phase II Subdivision

Lucido Engineering and Surveying LLC, on behalf of Spectrum Turquoise LLC, requests approval of **Preliminary and Final Minor Subdivision** to combine the lots containing Turquoise Place Condominium, Phase II and the adjoining two 50-foot lots to the east into a single lot. The properties are located at 26350, 26456 and 26468 Perdido Beach Boulevard in the Turquoise Place PUD (Planned Unit Development) and RS-1 (Single-Family Rezoning) zoning districts. Griffin Powell presented staff comments to Planning Commission. Chairman Stuart opened the public hearing.

Rodney Jones appealed to the commission about the impact the 45-foot wall will have on his RS-1 zoned property. He stated that the garage will lessen his lot value.

Commissioner Mitchell said that the Turquoise Condominium was built when fewer parking spaces were required for multi-family developments. The garage will not increase intensity of the Turquoise development but will alleviate the parking issues.

Mr. McEnery said that the Kilpatrick family had been in their homes since 1958.

Kit Alexander, CDD, said it is unfortunate when the condominium project was originally approved; it was designed for the nature of tourism at that time. Now more people are staying in the same size condos but driving more cars. This is a safety issue and the parking garage addresses life safety. Chairman Stuart closed the public hearing.

Motion to approve Preliminary and Final Minor Subdivision subject to staff comments.

Motion made and seconded (Bauer/Jeffries) Jeffries; yes, Mitchell; yes, Vice Chairman Lindsey; yes, Simpson; yes, Smith; yes, Robertson; no, Bauer; yes, Chairman Stuart; yes.

Approved (7-1)

I. SITE PLAN REVIEWS

1. Case No. 0403-SP-22, Phoenix Key

Forrest Daniell and Associates, on behalf of Brett/Robinson, requests approval of **Site Plan Review** to construct a two-phase project consisting to two identical towers, each tower being 25 stories in height and containing 56 units. The project is located between 29010 and 29070 Perdido Beach Boulevard and 29090 and 29100 Perdido Beach Boulevard in the RM-2 (Multi-Family Residential High Density) and RS-1 (Single-Family Residential) zoning districts. Chairman Stuart recused himself from the case. Griffin Powell presented staff comments to the planning commission.

Margaret Odom, Dolphin Harbor Condominium Owners Association President, presented a

single-family residential development option for this property instead of the two 25 story towers. She expressed concerns about the beach depth being insufficient to handle the 1000 to 1500 people this condominium will house. She stated that the number of people on the beach will cause a life safety issue. She also expressed concerns about the life safety issues linked to the increase of traffic on a road already experiencing horrendous traffic. She stated there are 262 condominiums between Vista Bella and Legacy Key. Most condominium owners bought in this part of Orange Beach because of the limited height of the condominiums. She stated that Perdido Key will lose its wildlife, beach mouse habitat, manatees, and turtles.

Kit Alexander, Community Development Director, stated the property was rezoned in 2006 from RS-1 to RM-2. The developers have a right to build a multi-family development if it meets the zoning rules and regulations. This is a site plan review not a Planned Unit Development rezoning request. The Planning Commission can only disapprove a zoning compliant site plan if there is a clear, defined and defensible life safety issue. The issues regarding impacts on traffic and the surrounding properties should have been addressed when the property was rezoned in 2006, not during this site plan consideration.

John Lawler, Planning Commission Attorney, stated that the property could be rezoned and the zoning of a municipality is not static. Commissioner Robertson asked whether the City could be sued if the City down-zoned the property. John Lawler stated that the Planning Commission could table this and the City could rezone the property.

Vice Chairman Lindsey restated this is a site plan review only, not a rezoning. John Lawler cited a twenty year old Jacksonville case that involved the City disapproving a site plan due to traffic issues.

Earl Story, Yachtsman Condominium, 28929 Perdido Beach Boulevard, stated that he agrees with everything Margaret Odom said. Perdido Beach Boulevard is like a racetrack and the proposed development will cause more accidents. He also questioned how the riverside condominiums will get to the beach after this is condominium is built. Commissioner Mitchell stated that there needs to be a recorded private beach access in order for the riverside condominium unit owners to cross private property and access the beach.

Wayne Holliman, President of River Chase Condominium Owners Association, stated that the developers could redesign the development to be a 10 to 15 story condominium. He referenced the need to have barricades and hired security during Florabama events.

Kit Alexander restated the property was rezoned to RM-2 in 2006 and these issues should have been addressed at the time of rezoning, not site plan review.

Tina Callais, Vista Bella unit owner, stated that at the time she purchased her unit, she was told that the maximum allowable number of condominium stories was 10 to 11 stories. She expressed concerns for both the land and sea wildlife. She stated that the presence of water on both sides of Perdido Beach Boulevard causes flooding of the road during significant storm events. She stated that the inability to cross the street, ride a bike or walk on Perdido Beach Boulevard are life safety issues. She requested a streetlight in this location. She stated that the development on Perdido Beach Boulevard is becoming like Highway 30A in Florida. She expressed concerns about the inability of beach rescue responders to access the beach.

Richard Wilmarth, Marlin Key Board Vice President, stated he is a retired clinical psychologist. He said this project will cause a large amount of stress and that historically Perdido Key has been a place of calm. He expressed concerns about traffic, reduced beach access, and blocked views. He asked that the project be tabled to give the City and developer time to rethink the project.

Richard Jackson stated he agreed with all that has been said. He purchased on Perdido Key ten years ago because of the low density.

Mark Dickhuite stated that everything the Planning Commission Attorney said is correct. The City cannot allow Brett-Robinson to build this part of the beach like they have on the other side of Perdido Pass Bridge. He is requesting that Brett-Robinson redesign the project to have a lower density.

John MaLenn, Jubilee Landing Condominium, 29101 Perdido Beach Blvd, asked if the City can request the developer to provide beach access. He also asked about the Veranda Condominium that had been passed years ago. Kit Alexander stated that the Veranda PUD was approved in 2005 and has expired.

Jan Clink, Vista Bella Condominium, asked what can be done to challenge this project. She asked whether the project can be tabled until further studies are done.

Caroline Mann, Dolphin Key Condominium, asked how the beach mouse habitat is going to be protected.

Ron Davis, River Chase Condominium, asked how the construction is going to be handled. He has concerns that the project will take years to build.

Ken Luneford, Regency Isle Condominium, said that Kit Alexander spoke about the City recognizing that the Turquoise parking garage is addressing a life safety issue and is not addressing the life safety issues of this development. He stated that traffic is already high and he cannot walk a dog in this area.

Elaine Luneford, Regency Isle Condominium, asked whether an impact study has been performed and expressed concerns about drainage and first responders.

John Brett stated that the size of the project did not warrant a traffic study. He said Brett-Robinson purchased the property for \$16.5 million and 29 units have already been sold. The parking will be contained under the towers. He said he did not anticipate there being a problem with overcrowding of the beach. The plan for Phoenix Key is not to have rent restrictions but, since this is a luxury condominium, he did not anticipate the units being rented. He said the yard to the east of the Brett-Robinson office will be used for laydown and construction worker parking and a shuttle will be provided. He said that drainage improvements will be provided to provide retention for Perdido Beach Boulevard road runoff. Two additional lots were purchased in order to provide beach mouse habitat.

Commissioner Simpson stated that this petition is for site plan review and the Planning Commission is reviewing for compliance with the zoning ordinance.

Vice Chairman Lindsey thanked everybody and called for a vote.

Motion for favorable recommendation of Site Plan Review to City council subject to staff comments.

Motion made and seconded (Bauer/Jeffries) Jeffries; yes, Mitchell; yes, Vice Chairman Lindsey; yes, Simpson; yes, Smith; yes, Robertson; no, Bauer; yes, Chairman Stuart; abstain.

Approved (6-1)

J. ITEMS SUBMITTED BUT NOT MEETING SECOND DEADLINE

1. Case No. 0401-SD-22, Hooks Subdivision, Lots 52, 53 and 54, Block B, Second Addition, Chicago Gulf Beach Subdivision

Traci Hooks requests approval of **Preliminary and Final Minor Subdivision** to combine Lots 52, 53 and 54, Block B, Second Addition, Chicago Gulf Beach Subdivision into one lot. The property is located at 3755 Illinois Street in the RS-3 (Single-Family Residential) zoning district. Griffin Powell said this would be forwarded to the May agenda.

K. OTHER BUSINESS

Griffin Powell informed Planning Commission that we have three new applications for the May Planning Commission meeting.

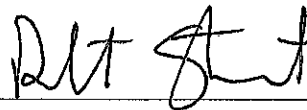
L. PUBLIC COMMENTS

M. ADJOURN

Adjourned at 6:26 PM



Kit Alexander



Robert Stuart, Chairman