

## CITY OF SATELLITE BEACH, FLORIDA

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INCORPORATED 1957

October 16, 2020

Mr. Brett Gelbert  
Resident of Satellite Beach  
Candidate for City Council

Mr. Gelbert,

Please see the following responses to your questions:

**Your Question:**

*1 – This deed is a transfer between entities of Satellite Partners so it does not make sense that the referenced deed restriction does not apply. If it did not apply it would not be referenced. I take issue with the fact that you stated a deed restriction was released per an email from PAFB. In reviewing the deeds on the BCPAO website, that deed restriction still exists today in the chain of title for the property and has not been legally removed. Schedule B, page 4, item 12 of the deed references the deed referenced in the original question – OR Book 5322/4438. If there is legal documentation of that release, please provide it.*

**Answer:**

I did not say that an email from PAFB released the deed restrictions. I simply provided confirmation from the PAFB that the current Deed on the property released these restrictions on all property north of Shearwater Parkway. These are privately held properties, and the Air Force no longer has any restrictions on the property. The PAFB confirmed as such. If you have questions on the release by PAFB, you should contact the staff at PAFB.

**Your Question:**

*2 – Although this question was removed in a subsequent email as it appeared to meet the code. Per your response you state that as this parcel does not have a commercial designation none of the commercial land use policies or commercial zoning designations do not apply. So it seems there are no Building or zoning regulations on the commercial uses that are described in 30.903 (4), that is a problem for this and any future development that would occur under a PUD designation. If a commercial use is allowed then it would have to follow all commercial land use policies and zoning designations. Would you not agree with that? I would think this bears public discussion.*

**Answer:**

No, the Commercial land use policies and the Commercial zoning are completely different and do apply to this property. This property is a Planned Unit Development, which is a type of flexible zoning practice that typically applies to large projects. With this type of zoning, instead of very specific requirements, such as lot coverage, minimum lot sizes, etc., the PUD requires conceptual plan, preliminary master plan, and final master approval by the City Council. As such, the approval process is completed in public hearings, while projects in traditional zoning districts with very specific requirements are completed administratively. So, no, legally we cannot apply policies from other land use and zoning districts to a PUD project.

The following defines a PUD and describes commercial uses within the PUD.

Sec. 30-107. - Definitions.

*Planned unit development (PUD)* means an area of land developed as a single entity, under single ownership, which is totally planned to provide a variety of residential uses and common open space.

Sec. 30-903. - PUD residential planned unit development.

This article provides specific regulations governing the development of the area known as "Pelican Coast," which is designated primarily for residential and supplemental commercial development as reflected on the comprehensive land use plan map of the city.

- (4) *Commercial uses.* The following limited commercial uses are permitted within the PUD designated for commercial development: hotels, hotels with conference centers; retail stores, sales and display rooms; personal service establishments, including but not limited to beauty salons, barbershops, laundry and dry cleaning facilities, tailor shops and shoe repair shops; professional offices, studios, clinics, laboratories, general offices, business schools and similar uses; general offices and printing establishments; financial institutions; eating and drinking establishments subject to outside seating being limited to the hours of 8:00 a.m. to 10:00 p.m. and be setback a minimum of 50 feet from residential property; veterinary clinics, excluding boarding except in conjunction with customary veterinary practices; commercial recreation structures such as theaters and bowling alleys; public and private clubs and lodges and government buildings and facilities. Except for hotels and hotels with conference centers, commercial uses shall be subordinate to the predominantly residential character of the PUD, and shall be designated to primarily serve the needs of the residents of the planned development in which they are located. Such commercial uses shall be designed to maintain and protect the residential character of the planned development and adjacent residential neighborhoods. As a result, the following requirements on commercial development shall be imposed in addition to those otherwise required by section 30-416.

*Your Question:*

*3 – Open space requirement – In your response you provided a plan showing all open space on the parcel in question. I agree that the residential parcel provides open space and delineates such lands as reserve areas per the LDR of Satellite Beach; however, the total acreage of those reserves is 2.53 AC. That is .05 AC short of the requirement for that parcel. So that means the balance of the required open space for the entire parcel lies on the multifamily tracts. The multifamily parcel is relying on all landscaped islands in parking areas and the stormwater area shown along the west side of Highway A1A to provide the open space. **Those lands are not delineated per the requirements of 30.903 (5) b – a portion of the gross acreage shall be delineated as tracts for common recreation space and open space. The lands per the code have to be delineated as such on the documents.** It appears that all other plats in Pelican Coast do not include the stormwater areas as part of their open space areas. I would argue that a 2.5 to 4 feet deep stormwater treatment area along a busy highway with no hard barrier separation is not a safe open space for people to spend time. Furthermore, the plat clearly states the opens space requirements do not include the hotel area. As there are no commercial land use policies applied to this parcel per your response to the question above, none are required. **That is a problem.** Based on the above breakdown, these documents do not meet the requirements of the code when it comes to open space.*

OPEN SPACE CALCULATION:

FOR RESIDENTIAL AREA ONLY (HOTEL AREA EXCLUDED)

TOTAL OPEN SPACE REQUIRED FOR SINGLE FAMILY = 15%

SINGLE FAMILY AREA = 17.23 AC.

SINGLE FAMILY AREA = 17.23 X 15% = 2.58 AC.

TOTAL OPEN SPACE FOR MULTI-FAMILY (CONDOS) = 25% MULTI-FAMILY AREA = 5.44 AC.

MULTI-FAMILY AREA = 5.22 X 25% = 1.31 AC.

1. TOTAL OPEN SPACE REQUIRED = 3.89 AC.  
OPEN SPACE PROVIDED = 5.18 AC.
2. 1.5 AC./100 RESIDENTIAL UNITS = 1.5 X 219 / 100 = 3.29 AC.  
OPEN SPACE PROVIDED = 5.18 AC.

Answer:

As explained above, the PUD uses open space calculations instead of very specific requirements for landscaping areas, as such, the landscaping areas are what is considered "open space" in this context. The PUD also includes recreation space, which is not found in any other zoning district requirement. The Montecito area did not use the ponds for open space because they are wet retention. The Vue is using dry retention, which is often used as recreation space. A good example of that is Pelican Beach Park, where the dry retention next to the large pavilion is often used by residents for recreation space, and this is directly next to SR A1A. Another good example is the Fire Station dry retention, which is used for events, most notably the Annual Open House, and this is located directly next to South Patrick Drive.

In the last letter, I was trying to explain (admittedly not clearly enough) that the open space goes well beyond the requirements, and that would include the land for the hotel. I also explained that the hotel was including an "event lawn" and landscaping areas which would be even more open space than that provided on the graph you included above. There are no open space requirements for commercial parcels. I am not aware of many cities or counties that require commercial sites to provide "open space" as you are defining it in your question.

*Your Question:*

4 – Maximum Density – Per Ordinance 1177, maximum density is governed per the Comp plan land use designation for the overall PUD. Per the Comp plan, the zoning designation for the overall PUD (MU RLA PUD) is 1 to 6 dwelling units per acre. *In reviewing all 6 existing plats for the Pelican coast PUD, the following is a breakdown of Area less reserves and stormwater areas and units per development.*

*PCS 1 - Air Force Housing 36.65 AC with 156 units*

*PCN 1/2 – Montecito Phase 1A 4.15 AC with 127 units*

*Montecito Phase 1B 10.16 AC with 115 units*

*Montecito Phase 2A 4.18 AC with 48 units*

*Montecito Phase 2B 8.1 AC with 95 units*

*Montecito Phase 2C 13.84 AC with 149 units*

*Total density on existing parcels = 87.08 AC with 690 Units =  $690/87.08 = 7.92$  Units/AC*

*PCN 3 – VUE Development 20.16 AC with 219 Units*

*Total density in the above Sub Plats = 107.24 AC with 909 units =  $909/107.24 = 8.47$  Units/AC*

*That is well above the max zoning density allowed per code.*

*But let's not forget PCS 2 – that parcel has 89.66 Total AC and there is an allowable 457 units based on the total of 1366 less the 909 units built and planned. Code requires 15% open space = 13.45 AC, based on the min requirement at 1.5 AC per 100 units that is 7.5 AC. Total area of the parcel less the min open space is equal to 82.16 AC. **1366 total units in the Pelican Coast divided by total area =  $1366/(107.24+82.16)$  AC = 7.2 units/AC.** Once Stormwater treatment is taken into account that number gets bigger. If the open space is included in the zoning density calculations, that is  $909/148.96 = 6.10$  units per acre. **There is a problem here with the max zoning density in the PUD and these numbers do not account for the Hotel. It is difficult to understand how the 200+ hotel rooms are not part of the zoning density equation.***

Answer:

The density calculations you have provided above are incorrect. Density is calculated on the gross acreage of the total PUD. I do not know of any local government that exempts out stormwater and open space areas prior to calculating density. It is common practice, which has a long precedent in the City of Satellite Beach and every other local government that I know of, to calculate density on the gross acreage of the parcel.

A hotel is a commercial use. All traffic studies, concurrency analysis, parking, etc. are completed on the basis that a hotel is a commercial use. All of these would be grossly underestimated if considered a residential use. In addition to the hotel rooms, there are other uses associated with a hotel, such as restaurants, bars, conference space, etc., that make a hotel a destination, not an "origination" such as a neighborhood. Commercial uses are considered "destinations" when calculating traffic and concurrency impacts. As such, a hotel is considered commercial in nature. Density is a residential calculation, not a commercial calculation and density does not apply to commercial development.

*Question:*

5 - Although I do not agree with your response about the transfer of the development rights – The State did approve so issue closed.

**Answer: N/A**

*Your Question:*

6 – Environmental Conditions – Regardless of the 2' of fill you discuss in your response, the site profiles show the depth of the water, sewer and stormwater piping and structures. The profile for Street C on Sheet C-302 shows an excavated depth of 9' +/- for the structure on the far end. So as the Chlordane potentially holds at a depth of +/- 3', all utility excavation will expose this chemical and potentially be harmful to workers and others in the area as well as wildlife while the dirt is stockpiled.

**Answer:**

Although you may disagree with this decision, the standard practice for this contaminate in the military is to complete testing as I described in the previous letter. In the private sector, there is no requirement to test for this contaminate. The developer is doing this as a voluntary measure.

7 – Air Force approval of development plans – Thank you for the response on this item.

**Answer: N/A**

New items in this response:

A – New public works/fire department building – is this a new fire department or is it an additional fire department for the City? If it is a new facility, what is the plan for the old facility and land? I understand the public works building is in disrepair and needs to be replaced but what efforts were expended to investigate the remodeling/updating of the existing fire department on South Patrick?

**Answer:**

The staff carried out several analyses of the current location. The Fire Department has added staff over the years for to account for EMS services, which we now provide, as well as the Community Paramedic Program. As such, the current station is too small for their needs. In reviewing our options for the current building, we identified several issues. The first issue for the Department is the access, which does not allow for trucks to pull around from the back of the station and pull in. This is why you will see many fire stations built on intersections to allow for pulling the trucks into the bays from the back. Backing in a Fire Truck on a busy state roadway causes traffic impediments and impedes the other truck from leaving when multiple calls occur. The current Fire Station was built prior to changing standards of truck sizes, and

our newer trucks cannot pull in from the back anymore. The second issue is parking, the parking lot is not built to standard, and does not adequately provide for parking. The third major issue is that the area is in a flood zone, floods during storms, and is projected to severely flood the next 20 years. Finally, the last issue is that the building was not built to add a third floor, and to do so would be too expensive given the parking and site constraints and does not meet the existing and future needs of the Department. This is not a new Fire Department it is a new Fire Station. I have not been given direction from City Council on the future use or demolition of the existing facility.

B – What City Staff is responsible for managing the design and construction of this new facility?

Answer:

The design of the facility has already been completed for both facilities, under the construction management contract with W+J Construction. The architect is Tsark Architecture. A team of City staff managed the design, which included myself, Assistant City Manager Liz Alward, Project Manager Alexis Miller, Building Official Karl Baumann, Public Works Director Allen Potter, and Fire Chief David Abernathy.

C – Who provided the program for the new building and was it vetted by all parties who will use/benefit from the new facility?

Both the Fire Department and the Public Works Department created “teams” to continually review and design the plans for both buildings. The staff members were involved in every step of the way. The final decisions were vetted with management and the staff to make sure everyone understood when some desires were cut for cost control purposes, and to make suggestions to keep costs under control. We held multiple meetings with the architect to review the plans with the staff.

The City Council also created an Ad Hoc Citizens Advisory Committee to review the building architecture, landscaping, and site design as it relates to the surrounding area. They met four times in publicly advertised meetings to discuss the design, and recommended the current design to City Council. The City Council made no changes to recommendations by the Committee.

I hope this answers your questions.

Thanks,



Courtney H. Barker  
City Manger