



CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

MINUTES • JANUARY 9, 2023

City Commission Chamber

BOPA Regular Meeting

6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

1. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Mike Myer	Chairman	Present	
Robin D. Hanger	Board Member	Present	
Dennis Smith	Board Member	Present	
Tony Cassata	Board Member	Present	
Loretta Arthur	Board Member	Present	

2. INVOCATION

Mr. Myer led the invocation.

3. PLEDGE OF ALLEGIANCE

Mr. Hanger led the Pledge of Allegiance to the Flag.

Mr. Myer mentioned that they need to appoint a new Chairman and Vice-Chairman tonight.

*Mr. Hanger nominated **MR. MYER as CHAIRMAN**, seconded by Mr. Cassata.*

PASSED, UNANIMOUSLY 5-0.

*Mr. Hanger nominated **MR. SMITH as VICE-CHAIRMAN**, seconded by Ms. Arthur.*

PASSED, UNANIMOUSLY 5-0.

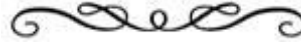
4. MINUTES

1. BOPA Meeting December 5Th, 2022

(Requested by Eleni Deligianis,)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Tony Cassata, Board Member
AYES:	Myer, Hanger, Smith, Cassata, Arthur

Enacted and approved this 9th day of January, 2023, in Holly Hill



5. AGENDA ITEM(S)

1. Rick Maugeri, Applicant, Requests Preliminary Plat/Final Engineering Approval, for a 134-Lot Subdivision Called the Vineyards. the Vineyards Development is on a 14.24-Acre Parcel Located Approximately 900 Feet West of Center Avenue on the South Side of 6Th Street.

(Requested by Brian Walker, Board of Planning and Appeals)

Brian Walker, City Planner went over the staff report with the board at this time. On September 27, 2022, the City Commission approved a Residential Planned Unit Development known as the Vineyards. The site has a medium density land use and the Planned Development permits 13.21 dwelling units per net acre. The project proposes 2 story townhomes. The minimum lot size is 1,800 square feet, and the minimum townhome square footage is 1060 square feet. The maximum building height is 30 feet. The City of Holly Hill is the provider of potable water and sanitary sewer. Final engineering plans for the subdivision have been provided by a licensed engineer and reviewed by the City's relevant divisions. The applicant has provided an environmental report performed by Ecological Consulting Solutions, Inc., to assess the potential occurrence of flora and fauna listed as threatened or endangered by the United States Fish and Wildlife Service (USFWS), Florida Fish and Wildlife Conservation Commission (FWC), and the Florida Department of Agriculture (FDA). In summary, no listed species were observed within the project site. There are no wetlands within the project site. The applicant also provided a geotechnical engineering report performed by ECS Florida, LLC, wherein subsurface exploration, laboratory test, and geotechnical engineering analysis were performed for the site. The development has also undergone review by the St. John's River Water Management District and the Florida Department of Environmental Protect, and has received permitting by those agencies. Finally, the development has been reviewed by the School Board, and has received a Finding of Adequate Capacity in terms of the ability to serve school-aged children that will live within the subdivision. A final plat for the proposed subdivision is under review for consistency with the approved final engineering plans, Florida Statute Chapter 177, and all other relevant state and local regulations. Once review of the plat has been completed, it will be brought before the City Commission for review. The applicant has been notified that lots cannot be sold until such time that the subdivision improvements have been completed, inspected and approved (unless bonded), and the subdivision has received final plat approval. The City has approved the final engineering plans and has no objections to the 134-lot development. This item is being brought before the BOPA as required by Section 82-216 of the land development regulations for its recommendations regarding the 134-unit townhome development. Sec. 82-216. - Review of final

development plan, states the following with regard to reviewing the subdivision plan:

The board of planning and appeals shall consider:

- (1) Characteristics of the site and surrounding area, including important natural and manmade features, the size and accessibility of the site, and surrounding land uses.
- (2) Whether the concurrency requirements of chapter 86 could be met if the development were built.
- (3) The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system; the approximate total ground coverage of paved areas and structures; and types of water and sewage treatment systems.
- (4) Consistency of the proposed development with the comprehensive plan.
- (5) Conformity of the proposed development with this subpart and other applicable regulations.
- (6) Applicable regulations, review procedures and submission requirements.
- (7) Concerns and desires of surrounding landowners and other affected persons.
- (8) Other applicable factors and criteria prescribed by the comprehensive plan, this subpart or other law.

Mr. Walker stated that staff recommends that the City Commission, approve the Preliminary Plat/Final Engineering plan for the Vineyards Subdivision.

Harry Newkirk, P.E., President/CEO of Newkirk Engineering was present and spoke on the Vineyards Development project.

Attorney Simpson gave some clarification on the school district/school board's adequate capacity is.

Mr. Myer opened public participation.

Ross Catalano, Holly Hill, spoke.

Mr. Myer closed public participation.

(A copy of this meeting in full is available on CD upon request in the Building and Zoning Department).

RESULT:	RECOMMEND APPROVAL TO CITY COMMISSION [UNANIMOUS]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Tony Cassata, Board Member
AYES:	Myer, Hanger, Smith, Cassata, Arthur

Enacted and approved this 9th day of January, 2023, in Holly Hill



2. BOPA Interpretation of Sec. 114-742 LDR

(Requested by Brian Walker, Board of Planning and Appeals)

Mr. Walker went through his staff report with the Board and stated that on January 11,

2022, MGN Contracting applied on behalf of Carol Woodruff, property owner, to build a 1,872 square foot detached garage with an apartment, at 1235 Powers Avenue. The City reviewed the application and denied approval. Mr. Walker went through the reasons why the city denied approval.

A garage is an accessory structure on the property and has a size limitation. **Per Sec. 114-742 (2) C. 1 of the Land Development Regulations**, a detached garage may not exceed 50 percent of the total square footage of the principal structure. Per her survey, Ms. Woodruff's home is 2,023 square feet, therefore a detached garage structure can't be more than 1011.5 square feet.

Sometimes, an applicant desires to build a detached garage with an apartment in it. This is the case with Ms. Woodruff. In such a case, the structure is called a garage apartment and is defined in **Sec. 114-746** as: An accessory building containing a storage area for one or more motor vehicles and one dwelling unit. Said dwelling unit shall not have more than 800 square feet of living space.

Sec. 114-742 (2) B. Further states that garage apartments are in association with a garage and that the apartment must be on the second floor of the garage. So, a garage apartment is basically a detached garage with an apartment upstairs. The detached garage structure, based on code, cannot exceed 50 percent of **the total square footage of the principal structure**, and if you put an apartment inside of it, the apartment portion can't be more than 800 square feet of living space. However, the total structure still can't exceed 50% of the total square footage of the principal structure, which is why staff did not approve the permit request.

How the overall square footage is divided up between the garage and the apartment within the 1011.5 square foot garage structure, is up to the applicant. However, in no case can apartment within the garage structure exceed 800 square feet. Based on the foregoing, it is staff's conclusion that Ms. Woodruff's detached garage with an apartment, cannot exceed an overall square footage of 1011.5 square feet. Ms. Woodruff is proposing a 1,872 square foot detached garage which is more than 50% the size of the principal structure. Therefore, staff has not approved Ms. Woodruff's permit request.

Mr. Walker discussed the appeal that Mr. Quillen has filed. Mr. Edward Quillen, who is here this evening, who is Ms. Woodruff's husband, and has given her husband permission to represent her, has filed an appeal of staff's decision to deny the permit request. The appeal is to the Board of Planning and Appeals, in accordance with **Sec. 82-291** which states: The board of planning and appeals shall hear and decide any appeal, except as to variances and special exceptions and as otherwise provided, where it is alleged there is an error in any order, requirement, decision or determination made by the development code administrator. **After hearing the arguments in this case, the BOPA is requested to make one of the following motions:**

Agree with Staff: Motion to agree with staff's interpretation of code Sec. 114-742 (2) C. 1 and Sec. 114-746 and Sec. 114-742 (2) B., as presented, such interpretation as applied to this case being that the overall square footage of the detached garage structure, including an apartment, cannot exceed 1011.5 square feet, which is 50% of the overall square footage of the principal structure on the lot, and that the apartment within said structure cannot exceed 800 square feet, and support staff's decision to deny approval of the applicant's permit request as submitted.

Agree with Applicant:

Motion to agree with the applicant's interpretation of the City's Land Development Regulations, as presented, with regard to the size permitted for a garage apartment, and how such size is calculated, and recommend that the City approve the applicant's permit request for a detached garage containing an apartment, such overall structure being 1,872 square feet.

Mr. Walker stated that staff request that Mr. Quillen present his side, his argument and then staff would like the ability to either question Mr. Quillen or to rebut the arguments that he presents and the Chief Building Official is here this evening who is licensed by the State to interpret the Florida Building Code, which the board will see has a bearing on this as well. At this point staff has no further comments and request that the floor be turned over to Mr. Quillen.

Attorney Simpson mentioned to the board that he has some guidance for them if they would like for him to do it now.

Mr. Edward Quillen who currently resides in Houston, TX but will be retiring soon and moving to Florida but his wife stays here all the time now. They used to travel back and forth all the time. Mr. Quillen explained how they got to where they are today to the board.

Mr. Myer informed the board and Mr. Quillen that is his survey that is in the packet and signed by him. He wanted to let that be known.

Mr. Myer opened public participation. No one spoke.

*Mr. Hanger made a motion to **AGREE WITH STAFF'S RECOMMENDATION AT THIS TIME**, seconded by Mr. Smith.*

Ms. Arthur asked if they can make a recommendation to change it? She would like to change it.

Mr. Myer stated they would have to amend the motion. Here's what happened. I offered discussion, no one discussed. I said call the question and then you all started talking. Too late. At this time Mr. Myer asked for the roll call.

Mr. Hanger, yes; Mr. Smith, yes; Ms. Arthur, no; Mr. Cassata, no; Mr. Myer, no. That motion fails. FAILED, 2-3.

Mr. Myer stated what the board would like to see is that there's clarity; is it really that a 600 square foot garage can have a 600 square foot apartment on top of it because it's bigger than the 1100 or 1200 square foot house. Can you do it? That's the question. Right? And was that really the intention all those years ago with Mr. Doug Gutierrez (former City Planner). Mr. Myer stated he was here and he just doesn't remember that. He doesn't remember it.

Mr. Hanger stated what they don't want and he thinks it has to be looked at. We don't want someone to have a house 2000 square feet over here, they built a 1000 foot garage and they put a 1000 square foot apartment up top and now that is a rental house for them.

Mr. Myer stated all those rules are in there. They cannot do that. It has to be a family member. It's highly restricted. That's another reason that he has a hard time believing that it was the way it's being interpreted. It just doesn't seem right to him.

*Mr. Hanger made a motion to **ACCEPT THE STAFF'S RECOMMENDATION WITH STAFF'S INTERPRETATION** (Motion to agree with staff's interpretation of code Sec. 114-742 (2) C. 1 and Sec. 114-746 and Sec. 114-742 (2) B., as presented, such interpretation as applied to this case being that the overall square footage of the detached garage structure, including an apartment, cannot exceed 1011.5 square feet, which is 50% of the overall square footage of the principal structure on the lot, and that the apartment within said structure cannot exceed 800 square feet, and support staff's decision to deny approval of the applicant's permit request as submitted) AND THAT STAFF WILL CLARIFY AND CLEAR THE INTERPRETATION UP, seconded by Mr. Smith.*

Mr. Hanger, yes; Mr. Smith, yes; Ms. Arthur, no; Mr. Cassata, no; Mr. Myer, yes. This motion passes. PASSED, 3-2.

(A copy of this meeting in its entirety is available on CD upon request in the Building and Zoning Department).

RESULT:	ACCEPT STAFF'S RECOMMENDATION [3 TO 2]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Dennis Smith, Board Member
AYES:	Myer, Hanger, Smith
NAYS:	Cassata, Arthur

Enacted and approved this 9th day of January, 2023, in Holly Hill



6. ORDINANCES

1. An Ordinance of the City of Holly Hill, Florida; Amending Chapter 3 (Enforcement) of the Holly Hill Code of Ordinance to Provide the City with a Process to Abate Nuisances Listed in Section 26-61 (Special Items Declared a Nuisance) of the Holly Hill Code of Ordinances; Providing for Notice to the Property Owner; Providing for Collection of Costs Incurred; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

(Requested by Brian Walker, Board of Planning and Appeals)

Attorney Simpson and Mr. Walker mentioned that he would like to briefly explain what this agenda item is in reference to. The information below is a part of the agenda packet. Attorney Simpson spoke about homestead properties and structures that become a public

nuisance and Code Enforcement involvement. Mr. Walker mentioned that the city has the right to remove vehicles from the property and tear down structures according to the code that become a public nuisance. This ordinance gives the city the ability, the mechanism to enforce removing trash that has become a public nuisance.

Attorney Simpson read through Section 26-61, Special Items Declared a Nuisance for the board and audience present at this time.

TITLE

Consider adoption of an Ordinance of the City of Holly Hill, Florida, amending the Holly Hill Code of Ordinances by amending Chapter 3 (Enforcement) of the Holly Hill Code of Ordinances, to provide the City with a process to abate nuisances listed in Section 26-61 (special items declared a nuisance.)

BACKGROUND

Code Enforcement is an important focus of the City of Holly Hill. Holly Hill Code Enforcement officers enforce a broad range of land use-related ordinances to ensure that a healthy and safe environment is maintained for the residents, businesses, and visitors of Holly Hill.

The process through which Code Officers do their job is outlined in the City's Code of Ordinances - particularly Chapter 2, Division 3, titled Code Enforcement, and Chapter 3, titled Enforcement. These chapters discuss definitions, the enforcement procedure, issuance of citations, and abatement, along with other topics related to the code enforcement process.

Chapter 26, Section 26-61 of the Code, titled Special items declared a nuisance, provides a list of items that are declared to be and constitute a nuisance. These include items such as the accumulation of trash and debris, storage of junk, improperly maintained septic tanks, as well as other types of nuisances.

In general, unresolved violations of code, such as the accumulation of trash and debris on private property, can lead to the issuance of daily fines and ultimately the placing of liens on the property. However, with few exceptions, the City does not specifically have the authority to abate (which is to "put an end to") a nuisance, by entering onto private property and removing (for example), trash and debris, or abate other types of nuisances. In general, once a lien is placed on a property for an unresolved violation of code, the City must wait for the property owner to abate (put an end to) the nuisance. This can become a severe problem in the case for instance, of a hoarder who refuses to remove large amounts of trash and debris from their property, and who in fact continues to accumulate such trash and debris.

The purpose of the proposed Ordinance is to expand the ability of the City to abate nuisances listed in Chapter 26, Section 26-61, including by entering onto private property, only after following the process outlined in the Ordinance, and receiving authorization from the City Commission. The proposed Ordinance also provides a process for notice, and authorizes the City to file a lien for costs incurred and pursue collection of costs as an assessment.

STAFF RECOMMENDATION

Adopt an Ordinance of the City of Holly Hill, Florida, amending Chapter 3 (Enforcement) of the Holly Hill Code of Ordinances to provide the City with a process to abate nuisances listed in Section 26-61 (special items declared a nuisance) of the Holly

Hill Code of Ordinances; providing for notice to the property owner; providing for collection of costs incurred; providing for conflicting ordinances; providing for severability; and providing an effective date.

Mr. Hanger made a motion to ***ADOPT STAFF'S RECOMMENDATION TO ADOPT AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING CHAPTER 3 (ENFORCEMENT) OF THE HOLLY HILL CODE OF ORDINANCES TO PROVIDE THE CITY WITH A PROCESS TO ABATE NUISANCES LISTED IN SECTION 26-61 (SPECIAL ITEMS DECLARED A NUISANCE) OF THE HOLLY HILL CODE OF ORDINANCES; PROVIDING FOR NOTICE TO THE PROPERTY OWNER; PROVIDING FOR COLLECTION OF COSTS INCURRED***, seconded by Ms. Arthur.

Mr. Myer opened public participation.

Heidi Heller, Holly Hill.

Mr. Myer closed public participation.

Mr. Myer opened discussion for the board members.

Mr. Hanger, yes; Ms. Arthur, yes; Mr. Smith, no; Mr. Cassata, yes; Mr. Myer, yes. This motion passes. PASSED, 4-1.

(A copy of this meeting in its entirety is available on CD upon request in the Building and Zoning Department).

RESULT:	RECOMMEND APPROVAL TO CITY COMMISSION [4 TO 1]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Loretta Arthur, Board Member
AYES:	Myer, Hanger, Cassata, Arthur
NAYS:	Smith



7. OLD BUSINESS

Mr. Myer mentioned that our staff has their hands tied when it comes to variances and small things. People bring their stuff in and they miss their setback by a tenth of a foot or something like that and they have to end up coming to get a variance instead of staff having to add a 10% write-off. Almost every other jurisdiction has that ability to do that. Holly Hill does not. It is a huge waste of time and manpower and money and he really thinks that this board should make a recommendation to the City Commission that they empower the staff with the ability to write-off these things up to some reasonable amount, 10% he thinks is usually the standard answer and give them that ability. Otherwise, we just end up spinning our wheels so often when we don't need to be.

Attorney Simpson stated it's still subject to the same terms, same conditions of a variance. They still have to meet those same elements.

Mr. Myer stated, right. And there's a fee. There's an administrative write-off. He thinks Daytona charges \$150 or something like that. There's a fee for it. It encourages people not to miss the setback by an inch or two or three inches because it's costing them money. But to have to go through a whole variance process for such a small amount, we're not going to do anything except give them the variance. We're not going to make them tear the building down or take the wall down. We may make them move a fence sometimes.

Attorney Simpson stated that's along the same lines as if...if you remember we had a variance who needed the wheelchair access because their son was disabled.

Mr. Myer stated, exactly.

Attorney Simpson stated and Brian and I talked about that and they shouldn't have to come through this process when they meet it. So, it can be tied into that same type of variance.

Mr. Myer asked if Mr. Walker can write something up and bring it back to the board so that we can have a look at it?

Mr. Walker stated, yes. It is on his list. He can work on it and bring it back to the board.

8. BOARD / STAFF COMMUNICATIONS

1. 2023 BOPA Meeting Schedule

(Requested by Eleni Deligianis,)

Proposed meeting schedule for 2023 as follows:

Monday, February 6, 2023

Monday, March 6, 2023

Monday, April 3, 2023

Monday, May 1, 2023

Monday, June 5, 2023

Monday, July 10, 2023

Monday, August 7, 2023

Tuesday, September 5, 2023 - **They would like to move this date to another day.**

Tuesday's are not good for Mr. Myer. As they get closer to this date, they will select another day.

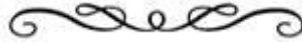
Monday, October 2, 2023

Monday, November 6, 2023

Monday, December 4, 2023

RESULT: INFORMATION ONLY
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Enacted and approved this 9th day of January, 2023, in Holly Hill



9. ADJOURNMENT

The meeting adjourned at approximately 8:00 PM.

Peg Collier

Peg Collier, Assistant

1/9/2023

Mike Myer

Mike Myer, Chairman

1/9/2023