

**APPLICATION #2962
PUBLIC COMMENTS
RECEIVED
THROUGH
09-17-2014**

Adam Mengel

From: Craig Coffey
Sent: Thursday, March 06, 2014 3:12 PM
To: Frank Meeker
Subject: Hammock Dunes Application

Commissioner Meeker,

No problem - We will make the entire board aware of it right away and provide a packet of materials submitted. We may even post information on the website if there is enough concern. We would not solicit meetings with anyone, but would be happy to meet with any group that has concerns and provide information. As you know with any submittal of any type there will be a wide variety of opinions. Our job as County staff will be to review it in a fair and impartial manner and give you the best technical recommendation and as much relevant information as possible to make a good decision, irrespective of anyone for or against the application. The applicant will have paid a fee that will require an unbiased, due process on the part of staff even if we believe the BOCC and public are against it. We would also likely encourage the applicant to meet with groups and individuals. I know I am preaching to the choir as you have a lot of experience in these areas.

Craig

-----Original Message-----

From: Frank Meeker
Sent: Thursday, March 06, 2014 11:59 AM
To: Craig Coffey
Subject: one more

craig,

This issue about Salamander coming up with an alternative plan to take the place of the hard fought, but ultimately denied plan over in Ocean Hammock is getting considerable attention in the Hammock. If an application hit's our desks, I'd like to be notified, and further, would like to arrange a meeting between you, me, and some of the impacted constituents. The purpose of such meeting is to get their concerns out on the table to allow the staff adequate time to consider their concerns, and or provide a response within the staff review.

Frank J. Meeker, C.E.P.
Flagler BOCC, District 2

Adam Mengel

From: Craig Coffey
Sent: Friday, March 28, 2014 1:26 PM
To: Adam Mengel; Gina Lemon; Albert J. Hadeed; COMMISSIONERS
Subject: FW: Hammock Beach Unveils Plans for Proposed New Oceanfront Lodge and Golf Facilities Complex

FYI,

Keeping you in the loop. Staff has not seen anything and likely would not see anything until after they reach some type of agreement with most groups/residents.

Craig

From: Andrew Johnson
Sent: Friday, March 28, 2014 1:10 PM
To: Craig Coffey; Sally A. Sherman
Subject: FW: Hammock Beach Unveils Plans for Proposed New Oceanfront Lodge and Golf Facilities Complex

From: Dennis Clark [<mailto:denclark@cfl.rr.com>]
Sent: Friday, March 28, 2014 1:06 PM
To: Alma Nemrava; Bob Samuels; Bonnie Simms; Danielle Anderson; George Nelson; Gerard Patella; Joyce Skaff; Andrew Johnson; Anne Wilson; Carole McCleery; Frank Meeker; Don Hoskins; Donna Drevniok; Frank Carelli; George Harnden; Judy Griswold; Marge Rooyakkers; Marianne McNeil; Mary Ann Ruzecki; Maryanne Taddeo; Sonja Zander; Abby Romaine; Ann Butler; Christopher Goodfellow; Gene Manno; John Byrd; John Mampe; Judy Shearouse; Lorene Schober; Luke Guttman; Mary Geiger; Rebekah Lafferty; Richard Hamilton; Richard McCleery; Russells; Sean Lafferty; Steve Bickel; Thad Crowe; Todd Swinderman
Subject: Hammock Beach Unveils Plans for Proposed New Oceanfront Lodge and Golf Facilities Complex

FYI. Just in from www.GoToby.com

Copyright © 2014 GoToby.com, LLC. All rights reserved.

Hammock Beach Unveils Plans for Proposed New Oceanfront Lodge and Golf Facilities Complex

Palm Coast, FL – March 28, 2014 – The Hammock Beach Resort in Palm Coast, FL will be getting a new 198-room lodge and golf facility if plans unveiled by Salamander Hotels & Resorts, gain the support of members and property owners and the approval of Flagler County.

Salamander's open and forthright approach to club members and property stakeholders is in stark contrast to the failed attempt five years ago orchestrated by Front Door, acting on behalf of Lubert-Adler. Their tactic of negotiating behind closed doors with county staff before springing their aggressive plan on Hammock Beach

residents and the Flagler County Board of Commissioners resulted in a stormy backlash and denial of their project plan.

Salamander engaged the Hammock Beach Club Advisory Board of Governors, Hammock Beach Club members, the several affected condominium boards, and the property owners' associations representing The Conservatory, Ocean Hammock and Harbor Village Marina. This community inclusion and the relatively low elevation profile of the planned structure (compared to earlier proposed structures) bode well for this proposal.

Another plus is the additional promise of a \$700,000 upgrade to the present lobby, co-funded with the Hammock Beach Club Condominium Association. Also included will be upgrades to the existing spa and fitness center, refurbishment of Delfinos restaurant and renovation of Loggerheads.



The new lodge will be situated between the 18th hole and 16th road. It will include 198 ocean view guest rooms, a new oceanfront Atlantic Grille, new golf facilities and 1,800 square foot **Members' Only Club Room**. The elevation of the new structure will be no higher than the existing structure.

Extending the concept of stakeholder inclusion in the process, Salamander has invited property owners to a presentation of the new Lodge and Club improvements on **April 5th**. With the expected Club member and property owner support, Salamander will move forward to obtain county approval and to secure funding.

Adam Mengel

From: Sally A. Sherman
Sent: Friday, April 25, 2014 4:46 PM
To: Adam Mengel
Subject: FW: Question

Adam:
Would you please prepare a response to Mr. Southmayd request. Thanks Sally

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]
Sent: Friday, April 25, 2014 3:32 PM
To: Albert J. Hadeed
Cc: Sally A. Sherman
Subject: Re: Question

Albert;

Thank you. I look forward to hearing from her.

JDS

-----Original Message-----

From: Albert J. Hadeed <ahadeed@flaglercounty.org>
To: JEFF SOUTHMAYD-PD <wnssfm@aol.com>
Cc: Sally A. Sherman <ssherman@flaglercounty.org>
Sent: Fri, Apr 25, 2014 10:08 am
Subject: Re: Question

I have to refer your inquiry to Ms Sherman who oversees the Growth Management Department.

Thank you

On Apr 24, 2014, at 11:58 AM, "JEFF SOUTHMAYD-PD" <wnssfm@aol.com> wrote:

Albert;

In order for Salamander to get a permit to tear down the Ocean Hammock Lodge and then build the proposed 200 room hotel at the site, what environmental showings will the county require them to provide? I assume since they will be filing an application to a public agency for a change of use or other discretionary land use permit that a Phase 1 environmental impact study will be required? Is that correct? Will they have to provide anything else since it sits on the beach?

Thanks.

Jeff Southmayd

WNSS-FM 89.3

**4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM**

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Dennis Clark [denclark@cfl.rr.com]
Sent: Friday, April 25, 2014 1:41 PM
To: Adam Mengel
Cc: Andrew Johnson
Subject: Ocean Hammock Development

Adam,

A few questions came up about the new proposed Ocean Hammock Hotel today. I believe I know the answers but wanted confirmation from you. We are going to hear their pitch at the HCC meeting on May 6.

1. Does the developer need to go through both TRC and the Planning and Development Board for approval?
2. Is this greater than 5 acres and therefore need to go to the Board of Commissioners for approval?
3. Is this development part of the Scenic Corridor Overlay, being on 16th Road and no longer part of a DRI/PUD?

Thanks,
Dennis

Adam Mengel

From: Adam Mengel
Sent: Friday, April 25, 2014 5:19 PM
To: 'wnssfm@aol.com'
Cc: Sally A. Sherman; Albert J. Hadeed
Subject: RE: Question

Good afternoon Mr. Southmayd:

Thank you for the inquiry.

A Phase I Environmental Site Assessment should not be necessary since this is a developed site and there is no reasonable assumption of site contamination for contaminants listed in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. §9601) or petroleum products. In this instance and without a presumption of site contamination, completion of a Phase I Environmental Site Assessment is optional, will be at the discretion of the landowner, and even if completed, would not wholly eliminate uncertainty regarding site contamination (i.e., at best, the Phase I helps to reduce uncertainty about contamination). Please advise if there is some justification for a Phase I to be requested.

As for other requirements, many other regulations may apply; for example, construction seaward of the Coastal Construction Control Line (CCCL) would require review and permitting by the Florida Department of Environmental Protection (FDEP). Since the County has not received an application submittal, I do not know if this will be required or not. Approval – likely as a modification to an existing Environmental Resource Permit – by the St. Johns River Water Management District (SJRWMD) will be necessary where additional impervious surfaces are proposed. There are other considerations within our own regulations, like the sea turtle lighting regulations in Sec. 6.05.00. of the Flagler County Land Development Code, where compliance will ultimately be demonstrated through any submittal we receive.

For now, it is difficult to identify what processes will be necessary since no submittal has been made. Upon receipt by the County, the submittal will be routed and generate comments to identify necessary information as part of any RAI as we do for other projects.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 **Go Green:** Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: Sally A. Sherman
Sent: Friday, April 25, 2014 4:46 PM

To: Adam Mengel
Subject: FW: Question

Adam:

Would you please prepare a response to Mr. Southmayd request. Thanks Sally

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]
Sent: Friday, April 25, 2014 3:32 PM
To: Albert J. Hadeed
Cc: Sally A. Sherman
Subject: Re: Question

Albert;

Thank you. I look forward to hearing from her.

JDS

-----Original Message-----

From: Albert J. Hadeed <ahadeed@flaglercounty.org>
To: JEFF SOUTHMAYD-PD <wnssfm@aol.com>
Cc: Sally A. Sherman <ssherman@flaglercounty.org>
Sent: Fri, Apr 25, 2014 10:08 am
Subject: Re: Question

I have to refer your inquiry to Ms Sherman who oversees the Growth Management Department.

Thank you

On Apr 24, 2014, at 11:58 AM, "JEFF SOUTHMAYD-PD" <wnssfm@aol.com> wrote:

Albert;

In order for Salamander to get a permit to tear down the Ocean Hammock Lodge and then build the proposed 200 room hotel at the site, what environmental showings will the county require them to provide? I assume since they will be filing an application to a public agency for a change of use or other discretionary land use permit that a Phase 1 environmental impact study will be required? Is that correct? Will they have to provide anything else since it sits on the beach?

Thanks.

Jeff Southmayd

WNSS-FM 89.3

**4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686**

WNSSFM@AOL.COM

[WEB: WWW.WNSSFM.COM](http://WWW.WNSSFM.COM)

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: JEFF SOUTHMAYD-PD [wnssfm@aol.com]
Sent: Friday, April 25, 2014 5:40 PM
To: Adam Mengel
Cc: Sally A. Sherman; Albert J. Hadeed
Subject: Re: Question

Follow Up Flag: Follow up
Flag Status: Flagged

Adam;

Thank you for your prompt response to my inquiry. As a resident in the immediate area of the forthcoming redevelopment, and a member of the local media, I wondered if I could be kept updated when an application is submitted to the county?

Thanks in advance.

Jeff Southmayd

WNSS-FM 89.3
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM

-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>
To: 'wnssfm@aol.com' <wnssfm@aol.com>
Cc: Sally A. Sherman <sshorman@flaglercounty.org>; Albert J. Hadeed <ahadeed@flaglercounty.org>
Sent: Fri, Apr 25, 2014 5:17 pm
Subject: RE: Question

Good afternoon Mr. Southmayd:

Thank you for the inquiry.

A Phase I Environmental Site Assessment should not be necessary since this is a developed site and there is no reasonable assumption of site contamination for contaminants listed in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. §9601) or petroleum products. In this instance and without a presumption of site contamination, completion of a Phase I Environmental Site Assessment is optional, will be at the discretion of the landowner, and even if completed, would not wholly eliminate uncertainty regarding site contamination (i.e., at best, the Phase I helps to reduce uncertainty about contamination). Please advise if there is some justification for a Phase I to be requested.

As for other requirements, many other regulations may apply; for example, construction seaward of the Coastal Construction Control Line (CCCL) would require review and permitting by the Florida Department of Environmental Protection (FDEP). Since the County has not received an application submittal, I do not know if this will be required or not. Approval – likely as a modification to an existing Environmental Resource Permit – by the St. Johns River Water Management District (SJRWMD) will be necessary where additional impervious surfaces are proposed. There are other considerations within our own regulations, like the sea turtle lighting regulations in Sec. 6.05.00. of the Flagler County Land Development Code, where compliance will ultimately be demonstrated through any submittal we receive.

For now, it is difficult to identify what processes will be necessary since no submittal has been made. Upon receipt by the County, the submittal will be routed and generate comments to identify necessary information as part of any RAI as we do for other projects.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org



Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: Sally A. Sherman
Sent: Friday, April 25, 2014 4:46 PM
To: Adam Mengel
Subject: FW: Question

Adam:
Would you please prepare a response to Mr. Southmayd request. Thanks Sally

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]
Sent: Friday, April 25, 2014 3:32 PM
To: Albert J. Hadeed
Cc: Sally A. Sherman
Subject: Re: Question

Albert;

Thank you. I look forward to hearing from her.

JDS

-----Original Message-----

From: Albert J. Hadeed <ahadeed@flaglercounty.org>
To: JEFF SOUTHMAYD-PD <wnssfm@aol.com>
Cc: Sally A. Sherman <ssherman@flaglercounty.org>
Sent: Fri, Apr 25, 2014 10:08 am
Subject: Re: Question

I have to refer your inquiry to Ms Sherman who oversees the Growth Management Department.

Thank you

On Apr 24, 2014, at 11:58 AM, "JEFF SOUTHMAYD-PD" <wnssfm@aol.com> wrote:

Albert;

In order for Salamander to get a permit to tear down the Ocean Hammock Lodge and then build the proposed 200 room hotel at the site, what environmental showings will the county require them to provide? I assume since they will be filing an application to a public agency for a change of use or other discretionary land use permit that a Phase 1 environmental

impact study will be required? Is that correct? Will they have to provide anything else since it sits on the beach?

Thanks.

Jeff Southmayd

WNSS-FM 89.3
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Adam Mengel
Sent: Thursday, May 01, 2014 3:58 PM
To: 'Dennis Clark'
Cc: Andrew Johnson
Subject: RE: Ocean Hammock Development

Hi Dennis:

Quick answers to your questions, and these unfortunately will be subject to change based on the request once it is received. At this point, I only have a rough guess at what will be required based on what I have picked up from gotoby.com. Here are my responses to your questions:

1. Does the developer need to go through both TRC and the Planning and Development Board for approval?

Yes, and the Board of County Commissioners, too.

2. Is this greater than 5 acres and therefore need to go to the Board of Commissioners for approval?

No, the area of impact is likely to be less than five acres, but that is not what will call for the Board of County Commissioners' review. The development area is a recorded plat with an approved plat addendum, which will require approval by the Board of County Commissioners.

3. Is this development part of the Scenic Corridor Overlay, being on 16th Road and no longer part of a DRI/PUD?

I know that there is vesting language in the LDC; I'll have to look into this one and get back to you. I do believe that they will still go to Scenic A1A for review... (I think) I remember them doing this for the garage on the north side of 16th Road.

Thanks!

Adam

From: Dennis Clark [<mailto:denclark@cfl.rr.com>]
Sent: Friday, April 25, 2014 1:41 PM
To: Adam Mengel
Cc: Andrew Johnson
Subject: Ocean Hammock Development

Adam,

A few questions came up about the new proposed Ocean Hammock Hotel today. I believe I know the answers but wanted confirmation from you. We are going to hear their pitch at the HCC meeting on May 6.

4. Does the developer need to go through both TRC and the Planning and Development Board for approval?

5. Is this greater than 5 acres and therefore need to go to the Board of Commissioners for approval?

6. Is this development part of the Scenic Corridor Overlay, being on 16th Road and no longer part of a DRI/PUD?

Thanks,
Dennis

Adam Mengel

From: Luke Guttman [lukelbg@aol.com]
Sent: Monday, May 05, 2014 11:39 AM
To: Adam Mengel
Subject: Fwd: Hotel Development requirements

Adam,

Can you give me the specific development rights that were reserved and exist today? Exactly what did they retain the right to build and where? What docs disclose those retained rights? Thanks, Luke

From: Adam Mengel [<mailto:amengel@flaglercounty.org>]
Sent: Thursday, May 01, 2014 3:58 PM
To: 'Dennis Clark'
Cc: Andrew Johnson
Subject: RE: Ocean Hammock Development

Hi Dennis:

Quick answers to your questions, and these unfortunately will be subject to change based on the request once it is received. At this point, I only have a rough guess at what will be required based on what I have picked up from gotoby.com. Here are my responses to your questions:

1. Does the developer need to go through both TRC and the Planning and Development Board for approval?

Yes, and the Board of County Commissioners, too.

2. Is this greater than 5 acres and therefore need to go to the Board of Commissioners for approval?

No, the area of impact is likely to be less than five acres, but that is not what will call for the Board of County Commissioners' review. The development area is a recorded plat with an approved plat addendum, which will require approval by the Board of County Commissioners.

3. Is this development part of the Scenic Corridor Overlay, being on 16th Road and no longer part of a DRI/PUD?

I know that there is vesting language in the LDC; I'll have to look into this one and get back to you. I do believe that they will still go to Scenic A1A for review... (I think) I remember them doing this for the garage on the north side of 16th Road.

Thanks!
Adam

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Craig Coffey
Sent: Tuesday, May 06, 2014 7:56 AM
To: Adam Mengel; Sally A. Sherman
Cc: Albert J. Hadeed
Subject: FW: Hammock Beach Club - Owner Updates

For the file, more of what was in the letter from the same association I believe. Craig

From: Rich DeMatteis [mailto:rich7253@aol.com]
Sent: Monday, May 05, 2014 8:10 PM
To: Craig Coffey; Albert J. Hadeed
Subject: Fwd: Hammock Beach Club - Owner Updates

Thought you might be interested in this.

Date: Sat, 3 May 2014 20:42:43 -0400
Subject: Hammock Beach Club - Owner Updates

Hammock Beach Club Condominium Association, Inc.

May 3, 2014



Hammock Beach Club Condominium Owner Updates

An Update to Phase I Owners from the Board of Directors

The Board of Directors would like to advise you that Jack Fretz resigned his position as Vice President/Treasurer of the Board of Directors (for health reasons) on April 16th 2014. Jack has been a valuable, long-term Board Member and we wish him well. Bob Corliss, a recent past Board Member who worked very hard in the legal action against the NOPC and in the Associations' efforts to stop further oceanfront development, graciously agreed to serve the remainder of Mr. Fretz' term until the January 2015 Annual

Members' Meeting

The results of responses to our email to owners asking for their input on Salamander's proposed oceanfront development and lobby renovation showed that 78 percent of the responders (one vote per unit) opposed the Salamander ocean front building proposal.

On April 23, the Board of Directors voted unanimously to turn down the offer by Salamander for the renovation of our lobby. Both Tim Digby, our new GM who replaced Carlton Grant, and Jeffrey Porter abstained from the vote, as being representatives of management, they had a conflict of interest.

There are several reasons the Board took this action:

While Salamander offered additional the lobby renovation money with "no strings attached," there were several demands that were untenable. The major one being the money came with a contract including a provision that signing it would "supersede all other signed contracts." That clause would have effectively changed the cost share agreement in ways that were **disadvantageous** to Phase 1 owners:

1). Salamander wanted to put two commercial establishments in our lobby, a coffee house and a sushi bar. We own 87 percent of the lobby. The Club is our home. The noise and traffic from these establishments is not desirable, **nor does management have any right to structurally change our lobby, as outlined in the cost share agreement.**

2). Salamander has the right to argue to build two new buildings with an additional 178 rooms (the Lodge has 21 rooms, which were granted as a special exemption). But they do not have the right to use our lobby. The cost share agreement covered the building of Phase 1 (our 3 - 4 bedroom units), Phase II (the one-bedroom rental units) and Phase 111 (the North and South Towers). Any new building Salamander or Lubert-Adler (who is still the 100 per cent owner of Hammock Beach) wants to create is **not covered by cost share agreement.**

3). This change was also a prelude to checking in guests, using our lobby, of the 198 rooms Salamander is proposing to build. This extra 400 plus people in our lobby would more than double our current lobby traffic. The lobby is already burdened when the majority or all of the units are rented; doubling the traffic would have been chaotic. Plus the incoming vehicular traffic (200 cars) would have overwhelmed our gate entry system; **the cost share gives Salaamed no right to use our parking (P1 or P2).**

The duty of the Board of Directors is to protect owners' rights. There are four commercial establishments serving food at Hammock Beach: the Atlantic Grill, Delfinos, Loggerheads and the sushi bar. Our lobby was not designed to contain restaurants.

Using the \$300,000 from our current furniture reserves, we will proceed with redecoration of the lobby on our own without changing the physical setting. Sylvia Whitehouse has agreed to chair the Lobby Redecoration Committee. The committee will develop plans and specifications for approval by the Board of Directors and solicit bids. Redecoration of the lobby is planned for the period between Labor Day and Thanksgiving of 2014. The Lobby Redecoration Committee is open to owner input and residents may contact Sylvia Whitehouse with plans or ideas at ([HYPERLINK "mailto:siren23@me.com"](mailto:siren23@me.com) o ["mailto:siren23@me.com"](mailto:siren23@me.com) siren23@me.com).

Elevator Repairs Underway and On Schedule!

The ThyssenKrupp Elevator Company has made great progress on the Phase 1 repairs to the east elevators, #1 & #2. The Phase 1 portion began on April 8, 2014 and is now 100 percent complete. Rust and corrosion on both elevators have been scraped off of major metal components on floors 5 through 11, an environmental rust solution has been applied and painting of the inside of the hoist way doors has been completed. Phase 2 of the elevator repair project is expected to begin the first week of June. Elevator doors have been ordered for the P1, P2, Lobby Level 1, and 2nd and 3rd floors. Other materials such as cables and door rollers have been ordered and received. Estimated completion date of the entire elevator repair project is June 27, 2014. We appreciate your patience while the upgrades are in progress!

Access Code for New P2 Garage Luggage Cart Storage Area

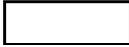
A new fenced in luggage cart storage area has been built in the P2 Owners garage. The storage area is located just outside the north exit door of the main elevator lobby in the garage. To ensure the availability luggage carts and prevent loss of the Hammock Beach Club Condominium Association luggage carts the storage area has been equipped with a locking mechanism with coded access so that the carts can only be checked out by a Phase 1 owner using the access code (0200). To unlock the storage area, simply enter the 4 digit code on the key pad and the green light will blink, unlocking the latch. Within the next two to three weeks a second fenced in luggage cart storage area will be built on the east end of the P2 owners garage for better accessibility for owners occupying the east end of the building. After using the carts, please be considerate of your neighbors and return the cart back to the luggage cart storage area and ensure the latched is closed behind you to prevent guests or owners from another phase of the Hammock Beach Club from taking it to a different building. The luggage storage area code will be changed every six months. **If there are tenants in your unit, please be sure to pass the code along to them.**

Hammock Beach Club Website

It was recently brought to the attention of the Board of Directors that some owners are not aware there is a website to keep members updated on Hammock Beach Club information. To access the website, log on to www.ssmgroupinc.com, select "Associations" in the menu bar then select the "Hammock Beach Club" link. The website includes Board Meeting dates and

meeting minutes, Association Governing Documents, purchase applications and current news and insurance information frequently requested by owner mortgage lenders. If you have a problem accessing the website, please contact On-Site Manager Thomas Leach Monday through Friday, 10:00 a.m. to 1:00 p.m., at the Management Desk on the Second Floor Mezzanine Lobby (386-246-5686). During other business hours you may contact Thomas at Southern States Management Group (386-446-6333, Extension 309).

Hammock Beach Club Condominium Association, Inc.



This email does not accept incoming messages, if you have questions or need additional information please call, Thomas Leach, 386-446-6333 extension 309 or email tleach@ssmgroupinc.com.

Hammock Beach Club Condominium Association, Inc.

Post Office Box 351001

Palm Coast, FL 32135

Toll Free: 800-439-9408 // Local: 386-446-6333

Website: <http://ssmgroupinc.com/>



This message was sent to shinoow@hotmail.com from:

Southern States Management Group Inc | 2 Camino del Mar | Palm Coast, FL 32137
[Unsubscribe](#)

Email Marketing by
iContact 
try it free

Adam Mengel

From: Craig Coffey
Sent: Tuesday, May 06, 2014 7:58 AM
To: Adam Mengel; Sally A. Sherman
Cc: Albert J. Hadeed
Subject: FW: Please Vote Against New Construction at The Lodge, Palm Coast
Attachments: Letter to The Flagler County Commissioners - Attn George Hanns - 2014 - 5-5.docx

For the record. Craig

-----Original Message-----

From: George Hanns
Sent: Tuesday, May 06, 2014 7:01 AM
To: Albert J. Hadeed; Craig Coffey; Sally A. Sherman
Subject: FW: Please Vote Against New Construction at The Lodge, Palm Coast

From: Jane Goodman [rudgoo765@gmail.com]
Sent: Monday, May 05, 2014 9:16 PM
To: George Hanns
Subject: Please Vote Against New Construction at The Lodge, Palm Coast

Dear Mr. Hanns,

I hope you will read the attached letter concerning the very important issue of the proposed new construction around the Lodge on 16th Rd. near Hammock Beach Club. We are against it as you will understand further in the letter.

Kindly read this and discuss it with your fellow commissioners. I have enclosed photographs for a better understanding of the effect upon the property owners in the area.

Thank you.

Howard and Jane Goodman
rudgoo765@gmail.com<<mailto:rudgoo765@gmail.com>>

200 Ocean Crest Drive
Unit 1114
Palm Coast, FL 32137
May 5, 2014

Flagler Country Commissioners
1769 E. Moody Blvd. Building 2
Bunnell, Florida 32110

Dear Mr. Hanns:

Subject: Vote Against the Proposal by Lubert Adler and Salamander Management to knock down The Lodge and rebuild it with 3 new buildings

We are homeowners in the condos at 200 Ocean Crest Drive. We bought our unit 1114 in the SE corner of the Hammock Beach Club condo building in 2005 (at the peak) because we loved the view. We were told by the Ginn realtors that they could never build in front of us and we saw the advertisements by Bobby Ginn saying that this was the last stretch of ocean that would be saved and protected into perpetuity. We were told that the golf course was plat restricted for golf and recreation purposes so they could never build any more buildings in front of our view. We paid extra for that beautiful view. We look at the ocean, the beach, the golf course and the Lodge pool. Now Lubert Adler and Salamander Hotels want to take away our view, part of our asset value. Please don't allow that.

Lubert-Adler (owners) of The Lodge and Salamander Management, who run the hotel at the property, want to knock down The Lodge on 16th Rd. and go from 21 rooms to 198 rooms (**a 943% increase in rooms**). They propose doing this by knocking down the existing Lodge building and a small building that houses pool bathrooms and a workout room and instead building 3 large multi-floored structures, mostly on totally new ground not already foot printed.

This plan is not a redevelopment as they profess but new construction when you are building two totally new buildings and adding 178 rooms. A change from 21 to 21 might be redevelopment but 21 to 198 total rooms are not. Salamander claims that all the land is a "footprint" but to my understanding, if you have to pour new footings, it is not the same footprint. They are removing trees and grass and sand. They are not only rebuilding over existing concrete foundations, they are pouring new foundations.

I believe that if they are allowed to build, it will create a precedent and then you will have construction all over the golf course and no longer have the golf course down the road. How can you enforce plat restrictions once you say it is OK to ignore them?

You may remember this whole scenario from a few years ago when Lubert Adler wanted to do the same thing and build a large hotel. The county commissioners and regulators at the state level all determined that Lubert Adler could not do this. Now fast forward a few years and Lubert Adler returns, this time with a new face in front of them. Now we hear from Prem Devdas, President of Salamander Management, that we should do this. He is trying to put a new spin on it but it is really the same thing. Salamander explained about their track record of buying facilities and reconstructing them in larger formats.

Nothing has changed except that now they want three buildings instead of one large one and for people who do not have the ocean view but have a golf membership, they are trying to entice them by saying they will throw in a new golf clubhouse in part of the facility.

A golf membership is just that, a membership; it is not property ownership. People with a membership should not be deciding the outcome of our property and view. The membership is voluntary --- you don't need to own anything in the area to join, in fact, as you may have seen, they have a totally open membership for everyone. A member can live anywhere. Memberships can be recalled by the club at any time. They are not permanent.

Members that don't have a vested interest, i.e., a property abutting the Lodge, should not be dictating what happens to the plat restricted property that condo owners do abut.

Once the building is constructed, Lubert Adler could take the entire membership and say, we're out of here and you are no longer a member and then they have a jewel of a property to sell to whomever for redevelopment since now there is a precedent of construction on ocean front property and the plat restriction is now breached.....null and void. From their website home page: "Lubert-Adler is a real estate investment company co-founded by Ira Lubert and Dean Adler in March 1997. Messrs. Lubert and Adler collectively have over 50 years of experience in underwriting, acquiring, repositioning, refinancing and exiting real estate assets." They are in for the short term profit, not the long haul like the condo owners who live and vacation there.

The condo owners own, and pay taxes for their properties. They pay property taxes on their land in Flagler County. Their interests should be protected by the county rules. We don't think that Lupert Adler who advertises on their website about how they reposition properties to then sell for profit, should have rights over and above the homeowners/condo owners who put our faith in the local government rules and restrictions before buying our properties for use by our families.

In a recent presentation by Salamander Management, when asked about the use of the facility and parking, Mr. Devdas said three things:

1. Everyone for groups will come in on buses so they don't need much extra parking
2. It will be marketed as a romantic destination for couples and
3. They will lay out the existing parking lot differently to handle parking.

Well I don't know about you, but how many couples or newlyweds have you seen come in on a bus for a romantic vacation? Secondly, I do not believe that everyone will arrive on buses and all the rooms will not be booked by conventioners. Third, no matter how much you attempt to reconfigure an area, a parking space takes up so much room and you just can't significantly increase the volume on a restricted, delineated size parcel.

Why should Salamander be exempt from county parking rules and there certainly isn't enough room in the main building. They will have to shuttle people to an off area site, generating more traffic issues. The building was not constructed and laid out for double the size needs. It was laid out for homeowners. You have to wait a long time now to get your car from the lobby of the main building at HBC. Add an additional 178 rooms and you would never get you car and heaven forbid there was a hurricane!

During hurricane season, how would the county get these people out? I remember Hurricane Ivan and the other hurricanes that year. It was awful. Now you have people staying right on top of the ocean, given they are literally abutting the sand dunes. Will the waves hit the building since they will not be set back like the rest of the community is set back? Think of the beach front hotels that were destroyed in the last major round of hurricanes all along the coast.

You know how hard it is to get people to leave in a storm. They spent money for their vacation and won't want to go. Their flight isn't for another week. Maybe it won't be as bad as they expect, etc. and they don't want to wait in an airport. All the exit roads will be tied up. Also, since everything is designed to be in the complex, how do you get the bus back to get the conventioners out....not just one bus either? What do you do with them? This is a major increase in the population of the area that you would now be responsible for evacuating and putting up in shelters.

That brings up the environmental question? How will that affect the area environmentally? Will there be enough water, already an issue due to persistent drought issues over the years. Will the sea turtles die off more from the lights from the hotel that are now directly on the beach? You can't run a hotel on the beach in the dark.

These are all very important issues that Salamander and Lupert Adler seem to be ready to gloss over.

Finally, from our personal perspective, we will lose our beautiful view. It is not as though they are compensating any of the property owners impacted for their loss of view. We get to continue paying our mortgages on our properties that will now be even more devalued. I feel like a burglar has come in and is trying to steal from us.

I am enclosing three photos to show you how the new buildings will totally block our view of the beach given all buildings will be the same height as the current building "peak." The flat roofs are wide, not pitched, so you can't even get a partial view.

Compound that with the inconvenience and noise from the minimum projected 2 years of construction and it is overwhelming! We do not feel that Salamander and Lubert Adler should be allowed to do whatever they want at the expense of others.

We believe you are beginning meetings with them soon and you need to know that their reports of everyone being for this are wrong. We are not all for it. You know what they say about statistics, you can spin them to say whatever you want them to say!

We hope you can help us out? We want to be able to enjoy our retirement in the condo and the view we originally purchased. Please don't let us down!

Sincerely,

Howard and Jane Goodman

The green area to the right of the building will now have 2 additional buildings.



When the new buildings are finished, you won't see anything down to the golf turn shack and they are already posturing that they want to convert the turn shack into a clubhouse area so even more lost view.



Notice how you can't see the ocean and beach behind the building. The building footprint will be even wider and obscure more of the view when there are three buildings.



Adam Mengel

Subject: Salamander Mtg
Location: 3rd Floor Admin Conference Room

Start: Wed 5/7/2014 10:30 AM
End: Wed 5/7/2014 12:00 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Administration Conference Room
Required Attendees: Adam Mengel; pdevadas@salamanderresorts.com; dbaker@acpcommunities.com

When: Wednesday, May 07, 2014 10:30 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 3rd Floor Admin Conference Room

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

Adam Mengel

From: Dennis Clark [denclark@cfl.rr.com]
Sent: Thursday, May 08, 2014 5:43 AM
To: Adam Mengel
Subject: Hammock Beach Resort meeting with County

Adam,

I assume you attended the meeting with Salamander yesterday. Prem said that it would be an open meeting, but I couldn't make it. I hate to take your valuable time, but did anything interesting come out of the meeting? The HCC and AIA groups are looking to me for updates. A few issues that came up through recent presentations are:

1. Assuming additional parking area is needed even with valet parking, where will they put it?
2. Are they subject to the Scenic Corridor constraints either partially or entirely?
3. Do you think that DEP will allow them to put the cart path on the dunes?

Thanks,
Dennis

Adam Mengel

From: Adam Mengel
Sent: Thursday, May 08, 2014 11:46 AM
To: 'Dennis Clark'
Subject: RE: Hammock Beach Resort meeting with County

Hi Dennis:

The meeting did last past 1 p.m., but I think it was productive to help those in attendance realize the limits of staff-level reviews of development applications. The ultimate question of the sufficiency of their project will be demonstrated through their application submittal; if questions remain, they will be addressed to the satisfaction of staff or the application will not advance.

As for your questions, I'll briefly answer them below:

1. Assuming additional parking area is needed even with valet parking, where will they put it?

In the YouTube video they mention the possibility of a shuttle from parcels that the applicant owns/controls, but which is outside of walking distance. Knowing the resorts I have stayed at – a few of which have required valet parking – I understand the concept that the valet allows for farther-away-parking at distances that exceed typical convenience parking spaces and at parking densities that exceed what most normal folks can reasonably park. The issue will be public short-term or club member day-use of the facility and how their parking mixes (or does not) with the increased resort overnight guest parking. Ultimately, the application will have to demonstrate how they are providing parking for all involved.

2. Are they subject to the Scenic Corridor constraints either partially or entirely?

County staff has not made a determination one way or the other yet. I have asked Daniel Baker to provide justification in the application submittal for reasons why the Scenic A1A Overlay does not apply if they choose to pursue that route. For now, I am leaning towards the Overlay applying to the project due to its location/frontage on 16th Road, but the vesting afforded by the former DRI still needs to be addressed. Bottom line for me is that I do not yet know if the Overlay vesting survived the EBOA; it will take some time and research to establish this conclusively. Receipt of the application will make this determination priority one as part of our staff-level review.

3. Do you think that DEP will allow them to put the cart path on the dunes?

I am encouraged by their presentation yesterday and hopefully they told the HCC group the same thing at their HCC presentation on the 6th. The proposal is to have a shell cart path weaving through the landside of the dune, intended to help set the natural tone for the rest of the course. The concept is to be similar to what had been provided at Kiawah in South Carolina. I am not really familiar with Kiawah, but I have heard positive comments from others (and I am deeply familiar with that part of South Carolina). Ultimately, FDEP retains authority within the CCCL and/or primary dune for approval of development activities in this area; however, we may also have a role depending upon the cart path's location in relation to the platted Beach Preservation Parcel BBP1.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

From: Dennis Clark [<mailto:denclark@cfl.rr.com>]
Sent: Thursday, May 08, 2014 5:43 AM
To: Adam Mengel
Subject: Hammock Beach Resort meeting with County

Adam,

I assume you attended the meeting with Salamander yesterday. Prem said that it would be an open meeting, but I couldn't make it. I hate to take your valuable time, but did anything interesting come out of the meeting? The HCC and A1A groups are looking to me for updates. A few issues that came up through recent presentations are:

1. Assuming additional parking area is needed even with valet parking, where will they put it?
2. Are they subject to the Scenic Corridor constraints either partially or entirely?
3. Do you think that DEP will allow them to put the cart path on the dunes?

Thanks,
Dennis

Adam Mengel

From: Adam Mengel
Sent: Thursday, May 08, 2014 12:28 PM
To: 'Luke Guttman'
Subject: RE: Hotel Development requirements

Good afternoon Mr. Guttman:

Thank you for your patience on this response; it has taken a little bit of time to put this together (and I'm not entirely certain that it all makes sense, so my apologies in advance).

As you know, in his April 6, 2011 NOPC recommended order, Administrative Law Judge Alexander recommended to FLAWAC that "Petitioners [Ginn-LA Marina LLLP, LTD, et al.] have no vested right to construct up to 561 dwelling units on 12 acres of land located in the Ocean Hammock Golf Course that is now platted and restricted in perpetuity for golf course purposes only." The Findings of Fact in the recommended order also laid out the process leading to subsequent development application and review.

Absent the provisions of the DRI following the Essentially Built-Out Agreement ("EBOA", recorded at Official Records Book 1851, Page 842, Public Records of Flagler County, Florida), the development of the parcels in the Hammock Dunes DRI are governed by the provisions of the adopted Comprehensive Plan, the Land Development Code, and any approved PUD development agreements and site development plans (or their precursor documents, plat addenda), along with approved final plats. In this instance, the Ocean Hammock Golf Course is platted at Map Book 33, Page 11, with an accompanying plat addendum recorded at Official Records Book 786, Page 824, all according to the Public Records of Flagler County, Florida. The short answer to your question is that the final plat for the golf course and its plat addendum sets the vesting for the golf course and its parcels.

As for retained rights, both the NOPC recommended order as ultimately accepted by FLAWAC in their August 4, 2011 final order and the EBOA determined that the 561 dwelling units were not vested; however, Section 12.e. of the EBOA provides for the equivalency of development up to a 561 residential unit threshold from a County concurrency standpoint and which was specifically allocated to Northshore and anticipated to be used for development of a hotel within the vicinity of the pending application. Note also that EBOA Sections 3.b. and 3.c. additionally apply to future development and will guide any subsequent application submittals and reviews.

Our land development processes require that the applicant demonstrate their ability to apply for their request and provide for the legal sufficiency of their application (from an ownership standpoint) and consistency with the Comprehensive Plan, Land Development Code, and other previous regulatory actions/orders made a part of the public record (here, the recorded plat and plat addendum).

I hope this answers at least part of what you were looking for. If this prompts other questions, please send them to me and I'll do my best to respond.

Thank you,

Adam

From: Luke Guttman [<mailto:lukelbg@aol.com>]
Sent: Monday, May 05, 2014 11:39 AM
To: Adam Mengel
Subject: Fwd: Hotel Development requirements

Adam,

Can you give me the specific development rights that were reserved and exist today? Exactly what did they retain the right to build and where? What docs disclose those retained rights? Thanks, Luke

From: Adam Mengel [<mailto:amengel@flaglercounty.org>]
Sent: Thursday, May 01, 2014 3:58 PM
To: 'Dennis Clark'
Cc: Andrew Johnson
Subject: RE: Ocean Hammock Development

Hi Dennis:

Quick answers to your questions, and these unfortunately will be subject to change based on the request once it is received. At this point, I only have a rough guess at what will be required based on what I have picked up from gotoby.com. Here are my responses to your questions:

1. Does the developer need to go through both TRC and the Planning and Development Board for approval?

Yes, and the Board of County Commissioners, too.

2. Is this greater than 5 acres and therefore need to go to the Board of Commissioners for approval?

No, the area of impact is likely to be less than five acres, but that is not what will call for the Board of County Commissioners' review. The development area is a recorded plat with an approved plat addendum, which will require approval by the Board of County Commissioners.

3. Is this development part of the Scenic Corridor Overlay, being on 16th Road and no longer part of a DRI/PUD?

I know that there is vesting language in the LDC; I'll have to look into this one and get back to you. I do believe that they will still go to Scenic A1A for review... (I think) I remember them doing this for the garage on the north side of 16th Road.

Thanks!
Adam

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Luke Guttman [lukelbg@aol.com]
Sent: Saturday, May 10, 2014 9:30 AM
To: Adam Mengel
Cc: Alma Nemrava
Subject: Re: Hotel Development requirements

Thanks Adam! Is there a copy of that recommended Order on line someplace? I may have some more questions after reading it carefully. I was given to understand there are rights to construct on a small parcel currently proposing a hotel?

Luke

Sent from my iPhone

On May 8, 2014, at 12:27 PM, Adam Mengel <amengel@flaglercounty.org> wrote:

Good afternoon Mr. Guttman:

Thank you for your patience on this response; it has taken a little bit of time to put this together (and I'm not entirely certain that it all makes sense, so my apologies in advance).

As you know, in his April 6, 2011 NOPC recommended order, Administrative Law Judge Alexander recommended to FLAWAC that "Petitioners [Ginn-LA Marina LLLP, LTD, et al.] have no vested right to construct up to 561 dwelling units on 12 acres of land located in the Ocean Hammock Golf Course that is now platted and restricted in perpetuity for golf course purposes only." The Findings of Fact in the recommended order also laid out the process leading to subsequent development application and review.

Absent the provisions of the DRI following the Essentially Built-Out Agreement ("EBOA", recorded at Official Records Book 1851, Page 842, Public Records of Flagler County, Florida), the development of the parcels in the Hammock Dunes DRI are governed by the provisions of the adopted Comprehensive Plan, the Land Development Code, and any approved PUD development agreements and site development plans (or their precursor documents, plat addenda), along with approved final plats. In this instance, the Ocean Hammock Golf Course is platted at Map Book 33, Page 11, with an accompanying plat addendum recorded at Official Records Book 786, Page 824, all according to the Public Records of Flagler County, Florida. The short answer to your question is that the final plat for the golf course and its plat addendum sets the vesting for the golf course and its parcels.

As for retained rights, both the NOPC recommended order as ultimately accepted by FLAWAC in their August 4, 2011 final order and the EBOA determined that the 561 dwelling units were not vested; however, Section 12.e. of the EBOA provides for the equivalency of development up to a 561 residential unit threshold from a County concurrency standpoint and which was specifically allocated to Northshore and anticipated to be used for development of a hotel within the vicinity of the pending application. Note also that EBOA Sections 3.b. and 3.c. additionally apply to future development and will guide any subsequent application submittals and reviews.

Our land development processes require that the applicant demonstrate their ability to apply for their request and provide for the legal sufficiency of their application (from an ownership standpoint) and

consistency with the Comprehensive Plan, Land Development Code, and other previous regulatory actions/orders made a part of the public record (here, the recorded plat and plat addendum).

I hope this answers at least part of what you were looking for. If this prompts other questions, please send them to me and I'll do my best to respond.

Thank you,

Adam

From: Luke Guttman [<mailto:lukelbg@aol.com>]
Sent: Monday, May 05, 2014 11:39 AM
To: Adam Mengel
Subject: Fwd: Hotel Development requirements

Adam,

Can you give me the specific development rights that were reserved and exist today? Exactly what did they retain the right to build and where? What docs disclose those retained rights?
Thanks, Luke

From: Adam Mengel [<mailto:amengel@flaglercounty.org>]
Sent: Thursday, May 01, 2014 3:58 PM
To: 'Dennis Clark'
Cc: Andrew Johnson
Subject: RE: Ocean Hammock Development

Hi Dennis:

Quick answers to your questions, and these unfortunately will be subject to change based on the request once it is received. At this point, I only have a rough guess at what will be required based on what I have picked up from gotoby.com. Here are my responses to your questions:

1. Does the developer need to go through both TRC and the Planning and Development Board for approval?

Yes, and the Board of County Commissioners, too.

2. Is this greater than 5 acres and therefore need to go to the Board of Commissioners for approval?

No, the area of impact is likely to be less than five acres, but that is not what will call for the Board of County Commissioners' review. The development area is a recorded plat with an approved plat addendum, which will require approval by the Board of County Commissioners.

3. Is this development part of the Scenic Corridor Overlay, being on 16th Road and no longer part of a DRI/PUD?

I know that there is vesting language in the LDC; I'll have to look into this one and get back to you. I do believe that they will still go to Scenic A1A for review... (I think) I remember them doing this for the garage on the north side of 16th Road.

Thanks!
Adam

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Adam Mengel
Sent: Monday, May 12, 2014 8:32 AM
To: 'Luke Guttman'
Cc: 'Alma Nemrava'
Subject: RE: Hotel Development requirements
Attachments: Recommended Order 4-6-11 Dunes DRI NOPC.pdf

Good morning Mr. Guttman:

I have attached the recommended order. I also tried to track down FLAWAC's final order, but cannot find a copy online.

It is my understanding too that they have limited rights basically on the present lodge site; I look forward to what you may think of all this.

Thank you!

Adam

From: Luke Guttman [mailto:lukelbg@aol.com]
Sent: Saturday, May 10, 2014 9:30 AM
To: Adam Mengel
Cc: Alma Nemrava
Subject: Re: Hotel Development requirements

Thanks Adam! Is there a copy of that recommended Order on line someplace? I may have some more questions after reading it carefully. I was given to understand there are rights to construct on a small parcel currently proposing a hotel?

Luke

Sent from my iPhone

On May 8, 2014, at 12:27 PM, Adam Mengel <amengel@flaglercounty.org> wrote:

Good afternoon Mr. Guttman:

Thank you for your patience on this response; it has taken a little bit of time to put this together (and I'm not entirely certain that it all makes sense, so my apologies in advance).

As you know, in his April 6, 2011 NOPC recommended order, Administrative Law Judge Alexander recommended to FLAWAC that "Petitioners [Ginn-LA Marina LLLP, LTD, et al.] have no vested right to construct up to 561 dwelling units on 12 acres of land located in the Ocean Hammock Golf Course that is now platted and restricted in perpetuity for golf course purposes only." The Findings of Fact in the recommended order also laid out the process leading to subsequent development application and review.

Absent the provisions of the DRI following the Essentially Built-Out Agreement ("EBOA", recorded at Official Records Book 1851, Page 842, Public Records of Flagler County, Florida), the development of the parcels in the Hammock Dunes DRI are governed by the provisions of the adopted Comprehensive Plan, the Land Development Code, and any approved PUD development agreements and site development

plans (or their precursor documents, plat addenda), along with approved final plats. In this instance, the Ocean Hammock Golf Course is platted at Map Book 33, Page 11, with an accompanying plat addendum recorded at Official Records Book 786, Page 824, all according to the Public Records of Flagler County, Florida. The short answer to your question is that the final plat for the golf course and its plat addendum sets the vesting for the golf course and its parcels.

As for retained rights, both the NOPC recommended order as ultimately accepted by FLAWAC in their August 4, 2011 final order and the EBOA determined that the 561 dwelling units were not vested; however, Section 12.e. of the EBOA provides for the equivalency of development up to a 561 residential unit threshold from a County concurrency standpoint and which was specifically allocated to Northshore and anticipated to be used for development of a hotel within the vicinity of the pending application. Note also that EBOA Sections 3.b. and 3.c. additionally apply to future development and will guide any subsequent application submittals and reviews.

Our land development processes require that the applicant demonstrate their ability to apply for their request and provide for the legal sufficiency of their application (from an ownership standpoint) and consistency with the Comprehensive Plan, Land Development Code, and other previous regulatory actions/orders made a part of the public record (here, the recorded plat and plat addendum).

I hope this answers at least part of what you were looking for. If this prompts other questions, please send them to me and I'll do my best to respond.

Thank you,

Adam

From: Luke Guttman [mailto:lukelbg@aol.com]
Sent: Monday, May 05, 2014 11:39 AM
To: Adam Mengel
Subject: Fwd: Hotel Development requirements

Adam,

Can you give me the specific development rights that were reserved and exist today? Exactly what did they retain the right to build and where? What docs disclose those retained rights?
Thanks, Luke

From: Adam Mengel [mailto:amengel@flaglercounty.org]
Sent: Thursday, May 01, 2014 3:58 PM
To: 'Dennis Clark'
Cc: Andrew Johnson
Subject: RE: Ocean Hammock Development

Hi Dennis:

Quick answers to your questions, and these unfortunately will be subject to change based on the request once it is received. At this point, I only have a rough guess at what will be required based on what I have picked up from gotoby.com. Here are my responses to your questions:

1. Does the developer need to go through both TRC and the Planning and Development Board for approval?

Yes, and the Board of County Commissioners, too.

2. Is this greater than 5 acres and therefore need to go to the Board of Commissioners for approval?

No, the area of impact is likely to be less than five acres, but that is not what will call for the Board of County Commissioners' review. The development area is a recorded plat with an approved plat addendum, which will require approval by the Board of County Commissioners.

3. Is this development part of the Scenic Corridor Overlay, being on 16th Road and no longer part of a DRI/PUD?

I know that there is vesting language in the LDC; I'll have to look into this one and get back to you. I do believe that they will still go to Scenic A1A for review... (I think) I remember them doing this for the garage on the north side of 16th Road.

Thanks!
Adam

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GINN-LA MARINA, LLLP, LTD,)
NORTHSHORE HAMMOCK LTD, LLLP,)
AND NORTHSHORE OCEAN HAMMOCK)
INVESTMENT, LTD, LLLP,)
)
Petitioners,)
)
vs.) Case No. 10-9137DRI
)
FLAGLER COUNTY,)
)
Respondent,)
)
and)
)
OCEAN HAMMOCK PROPERTY OWNERS)
ASSOCIATION, INC., THE HAMMOCK)
BEACH CLUB CONDOMINIUM)
ASSOCIATION, INC., MICHAEL M.)
HEWSON, AND ADMIRAL)
CORPORATION,)
)
Intervenors.)
_____)

RECOMMENDED ORDER

Pursuant to notice, this matter was heard before the
Division of Administrative Hearings (DOAH) by its assigned
Administrative Law Judge, D. R. Alexander, on December 15-17,
2010, in Bunnell, Florida.

APPEARANCES

For Petitioners: Scott A. Glass, Esquire
James F. Johnston, Esquire
Shutts & Bowen, LLP
300 South Orange Avenue
Suite 1000
Orlando, Florida 32801-3373

For Respondent: Wayne E. Flowers, Esquire
Lewis, Longman & Walker, P.A.
245 Riverside Avenue, Suite 150
Jacksonville, Florida 32202-4924

Isabelle C. Lopez, Esquire
Quintairos, Prieto, Wood & Boyer, P.A.
One Independent Drive, Suite 1650
Jacksonville, Florida 32202-5019

Albert J. Hadeed, Esquire
Flagler County Attorney
1769 East Moody Boulevard
Suite 303
Bunnell, Florida 32110-5992

For Intervenors: Michael D. Chiumento, III, Esquire
(Ocean Hammock, Chiumento & Guntharp, P.A.
et al.)
145 City Place, Suite 301
Palm Coast, Florida 32164-2481

For Intervenor: Ellen Avery-Smith, Esquire
(Admiral) Rogers Towers, P.A.
100 Whetstone Place
St. Augustine, Florida 32086-5775

STATEMENT OF THE ISSUES

The issues are: (1) what are the correct procedures and substantive criteria to be applied in reviewing Petitioners' proposed "local" changes to the Hammock Dunes Development of Regional Impact (DRI) Development Order (DO); (2) does Petitioners' application satisfy the applicable criteria for

approval; and (3) do Petitioners or Respondent, Flagler County (County), have the legal ability or obligation through the Notice of Proposed Change (NOPC) to the DO to change certain obligations of Intervenor, Admiral Corporation (Admiral), contained in the DO and in separate agreements related to the performance of certain DO obligations.

PRELIMINARY STATEMENT

Petitioners submitted a NOPC application to the County in 2009, later twice revised, seeking to amend their DO by extending for three years the DRI build-out date authorized by section 380.06(19), Florida Statutes; reducing the number of approved dwelling units in the DRI; creating a new residential Cluster 35 within the DRI boundaries and reallocating previously-approved, but un-built, dwelling units from other Clusters to new Cluster 35; agreeing to a further PUD-like review process before development permits are issued; and realigning a roadway at its own expense. The amended NOPC was considered by the County at a hearing on April 5, 2010. On April 23, 2010, the County issued its written decision, Resolution No. 2010-22. That decision determined that the requested changes did not constitute a substantial deviation of the DO; determined that the revisions were consistent with the County's Comprehensive Plan (Plan); recognized the legislative

extension of time that extended the expiration date of the DO to February 28, 2012; approved the request to reduce the total number of approved residential dwelling units from 4,400 to 3,800; but denied the request to create a new Cluster 35 with a transfer of 541 residential units to that Cluster on the ground this was inconsistent with certain provisions in its Land Development Code (LDC).

On May 26, 2010, Petitioners timely filed a Notice of Appeal and Petition for Appeal with the Florida Land and Water Adjudicatory Commission (Commission). The matter was referred by the Commission to DOAH on September 21, 2010, with a request that an administrative law judge conduct a formal hearing. By Order dated October 1, 2010, Admiral, Ocean Hammock Property Owners Association, Inc. (Ocean Hammock), The Hammock Beach Club Condominium Association, Inc. (Hammock Beach), and Michael M. Hewson (Hewson) were authorized to intervene as parties.

By agreement of the parties, a final hearing was scheduled on December 15-17, 2010, in Bunnell, Florida. A pre-hearing stipulation (stipulation) was filed by the parties on December 10, 2010. At the outset of the hearing, the County's Motion to Dismiss Petition for Appeal, Intervenors' Request for Judicial Notice, and Intervenors' Motion for Leave to Call Additional Witnesses were withdrawn. Petitioners presented the

testimony of Daniel Baker, a professional engineer and Regional Vice-President of Reynolds Development & Management Group and accepted as an expert; Adam Mengel, County Planning and Zoning Director and accepted as an expert; and Kenneth B. Metcalf, a certified land use planner with Greenberg Traurig, P.A., and accepted as an expert. Also, they offered Petitioners' Exhibits 1-15, 17, and 18, which were received in evidence. The County presented the testimony of David J. Tillis, Senior Project Manager of Planning at WilsonMiller Stantec and accepted as an expert; James E. Gardner, Jr., County Appraiser and accepted as an expert; and Anne Wilson, a realtor and scenic highway planner and accepted as an expert. Also, it offered County (Respondent) Exhibits 1-3, 4A and B, and 5-16, which were received in evidence. Intervenors Ocean Hammock, Hammock Beach, and Hewson presented the testimony of Hewson, a resident of Ocean Hammock; Robert DeVore, the original developer of the DRI; Linda Loomis Shelley, an attorney with Fowler White, P.A., and accepted as an expert; and Steven R. Davis, an architect and accepted as an expert. Also, they offered Intervenors' Exhibits 1-10, 12, and 13, which were received in evidence. Admiral presented no witnesses but offered Admiral Exhibits 1-5, 6A-D, 7, and 11, which were received in evidence.¹ Finally, the parties offered Joint Exhibits 1-12, which were received in evidence.

The Transcript of the hearing (five volumes) was filed on January 19, 2011. At the request of the County, Ocean Hammock, Beach Club, and Hewson, the time for filing proposed findings of fact and conclusions of law was extended to March 7, 2011. Also, the parties were authorized to file submissions that did not exceed 50 pages. Separate filings were timely made by Petitioners, the County, Admiral, and the other Intervenors. On March 8, 2011, the County filed a Motion for Leave to File Amended Proposed Recommended Order on the ground its original filing (totaling 49 pages) inadvertently omitted portions of the conclusions of law. While the Motion was initially agreed to by Petitioners on the assumption the amended filing would not exceed 50 pages, the new filing on March 8, 2011, totaled 57 pages, which exceeded the established page limitation. This triggered an objection by Petitioners. The objection is overruled.

FINDINGS OF FACT

A. The Parties

1. Petitioners are the current owners and developers of certain real property within the Hammock Dunes DRI in the County. They are some of many developers of real property within that DRI.

2. The County is a political subdivision of the State and the unit of local government responsible for issuing DOs for projects that are required to undergo DRI review within its geographic limits, including amendments to DOs of previously approved DRIs. Such reviews must be in conformity with the requirements of section 380.06.

3. Admiral is the original developer of the DRI but no longer owns any property or entitlements in the DRI. Its interest in the proceeding is based on long-standing obligations to provide certain infrastructure, described below, that run with the land until the expiration of the DRI, and whether the County can extend those obligations without its consent by extending the expiration date of the DRI.

4. Ocean Hammock is an incorporated property owners association comprised of approximately 1,500 unit owners within the DRI.

5. Hammock Beach is an incorporated condominium association composed of approximately 184 condominium unit owners within the DRI.

6. Hewson is an individual and an owner and resident of property within the DRI.

B. History Preceding the Application

7. On March 30, 1984, the County approved the original Hammock Dunes DRI by County Resolution 84-7. The resolution showed Admiral as the developer. Admiral is a wholly-owned subsidiary of ITT Community Development Corporation (ITTCDC). The DO covered 2,258 acres and entitled Admiral to construct a maximum of 6,670 dwelling units and related commercial, institutional, recreational, and other uses in 42 separate geographical areas known as "Clusters" covering 893 acres. The property is adjacent to the Atlantic Ocean, with approximately five miles of pristine beach bordering the DRI. Beginning in 1985 or 1986, development of the DRI began and now includes three subdivisions or phases: Hammock Dunes; Ocean Hammock; and Hammock Beach. Currently, 33 percent of all single-family homes authorized for construction in the DRI have actually been constructed; all platted and permitted condominiums have been constructed; and all Clusters have been platted. Due to financial considerations of their owners, one or two Clusters in the DRI have no vertical development.

8. The general and special conditions of development are contained in a 54-page document identified as Attachment A to the DO. See Joint Ex. 1, Attachment A, pp. A-1 through A-54. The original DO included a DRI Master Development Plan,

identified as Exhibits 17.5.1 and 17.5.2 in Attachment A. The Master Development Plan is basically a sketch plan that geographically depicts the uses authorized by the DO. The first exhibit depicts generally where the 42 residential Clusters and other uses were to be located. See Attachment A, p. A-45. The second exhibit is a Residential Cluster Data Table, which describes the type of development for each Cluster and designated the maximum number of dwelling units that may be built within each Cluster. See Attachment A, p. A-46.

9. The DO rezoned all of the property within the DRI as Planned Unit Development (PUD), which is a zoning district in the County zoning code. Also, section 17.5 of the DO described the substantive conditions for development relating to density, residential clusters, allowable building height, building spacing, and flexibility considerations. Subsection 17.5.g. provides in part that "any changes [to the project] must first be approved through the site development plan review procedures of Section 17.6."

10. Section 17.6 prescribes the PUD review procedures that apply to submitted development proposals. See Joint Ex. 1, pp. 63-68. The introductory language in section 17.6 states that "[t]his project shall be subject only to the following [PUD] review provisions which are an elaboration of the review

provisions of Article X." Joint Ex. 1, Attachment A, p. A-47. During the PUD review process, section 17.6 generally requires a pre-application conference by the applicant and County staff, the submission of a detailed site development plan which addresses specific issues set out in subsection 17.6(c), and approval (platting) of the site development plan leading to permitting. Id. Section 17.6 has not been changed or modified since the original DO was approved.

11. The DO also required Admiral to construct certain specific items of infrastructure associated with the DRI. Among the requirements were that Admiral construct two additional lanes on the Intracoastal Waterway bridge, to occur when the Florida Department of Transportation and County determined that a Level of Service C was met on the existing two lanes; and that Admiral four-lane the roads and bridges located on Palm Harbor Parkway between Clubhouse Drive and Florida Park Drive, to occur when traffic counts on these road segments exceeded 10,000 average daily trips. See Attachment A, §§ 4.1.b and 4.7. Neither of these prerequisites to construction of these infrastructure items has yet occurred.

12. Because DRIs generally take a substantial period of time to complete, the development plans are subject to periodic amendment in order to adjust to changing market conditions,

financial conditions, and other variables. Since its approval in 1984, the DO has been amended five times.

13. The first amendment to the original DO, completed in July 1995, revised the Master Development Plan in the following respects: (a) residential acreage was reduced from 893 acres to 888 acres; (b) the maximum number of dwelling units was reduced from 6,670 to 4,400; (c) Cluster 1 was split into Clusters 1 and 1(a), resulting in an increase in the number of Clusters from 42 to 43; and (d) the maximum allowable building height in the Medium High density category was reduced from 20 stories to 12 stories. See Joint Ex. 2. Also, it realigned the spine road, clarified infrastructure construction obligations, and changed the geographic location, configuration, and area of Residential Clusters and other uses, including the golf course, within the boundaries of the DRI. Finally, Exhibits 17.5.1 and 17.5.2 were replaced by Exhibits 3A and 3B to the DO, and the amendment required the County to approve any successor developer to Admiral unless ITTCDC guaranteed all applicable DRI requirements, obligations, and conditions.

14. The second amendment to the original DO was completed in March 1998 and generally revised the Master Development Plan as follows: (a) the number of residential Clusters was reduced from 43 to 35 (numbered as 1, 1(a), and 2 through 34) together

with changes to location, configuration, and other uses of the residential Clusters; and (b) total authorized residential acreage was increased from 888 acres to 916 acres. See Joint Ex. 3. Unless or until the pending NOPC is approved, the 1998 Master Development Plan still applies to the DRI. In addition, the 1998 amendment provided for the conveyance of 33 acres of beachfront land at the intersection of 16th Road and the beach, previously intended to be a County park, from the County to the developer to enable the developer to construct part of a Jack Nicklaus signature golf course. The golf course was intended to be a buffer between development in the DRI and the beach. The developer was still required to construct a smaller public park on land retained by the County at the 16th Road access to the beach. Finally, although no revisions to section 17.6 were made, the amendment added a new section 17.10, which provided some specific PUD development criteria for Cluster 34.

15. On November 24, 1999, ITT Corporation (then known as ITT Industries, Inc.), the parent corporation of ITTCDC, entered into a Guaranty Agreement (Agreement) with the County regarding Admiral's obligations to provide additional infrastructure if certain transportation thresholds were exceeded. See Admiral Ex. 1. The Agreement provided in part:

The obligations of the Guarantor under this Guarantee Agreement shall be independent,

absolute and unconditional and shall remain in full force and effect until the earlier of (i) such time as the Major Obligations have been performed and discharged . . . , or (ii) such time as the Development Order, including all past and/or future amendments and extensions thereof, shall no longer be in effect.

16. The County did not execute the Agreement. However, ITT and ITTCDC unilaterally agreed to increase the existing bond guaranteeing Admiral's DO obligations from \$3 million to \$10 million in exchange for the County releasing its right to review and approve any successor developer as provided in the 1995 DO amendment. This Agreement further provided that the obligations of the guarantor would remain in effect until the obligations described therein were performed in compliance with the DO, or until the DO and/or any amendments or extensions thereof were no longer in effect. Id.

17. On December 17, 2001, the DO was again amended. See Joint Ex. 4. However, that amendment was repealed by the County on October 7, 2002. See Joint Ex. 5. Besides repealing the 2001 amendment, the 2002 ordinance modified certain requirements relating to public safety and park construction. Neither the 2001 nor 2002 amendments changed the proposed number or location of dwelling units within the DRI.

18. In 2003, the DO was amended a fifth time to extend the build-out date by five years and eleven months, or from

March 28, 2003, to February 28, 2009. See Joint Ex. 6. This amendment did not affect the permitted number of dwelling units, residential acreage, or residential Clusters, nor were any revisions made to section 17.5 or 17.6 of the DO regarding the PUD designation and review procedures. Accordingly, sections 17.5 and 17.6, and Revised Exhibits 3A and 3B, as adopted by the 1998 amendments, remained in effect when Petitioners filed the NOPC that is the subject of this proceeding.

19. Petitioners' predecessor developer was Lowe Ocean Hammock, Ltd. (Lowe). On December 20, 1996, Lowe executed a Development Order Allocation Agreement with ITTCDC, wherein those parties agreed that no applications would be filed to amend the DO without the written consent of the other party. See Admiral Ex. 5, p. 9. As one of Lowe's successor developers in the DRI, Petitioners became subject to this consent requirement through its inclusion in the deed by which Petitioners obtained ownership of their interest in the DRI. See Admiral Ex. 6A. Admiral contends that the responsibility for constructing the two additional lanes on Palm Harbor Parkway still remains with ITTCDC, but that the responsibility for constructing the two additional lanes on the Intracoastal Waterway Bridge was assumed by the Dunes Community Development District (DCDD), a community development district created in

1985 in the DRI. Neither Petitioners nor the County is a party to the agreements by which ITTCDC or DCDD assumed responsibility for construction of these two infrastructure projects.

20. Petitioners did not obtain Admiral or ITTCDC's written consent before filing the instant NOPC application. Admiral, ITTCDC, and ITT wrote two letters in 2009 and one in 2010 stating their objections to the NOPC and maintaining that such objections would only be withdrawn if their obligations under the Agreement and the associated bond were either terminated by the County or assumed by a successor developer. The letters indicated that their obligations expired on February 28, 2009, or the then-current DRI expiration date. The County considered the letters of objection but determined that the extension of the build-out date of the DRI was the result of an act of the Florida Legislature and therefore out of the County's legal control. Thus, the County determined that it would not consider those issues in connection with the NOPC application.

21. Sometime after it adopted the original DO, the County amended Article III of its LDC by adding and/or amending sections 3.04.00 through 3.04.04, which set forth the processes and substantive criteria for the creation of new PUDs. However, the 1984 DO was never amended to incorporate the new sections of

the LDC by reference or to change the DO's PUD provisions to mirror those of the current LDC.

C. Petitioners' NOPC Application

22. Pursuant to section 380.06(19), on February 27, 2009, Petitioners filed a sixth amendment to the DRI DO. The first iteration of the current NOPC requested: (a) recognition of the three-year build-out date extension authorized by the Legislature in section 380.06(19)(c); (b) creation of a new residential Cluster 35 consisting of 34 acres and assigned a Medium-High density and designated "Ocean Recreation Hotel"; and (c) reallocation of 1,147 approved but un-built dwelling units from Clusters 21-34 into the new Cluster. Cluster 35 would be located on land designated by the DO as the beach club, portions of Cluster 33, and a part of the Ocean Hammock Golf Course. Of the 34 acres, eight would be located north of 16th Road on land currently occupied by a 77-foot high building, commonly known as the "Lodge," which contains a restaurant, 20 hotel rooms, offices, a golf pro shop, locker facilities, a swimming pool, spa facility, parking lot, and landscaping. The remaining 26 acres, south of 16th Road, currently feature a golf driving range, landscaped areas, buffer, and open space. Sixteenth Road is a public road that provides access to the beach, public beach parking, and public restroom facilities. Petitioners initiated

the NOPC because they had dwelling unit entitlements that could not be used in the Clusters from which the units would be transferred because the land in the donor Clusters had been fully platted, developed, and/or sold. As a consequence, no more dwelling units could be constructed in the donor Clusters.

23. On June 19, 2009, Petitioners submitted the second iteration of the current NOPC application. In that iteration, the size of the proposed new Cluster 35 was reduced from 34 to 24 acres; the number of units to be reallocated to Cluster 35 was reduced from 1,147 to 561 units (including 20 from the hotel); and the total number of dwelling units in the entire DRI was proposed to be reduced by 600, from 4,400 to 3,800.

24. After reviewing the amended NOPC, the County staff recommended approval, with conditions to assure consistency with the Plan and compatibility with existing development. However, after Admiral submitted letters of objection, and considerable public opposition to the proposal surfaced, on February 11, 2010, a third iteration of the NOPC was submitted to the County. This iteration proposed the following amendments to the DO:

- (a) recognizing the automatic extension of the build-out date for the DRI authorized by the Legislature in section 380.06(19)(c);
- (b) amending section 17.5.a. by reducing the total number of authorized dwelling units within the DRI from

4,400 units to 3,800 units; (c) modifying Exhibits 3A and 3B to create a new Cluster 35 encompassing only 12 acres (rather than 24 acres), and designating the new Cluster as Ocean Recreation Hotel with a maximum building height of 77 feet, and a reallocation of 541 un-built dwelling units from Clusters 21-24, 26, 27, and 29-34; (d) modifying condition 4.4 to allow the relocation, if necessary, of 16th Road farther south to enlarge the construction area for the new units, with the realignment occurring only after Petitioners applied for building permits for construction within Cluster 35; and (e) agreeing to a public hearing during the site development stage of the process.

25. The final version of the NOPC was reviewed by the Northeast Florida Regional Planning Council and Department of Community Affairs. Both agencies agreed that the proposal did not constitute a substantial deviation. The County staff agreed with this determination and recommended that the NOPC be approved subject to certain conditions, including one that before a development permit be issued for Cluster 35, the applicants submit maps, exhibits, and other supporting materials to show compliance with the LDC. Finally, the staff recommended that the designated residential acreage in the DRI be increased from 916 acres to 960 acres to accommodate the new Cluster and

to reflect the actual residential acreage (948 acres) that had previously been approved and developed.

26. On April 5, 2010, the Board of County Commissioners (Board) held a public hearing to consider the NOPC. The Board found the requested changes did not constitute a substantial deviation and approved that part of the NOPC. It also approved the reduction in the number of approved dwelling units from 4,400 to 3,800. The Board further found the revisions to be consistent with the County Plan. However, it denied the application to the extent that it would have created a new Cluster 35 and reallocated 541 residential units to that Cluster. Finally, the Board acknowledged that the Florida Legislature had extended the DRI expiration date and concluded that no formal action was necessary in that regard.

27. The Board's decision was memorialized in Resolution No. 2010-22, which states in pertinent part that the request to create a new Cluster 35 and transfer 541 units from other Clusters was being denied for two reasons: that it would adversely affect the orderly development of the County in contravention of LDC section 3.04.02.F.1.; and that it would adversely affect the health and safety of residents and workers in the area and would be detrimental to the use of adjacent properties and the general neighborhood in contravention of LDC

section 3.04.02.F.2. See Joint Ex. 10. No specific findings of fact were made as to how Cluster 35 was inconsistent with these provisions. This appeal followed. Because this proceeding is de novo in nature, the County and Intervenors have raised additional grounds for denying the application. These grounds were also raised at the local hearing but were not addressed in Resolution 2010-22.

D. The Procedures for Reviewing the NOPC

28. Petitioners contend that the Board's review of a NOPC involves only two steps: (a) a determination as to whether the revisions constitute a substantial deviation requiring further review and analysis; and (b) a determination as to whether the revisions are consistent with the local comprehensive plan. If the revisions do not require a substantial deviation analysis, and they are consistent and compatible with the local plan, the NOPC would be approved, and any future development would then be controlled by the PUD review process contained in the DO. They also assert that it is inappropriate to have a PUD review concurrent with the NOPC review, as the Board did here; instead, they argue that the PUD review process should occur at the site development plan stage.

29. The process described by Petitioners would normally apply were this not a unique NOPC requesting substantial

revisions to the DO (but not regional impact implications) in the sense that it requests creation of a new Cluster where no residential development had been previously permitted, and the proposed residential development will occur in an area specifically prohibited for development by the DO. Requests to redistribute uses on property subject to PUD zoning, or to amend the sketch plan for an approved PUD zoning, are normally treated by the County as a rezoning of the PUD, even if, as here, the property has previously been assigned PUD zoning. The LDC labels this process as a "reclassification" of the property, which triggers the consideration of other LDC criteria. See § 3.04.02, LDC. When this occurs, a change to the PUD must go through the same type of process that the original adoption of the PUD went through, which is a rezoning process. This procedure contemplates that a simultaneous NOPC/PUD review takes place, and the County is authorized to take into account the general issues of public health, safety, and welfare described in sections 3.04.02.F.1. and 2., as well as any other sections in the article that may apply. The evidence shows that this procedure is used by many local governments throughout the State, including the County, and was specifically used by the County in 1998 when the last substantial changes to the Master Development Plan were requested by predecessor developers.

While conflicting testimony was submitted on this issue, the more persuasive evidence supports a finding that these procedures and substantive criteria are the most logical and reasonable interpretation of the County's LDC and the DO, and they should be used in reviewing the NOPC.

E. Does the NOPC Satisfy Applicable Criteria?

30. Consistent with above-described procedure, in determining whether the NOPC may be approved, the following process should be followed. First, it is necessary to determine whether the revisions are a substantial deviation, as defined by section 380.06(19), creating further regional impacts that require additional review and analysis. Second, it is necessary to determine whether the proposed revisions are consistent with the County's Plan, as required by section 163.3194(1)(a). The record below does not disclose the specific Plan provisions reviewed by the County for consistency or compatibility. However, County Planner Mengel indicated that prior to the Board's decision, he made "a very cursory review" that relied largely upon representations by the applicants and concluded, as did the Board in its Resolution, that the revisions are consistent with the Plan. In addition, four policies in the Future Land Use Element (FLUE) of the Plan relating to compatibility were addressed by Petitioners during the DOAH

evidentiary hearing: policies 13.1, 13.2, 13.3, and 13.5. Also, objective 3 and policies 3-3 and 3-6 of the Recreation and Open Space Element of the Plan were addressed by the County. The next consideration is whether the NOPC revisions comply with applicable LDC criteria since a simultaneous DRI/PUD review is being made. Finally, Petitioners are vested only as to what was approved in the 1984 DO, as later amended. Therefore, it is necessary to determine whether the revisions being sought are vested development rights.

a. Substantial Deviation

31. The parties have stipulated, and Resolution 2010-22 acknowledges, that the NOPC does not constitute a substantial deviation from the DO requiring further review and analysis.

b. Consistency with the Comprehensive Plan

32. Section 163.3194(1)(a) requires that all development orders be consistent with the local government's adopted comprehensive plan.

33. Resolution 2010-22 states that the NOPC is consistent with the County Plan. See Joint Ex. 10. At hearing, evidence regarding FLUE Policies 13.1, 13.2, 13.3, and 13.5 was offered by Petitioners' expert, Kenneth B. Metcalf. Although compatibility is not defined in the Plan, he opined that the FLUE, and especially the foregoing policies, are the Plan

provisions that focus on compatibility, and that to the extent these provisions are applicable to the proposed changes, the NOPC revisions are not inconsistent with these provisions or the FLUE. This testimony was undisputed.

34. Highway A1A is a north-south route that runs along the western boundary of the DRI. It has received a scenic highway designation by both the State and federal governments and is more commonly known as the A1A Scenic Highway (Scenic Highway). It includes not only A1A, but also the public roads that run from A1A through the DRI to the beach, including 16th Road and the park at its terminus at the beach next to proposed Cluster 35. The 16th Road park is superior to the other beachfront parks in the County. Also, 16th Road serves as the entryway to the beach from A1A and is the beach access road most heavily used by residents of the communities surrounding the DRI. The County has expended more planning attention and funding to the 16th Road entryway to the beach than any other beach access road in the County. To obtain state and federal designation of the roadway as a scenic highway, the County was required to complete a scenic highway corridor management plan to ensure its protection. Also, the County has adopted protective measures regarding the Scenic Highway as part of the Recreation and Open Space Element of the Plan.

35. The County and Intervenor contend that the NOPC is inconsistent with objective 3 and policies 3-3 and 3-6 of the Recreation and Open Space Element of the Plan. Objective 3 requires the County to preserve and enhance "[t]he natural, recreational, archeological, scenic, historical and cultural resources of the A1A Scenic Highway." Policy 3-3 requires the County to "support the River and Sea Scenic Highway Corridor Management Plan," while policy 3-6 requires the County to "improve recreational facilities without adversely impacting natural resources along the Scenic Corridor."

36. The management plan for the Scenic Highway emphasizes "context sensitive design" for development occurring within the corridor. This means that whatever is built around the corridor should fit in or blend with the location where it is proposed. The mass and scale of development that is authorized under the NOPC will dwarf the 16th Road park and marginalize the public beach access. Also, those persons occupying the new dwelling units in Cluster 35 (up to 561 units) will be concentrated directly at the intersection of the beach and the park. These impacts, whether collectively or singularly, would change the pristine, rural character of the beachfront and park at 16th Road, which continues to exist despite the development in the DRI to date. Therefore, the revisions conflict with the

corridor management plan and are inconsistent with the requirement in policy 3-3 that the County support that plan.

37. Policy 3-6 requires that the County "improve recreational facilities without adversely impacting natural resources along the Scenic Corridor." When the DRI was originally approved in 1984, there were 20 dune cuts distributed across the five miles of beach bordering the DRI, which provided direct access to the beach. The DO required all but four to be restored, i.e., filled and stabilized, with each remaining dune cut providing access to one of the four public parks on the beach. One of the remaining dune cuts is at the 16th Road park, which is adjacent to proposed Cluster 35. Besides the adverse impacts caused by the mass and scale of development adjacent to that public park, the NOPC allows Petitioners to relocate 16th Road and the 16th Road park facilities further south. The dune cut at 16th Road would have to be abandoned as an access point to the beach. This would require the construction of a dune walkover, relocation of restroom facilities, and relocating public parking further from the beach. Collectively, the impacts to natural resources and recreational facilities conflict with objective 3, which requires the County to preserve the natural and recreational resources of the Scenic Highway. The revisions also contravene policy 3-6, which requires the

County to improve recreational facilities without adversely affecting natural resources along the Scenic Corridor.

38. For the reasons stated above, the NOPC is inconsistent with objective 3 and policies 3-3 and 3-6 of the Recreation and Open Space Element of the Plan and in these respects is inconsistent with the County Plan.

c. Land Development Regulations

39. Sections 3.04.02.F.1. and 2. require that in order to approve a PUD reclassification application such as the one submitted by Petitioners the following criteria must be met:

1. The proposed PUD does not affect adversely the orderly development of Flagler County and complies with the comprehensive plan adopted by the Flagler County Board of County Commissioners.

2. The proposed PUD will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood.

40. In making the following findings regarding the impact of the NOPC on residents, adjacent properties, and the general neighborhood, the undersigned has relied upon the testimony presented to the Board and evidence submitted at the DOAH hearing. See Joint Ex. 9.

41. The proposed new development is immediately adjacent to the beach and a public park, and it will eliminate the intended buffer between other DRI development and the ocean for

which the golf course now serves. While the DRI is not fully built out, it is 26 years old and is substantially developed and platted. At this stage of development in the DRI, the residents of the area and the County have the right to rely on the stability of the Master Development Plan. Substantial changes to the Master Development Plan such as those proposed here will likely cause adverse impacts to residents owning property in the DRI and to the community as a whole. The present Lodge building, while 77 feet high, is configured with its narrowest end facing the beach, minimizing any visual impact to the public using the beach and unit owners looking out to the ocean. This building orientation also minimizes shadowing of the beach adjacent to the site. The Lodge building blends into the area where it is located and by appearance is no more intensive than a single-family beachfront home found in other parts of the County.

42. By contrast, the scale and intensity of development permitted by the NOPC will obstruct or eliminate ocean views of property owners, principally in Cluster 33 behind the golf course where several condominium buildings are now located. The evidence shows that these unit owners with an obstructed view can also expect a substantial loss (around 45 percent) in value of their properties.

43. Likewise, the relocation of the existing access to the public beach and relocation of the public park will adversely impact the public since they will no longer have the ease of access to the beach and use of facilities the current park and beach access provide.

44. Finally, the rural character of the beach area would be lost, and the new development would not be compatible with the adjacent residential areas. While Petitioners suggest that Cluster 35 will be compatible with adjacent areas because the land uses (residential) are the same, compatibility is better defined as whether two land uses can co-exist over time without one having an adverse effect on the other. Given the mass and scale of development that can occur in the buffer area (golf course) between the ocean and the other DRI development, the new Cluster will have an adverse effect on adjacent Clusters. As such, the NOPC will not be compatible with adjacent land uses.

45. Collectively, these considerations support a finding that the proposed development will adversely affect the orderly development of the County, and it will be detrimental to the use of adjacent properties and the general neighborhood.

d. Compliance with Section 14.5 and the Golf Course Plat

46. The County and Intervenors contend that the reallocation of 561 residential dwelling units to the new

Cluster 35 with an assignment of the "Ocean Recreation Hotel" community type is not a land use permitted by section 14.5 of the DO, this conflicts with the plat and deed restrictions recorded to enforce its terms, and section 14.5 must be amended before the NOPC can be approved. The essence of the argument is that Petitioners have no vested right to develop that portion of the DRI in this manner. Section 14.5 provides that:

Land identified for golf course usage on the Master Development Plan map . . . shall be deed and plat restricted to ensure that the usage of this land is limited to golf courses (including associated or appropriate golf club facilities), open space, parks or, if approved by the County Commission, other appropriate recreational usages. . . .

Joint Ex. 1, Attachment A, p. A-36. This provision in the DO has never been amended.

47. Because the final configuration of the two proposed golf courses (Hammock Dunes Course and Ocean Hammock Course) was not known at the time, section 14.5 further provided that:

Applicant at the time of platting shall identify the specific acreage for golf course use. The plat shall show the boundaries and configurations for golf course use. The plat shall show the boundaries and configuration of the golf courses. The plat and all deeds of land within the area so identified as golf course usage on the plat shall contain restrictions limiting the usage of the property platted to golf courses (including appropriate associated golf club facilities), open space, parks or, if approved by the County

Commission, other appropriate recreational or governmental usages.

48. As noted earlier, the 1998 NOPC amendment granted the developer's request for the County to convey back to the developer 33 acres of property originally designated for the 16th Road public park. In exchange, the developer conveyed two parcels within the DRI to the County, one of which expanded the size of an oceanfront park on Malacompra Road, while maintaining a smaller oceanfront park, with improvements, at 16th Road. The exchange was made so that the developer could increase the amount of oceanfront acreage available to the developer for the design and construction of the Ocean Hammock Golf Course and golf clubhouse. As noted above, one of the primary purposes of the exchange was that the golf course would serve as a buffer between the other development and the ocean.

49. Consistent with the intent of section 14.5, Lowe, one of the successor developers to Admiral, submitted the Plat for the Ocean Hammock Golf Course, which was approved by the County on November 1, 2001. On December 10, 2001, the County and Lowe executed a Plat Addendum covering the land described in the golf course plat. See Respondent Exhibit 10. Section 6 of the Addendum states that:

The parcels shown hereon will be perpetually used as golf course land, lake, clubhouse, appropriate associated golf course

facilities, open space, parks, dune preservation or such other appropriate recreational or governmental usages approved by the Board of County Commissioners.
(Emphasis added)

50. When read in conjunction with the recorded Plat, Plat Addendum, and deed restrictions running with the golf course assumed by Petitioners when they obtained ownership of the golf course in 2006, section 14.5 strictly limits the uses allowable on the lands within the Ocean Hammock Golf Course Plat to a golf course, associated golf course facilities, open space, or upon approval by the Board, other appropriate recreational uses. The most reasonable interpretation of those documents, as further explained by testimony at hearing, is that Petitioners' proposal to reallocate up to 561 dwelling units to the proposed Cluster 35 within the golf course land and assign the "Ocean Recreation Hotel" community type to that Cluster, is not a use permitted by section 14.5.

51. Petitioners contend, however, that despite their inclusion in the golf course plat, the various uses occurring on the Lodge property (e.g., a 20-unit lodge, swimming pool, parking lot, and landscaping) were never intended to be limited to use by golfers, and that other development can be approved by the County on land not devoted exclusively to the golf course. However, the County has always interpreted section 14.5, the

Plat, and the Plat Addendum to mean that the golf course land will remain a golf course in perpetuity and cannot be developed for residential purposes. Notwithstanding contrary evidence presented by Petitioners, the County's interpretation of those documents has been credited as being the most persuasive. Given these considerations, Petitioners have no vested right under the current DO to develop the 12 acres for residential purposes and must request an amendment to section 14.5 in order to authorize another form of development. For this reason, the NOPC should be denied.

F. The Legislature Extension of the DRI Expiration Date

52. Section 380.06(19)(c), adopted in 2007, provides that the expiration dates for DRIs under active development on July 1, 2007, were extended for three years, regardless of any prior extension. Based on this provision, by operation of law, the expiration date for the instant DRI, February 28, 2009, was extended by three years to February 28, 2012.

53. Section 14 of chapter 2009-96, Laws of Florida, extended the expiration date of DRIs then having an expiration date of September 1, 2008, through January 1, 2012, by two additional years. Similarly, section 46 of chapter 2010-147, Laws of Florida, also extended the expiration date for DRIs then having an expiration date of September 1, 2008, through

January 1, 2012, again by two additional years. The extensions for DRIs provided in those provisions do not apply to the instant DRI, because the expiration date for the instant DRI does not fall within the September 1, 2008, through January 1, 2012, time period. Thus, the expiration date for the instant DRI is February 28, 2012.

54. Although Admiral did not consent to Petitioners filing the NOPC request, the mutual obligations of Petitioners and Admiral created under the various contracts associated with Admiral's guaranty, and their impact on Petitioners' ability to file the application, are matters to be resolved in the appropriate circuit court.

G. Equitable Estoppel

55. Intervenors claim their members relied on a marketing video that asserted, among other things, that no more oceanfront condominiums would be built within Hammock Beach, and that Petitioners are equitably estopped from developing any buildings on proposed Cluster 35. A review of the standard condominium purchase contracts used in the DRI shows, however, that the purchasers clearly acknowledged that they could not, and did not, rely on oral representations or representations contained in marketing materials.

H. Other Issues

56. All other issues raised by the parties have been considered and are either rejected or found to be matters that need not be addressed in order to resolve this dispute.

CONCLUSIONS OF LAW

57. The parties have stipulated to the facts necessary to establish that Admiral and Intervenors have standing to participate as parties in this proceeding.

58. This is a de novo proceeding regarding Petitioners' NOPC application, not an appellate review of the action taken by the Board. Transgulf Pipeline Co. v. Gadsden Cnty., 438 So. 2d 876, 879 (Fla. 1st DCA 1983). However, the record of the proceeding below was received in evidence and has been considered by the undersigned in making a decision.

59. As the party challenging the DO, Petitioners have the burden of proving that the NOPC should be approved. See, e.g., Young v. Dep't of Community Affairs, 625 So. 2d 831, 835 (Fla. 1993). Specifically, Petitioners must show by a preponderance of the evidence that the proposed revisions to the DO are not a substantial deviation causing additional regional impacts and requiring further review; and that the revisions are consistent with the applicable provisions of the Plan and LDC and are not incompatible with surrounding development. Finally, Petitioners

are only vested with what was approved in the original DO and previously approved modifications and have no development rights beyond what is approved in those documents. Bay Point Club, Inc. v. Bay Cnty., 890 So. 2d 256, 259 (Fla. 1st DCA 2004).

60. For the reasons previously found, the process and criteria used by the County are reasonable and appropriate and should be used in reviewing the NOPC.

61. The evidence supports a conclusion that the NOPC is not a substantial deviation, as defined by section 380.06(19).

62. For the reasons previously found, the evidence supports a conclusion that the NOPC revisions are not consistent with objective 3 and policies 3-3 and 3-6 of the Recreation and Open Space Element of the Plan. Therefore, the NOPC does not satisfy the requirement in section 163.3194(1)(a) that the DO is consistent with the local comprehensive plan.

63. For the reasons previously found, the evidence supports a conclusion that the NOPC does not satisfy relevant portions of the LDC.

64. For the reasons previously found, the evidence supports a conclusion that Petitioners have no vested right, either in the original DO, or subsequent amendments, to place up to 561 dwelling units on land now subject to restrictions that limit the usage of the property to golf courses and other uses

associated with golf club facilities, open space, parks, or recreational facilities if approved by the Board. Absent the amendment of section 14.5 of the DO, the proposed uses and development are barred by that provision.

65. Finally, the extension of the DO expiration date until February 28, 2012, is the result of a legislative act. Whether Admiral's obligations under the DO are extended to the new expiration date is a matter that should be resolved in the appropriate circuit court.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Florida Land and Water Adjudicatory Commission enter a final order determining that the NOPC is not a substantial deviation; extending the expiration of the DO to February 28, 2012, by virtue of legislative action in 2007; approving the reduction in residential units from 4,400 to 3,800; determining that the proposed revisions in the NOPC to create a new Cluster 35 and transfer 561 dwelling units to that Cluster are inconsistent with one objective and two policies of the County Comprehensive Plan; determining that the new Master Development Plan (which creates a new Cluster 35 and transfers 541 units) is inconsistent with criteria in LDC sections

03.02.04.F.1. and 2.; and determining that Petitioners have no vested right to construct up to 561 dwelling units on 12 acres of land located in the Ocean Hammock Golf Course that is now platted and restricted in perpetuity for golf course purposes only.

DONE AND ENTERED this 6th day of April, 2011, in Tallahassee, Leon County, Florida.



D. R. ALEXANDER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 6th day of April, 2011.

ENDNOTE

1/ The exhibits offered by Admiral did not correlate in all respects with the exhibit numbers used in the parties' stipulation or the exhibit list in the Admiral exhibit binder. For ease of reference, Admiral Exhibits 1-5 correlate to the exhibits under tabs 1-5 in its exhibit binder; Admiral Exhibits 6A-6D are special warranty deeds not listed in the exhibit binder; the exhibit found under tab 6 in the exhibit binder has been renumbered Admiral Exhibit 7; and the exhibit found under tab 8 in the exhibit binder has been renumbered as Admiral Exhibit 11.

COPIES FURNISHED:

Jerry McDaniel, Director
Florida Land and Water
Adjudicatory Commission
Office of the Governor
The Capitol, Room 1802
Tallahassee, Florida 32399-1001

Barbara Leighty, Clerk
Transportation and Economic
Development Policy Unit
The Capitol, Room 1801
Tallahassee, Florida 32399-0001

Charles M. Trippi, Jr., General Counsel
Office of the Governor
The Capitol, Room 209
Tallahassee, Florida 32399-0001

Carly A. Hermanson, Esquire
Office of the Governor
The Capitol, Room 209
Tallahassee, Florida 32399-0001

Deborah A. Kearney, General Counsel
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Scott A. Glass, Esquire
Shutts & Bowen, LLP
300 South Orange Avenue, Suite 1000
Orlando, Florida 32301-3373

Wayne E. Flowers, Esquire
Lewis, Longman & Walker, P.A.
245 Riverside Avenue, Suite 150
Jacksonville, Florida 32202-4924

Isabelle C. Lopez, Esquire
Quintaros, Prieto, Wood & Boyer, P.A.
One Independent Drive, Suite 1650
Jacksonville, Florida 32202-5019

Albert J. Hadeed, Esquire
Flagler County Attorney
1769 East Moody Boulevard, Suite 303
Bunnell, Florida 32110-5992

Ellen Avery-Smith, Esquire
Rogers Towers, P.A.
100 Whetstone Place, Suite 100
St. Augustine, Florida 32086-5775

Michael D. Chiumento, III, Esquire
Chiumento & Guntharp, P.A.
145 City Place, Suite 301
Palm Coast, Florida 32164-2481

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days of the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will render a final order in this matter.

Adam Mengel

From: Jeff Southmayd [wnssfm@aol.com]
Sent: Wednesday, May 21, 2014 3:24 PM
To: Adam Mengel
Subject: RE: Question

Adam;

Can you direct me to the Flager County development Order that is referred to in ALJ Alexander's Order in the Ginn matter? He continually references section 14.5 of the DO.

Thanks.

Jeff Southmayd

**4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.445.9156
888.557.3686 FAX
jdsouthmayd@msn.com**

THIS TRANSMISSION IS INTENDED ONLY FOR THE ADDRESSEE SHOWN ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, OR OTHERWISE PROTECTED FROM DISCLOSURE. IF YOU ARE NOT THE INTENDED RECIPIENT, PLEASE DO NOT READ, COPY, OR USE IT, AND DO NOT DISCLOSE IT TO OTHERS. PLEASE NOTIFY THE SENDER OF THE DELIVERY ERROR BY REPLYING TO THIS MESSAGE AND THEN DELETE IT FROM YOUR SYSTEM. THANK YOU.

From: amengel@flaglercounty.org
To: wnssfm@aol.com
CC: ssherman@flaglercounty.org; ahadeed@flaglercounty.org
Date: Fri, 25 Apr 2014 17:19:15 -0400
Subject: RE: Question

Good afternoon Mr. Southmayd:

Thank you for the inquiry.

A Phase I Environmental Site Assessment should not be necessary since this is a developed site and there is no reasonable assumption of site contamination for contaminants listed in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. §9601) or petroleum products. In this instance and without a presumption of site contamination, completion of a Phase I Environmental Site Assessment is optional, will be at the discretion of the landowner, and even if completed, would not wholly eliminate uncertainty regarding site contamination (i.e., at best, the Phase I helps to reduce uncertainty about contamination). Please advise if there is some justification for a Phase I to be requested.

As for other requirements, many other regulations may apply; for example, construction seaward of the Coastal Construction Control Line (CCCL) would require review and permitting by the Florida Department of Environmental Protection (FDEP). Since the County has not received an application submittal, I do not know if this will be required or not. Approval – likely as a modification to an existing Environmental Resource Permit – by the St. Johns River Water Management District (SJRWMD) will be necessary where additional impervious surfaces are proposed. There are other considerations within our own regulations, like the sea turtle lighting regulations in Sec. 6.05.00. of the Flagler County Land Development Code, where compliance will ultimately be demonstrated through any submittal we receive.

For now, it is difficult to identify what processes will be necessary since no submittal has been made. Upon receipt by the County, the submittal will be routed and generate comments to identify necessary information as part of any RAI as we do for other projects.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 **Go Green:** Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: Sally A. Sherman
Sent: Friday, April 25, 2014 4:46 PM
To: Adam Mengel
Subject: FW: Question

Adam:

Would you please prepare a response to Mr. Southmayd request. Thanks Sally

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]
Sent: Friday, April 25, 2014 3:32 PM
To: Albert J. Hadeed
Cc: Sally A. Sherman
Subject: Re: Question

Albert;

Thank you. I look forward to hearing from her.

JDS

-----Original Message-----

From: Albert J. Hadeed <ahadeed@flaglercounty.org>
To: JEFF SOUTHMAYD-PD <wnssfm@aol.com>
Cc: Sally A. Sherman <ssherman@flaglercounty.org>
Sent: Fri, Apr 25, 2014 10:08 am
Subject: Re: Question

I have to refer your inquiry to Ms Sherman who oversees the Growth Management Department.

Thank you

On Apr 24, 2014, at 11:58 AM, "JEFF SOUTHMAYD-PD" <wnssfm@aol.com> wrote:

Albert;

In order for Salamander to get a permit to tear down the Ocean Hammock Lodge and then build the proposed 200 room hotel at the site, what environmental showings will the county require them to provide? I assume since they will be filing an application to a public agency for a change of use or other discretionary land use permit that a Phase 1 environmental impact study will be required? Is that correct? Will they have to provide anything else since it sits on the beach?

Thanks.

Jeff Southmayd

WNSS-FM 89.3

4 OCEAN RIDGE BOULEVARD SOUTH

PALM COAST, FLORIDA 32137

386.447-7108 FAX 888-557.3686

WNSSFM@AOL.COM

WEB: WWW.WNSSFM.COM

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

FLAGLER COUNTY RESOLUTION NO. 84-7

RECEIVED

MAR 30 1984

COUNTY ENGINEER
FLAGLER COUNTY, FLA

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, APPROVING THE APPLICATION FOR DEVELOPMENT APPROVAL OF ADMIRAL CORPORATION FOR HAMMOCK DUNES, SUBJECT TO CERTAIN CONDITIONS

WHEREAS, on April 22, 1983, Admiral Corporation, hereinafter referred to as "Applicant", submitted to Flagler County an application for development approval (ADA) for a development of regional impact (DRI) known as "Hammock Dunes", in accordance with Section 380.06, Florida Statutes; and

WHEREAS, on August 3, 1983, Applicant responded to a request from the Northeast Florida Regional Planning Council (RPC) for additional information by filing a supplement to said ADA; and

WHEREAS, Hammock Dunes as proposed in the ADA is a planned community located on approximately 2,258 acres in the unincorporated area of Flagler County, consisting of 6,670 residential units and related commercial, institutional, recreational and other uses; and

WHEREAS, pursuant to Sections 380.031 and 380.06, Florida Statutes, the Board of County Commissioners of Flagler County, (hereinafter referred to as either the Board or the County), as the local government having jurisdiction, is authorized and required by law to consider the Hammock Dunes DRI ADA; and

WHEREAS, the Board has received and reviewed the report and recommendations of the RPC, which recommends approval of the ADA subject to certain conditions; and

WHEREAS, the Board on January 16, 1984, held a public hearing on the ADA at which all parties were afforded the opportunity to present evidence and argument on all issues, conduct cross-examination and submit rebuttal evidence, and any member of the general public requesting to do so was given an opportunity to present written or oral communication; and

WHEREAS, all persons and parties present at the hearing were given fourteen (14) days after the January 16, 1984, public hearing to file written comments and submit further written evidence and no person or group chose to do so; and

WHEREAS, pursuant to Section 380.06, Florida Statutes, public notice of said hearing was duly published in the Flagler/Palm Coast News/Tribune on November 16, 1983, December 14, 1983, and December 28, 1983, and was duly provided to the Florida Department of Community Affairs (DCA), the RPC, and other persons designated by DCA rules; and

WHEREAS, the Board conducted a further public meeting on March 30, 1984 where it fully considered the ADA, the report of the RPC, and the evidence of record presented at the public hearing, and was otherwise fully advised in the premises.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, THAT SAID BOARD MAKES THE FOLLOWING FINDINGS OF FACT:

1. The legal description of the property comprising the proposed Hammock Dunes DRI is set forth on pages 2-6 of the ADA, which is incorporated herein by reference.

2. When developed in accordance with the conditions imposed by this development order, the Hammock Dunes DRI:

(a) will not have a significant negative impact on the environment and natural resources of the region;

(b) will have a favorable economic impact on the economy of the region by providing new employment and business for the residents of the region;

(c) will efficiently use water, sewer, solid waste disposal, public school facilities, and other necessary public facilities;

(d) will efficiently use public transportation facilities;

(e) will favorably affect the ability of people to find adequate housing reasonably accessible to their places of employment; and

(f) will not create an unreasonable additional demand for, or additional use of, energy.

BE IT FURTHER RESOLVED THAT THE BOARD ENTERS THE FOLLOWING CONCLUSIONS OF LAW:

1. The proceedings herein have been conducted in compliance with the provisions of Chapter 380, Florida Statutes; and all conditions precedent to the granting of development approval required by Chapter 380, Florida Statutes, have occurred.

2. The proposed Hammock Dunes DRI is not located in an area of critical state concern designated pursuant to the provisions of Section 380.05, Florida Statutes.

3. The proposed development does not unreasonably interfere with the achievement of the objectives of any adopted state land development plan applicable to the area.

4. The proposed Hammock Dunes DRI, subject to the conditions imposed by this development order, is consistent with the Flagler County Comprehensive Plan, subdivision regulations, and other local land development regulations.

5. The proposed development is in all material aspects consistent with the report and recommendations of the RPC submitted pursuant to Section 380.06(11), Florida Statutes.

6. The ADA for the Hammock Dunes DRI is hereby approved, subject to the general and special conditions of development contained in Attachment A which is made a part hereof by reference.

7. This resolution constitutes the development order pursuant to Section 380.06, Florida Statutes, for the Hammock Dunes DRI. The ADA and supplemental information filed by the Applicant are incorporated herein by reference and the proposed

development shall be carried out substantially in conformance with the ADA, as amended by the revised maps dated January 14, 1984, and filed as Exhibits 9-12 at the January 16, 1984, hearing, except to the extent that the ADA as revised is inconsistent with the other terms and conditions of this development order. The ADA is amended by any inconsistent terms of this resolution and the attachments incorporated by reference.

8. The County Engineer is designated as the local official responsible for receiving and monitoring the annual reports. The procedures for review of Planned Unit Developments under Article X of the Flagler County Development and Subdivision Regulations incorporated by reference in Section 17 of Attachment A to this development order shall be followed to facilitate such compliance monitoring by the County Engineer. The provisions of Section 380.06(15), Florida Statutes as amended, shall apply to this development order. Section 380.06(15), Florida Statutes currently provides:

"The local government issuing the development order is primarily responsible for monitoring the development order. Local governments shall not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order."

9. This development order shall take effect upon adoption and shall remain in effect for the duration of the development as described in the ADA. The effectiveness of this development order may be extended by the Board upon a showing by Applicant or excusable delay and a showing that the completed portions of the development substantially comply with the conditions of this development order. The period of effectiveness of this development order shall be tolled during any period of time during which there is any building permit moratorium affecting the property within the Hammock Dunes DRI boundary imposed by Flagler County or other governmental agency having authority to do so.

10. Unless otherwise specifically provided in Attachment A, any changes proposed by the Applicant to the ADA, as amended herein, which exceed the limits established in Section 380.06

(17) (b), Florida Statutes, which limits are presumed not to be substantial deviations, shall be submitted to the Board for a determination if such change constitutes a substantial deviation and, therefore, requiring further review pursuant to Section 380.06, Florida Statutes.

11. Pursuant to Section 380.06(16), Florida Statutes, Applicant shall provide an annual report relating to its activities to the County Engineer, the RPC, the DCA, the Florida Department of Environmental Regulation, and the St. Johns River Water Management District on July 31 of each year during the term of this development order, commencing on July 31, 1985. The annual report shall contain the following information:

(a) Total amount of square footage of buildings by land use type constructed during the preceding 12 months and estimated for the ensuing 12 month period.

(b) Total amount of square footage of buildings by land use type approved in construction contracts during the preceding 12 months and estimated for the ensuing 12 month period.

(c) Summary of Applicant's public facility improvements completed within the project boundaries during the preceding 12 months and estimated for the ensuing 12 month period.

(d) Beginning with completion of the Intracoastal Bridge, traffic counts, direction splits, turning movement counts and measurements counts and measurements of carbon monoxide concentration during the summer months of June through September for the Intracoastal Bridge/A1A Interchange.

(e) Total number of school children from Hammock Dunes enrolled in Flagler County schools, by grade, based on School Board records.

(f) The energy conservation measures, as stated in the energy-related conditions to the development order, which have been implemented during the preceding 12 months.

(g) Traffic reports shall be submitted to the Florida Department of Transportation (FDOT) district office in Deland as well as to the County and the RPC. The first traffic report shall be due two years after the commencement of the development and shall be provided annually for 20 years or until project buildout, whichever is later, unless otherwise specified by the RPC. The timing of recommended traffic improvements will be

based on the information contained in the monitoring reports.

The following information shall be included:

(1) A description of current development by land use type, location, number of housing units, and commercial square footage, along with the proposed construction schedule for the ensuing 12 month period and appropriate maps.

(2) Traffic counts, turning movements and levels of service, actual for past 12 months and projected for ensuing 12 months, for:

- SR A1A and Malacompra Road
- All Hammock Dunes internal road system intersections with external public roadways
- Intracoastal Waterway Bridge
- Intersection of the Intracoastal Waterway Bridge ramp system with SR A1A
- Palm Harbor Parkway and Palm Coast Parkway/St. Joe Grade

A map displaying the above information shall be provided.

NOTE: Actual traffic counts shall be used where possible. If actual FDOT counts are not available for a particular road, the Applicant shall retain, at its expense, an FDOT-approved traffic engineering firm to collect the necessary counts based on FDOT standards.

(3) A discussion of actual and projected traffic volumes in terms of the percentage relationship of Hammock Dunes traffic, non-project traffic using public roads and intersections of the internal road system with external public roads. The methodology used to project future traffic and to determine traffic percentages shall be described.

(4) A description of new and/or improved roadways, traffic control devices or other transportation facility improvements to be constructed or provided by the applicant or

governmental entity to adequately accommodate the total existing and anticipated traffic demands.

(5) A schedule for implementing the traffic improvements described in (4) above.

(h) Measures taken to safeguard the Gopher Tortoise and Eastern Indigo Snake, including relocation sites.

(i) Measures taken to safeguard the Manatee, both during the construction and operation phases of the marina.

(j) Measures taken to protect or relocate the other rare, threatened or endangered vegetative or wildlife species, or species of special concern.

(k) Measurement of dissolved organic nitrogen and phosphate within the drainage (lake) system.

(l) Measurement of dissolved organic nitrogen and phosphate in ground water as sampled near the site perimeter.

(m) Measurements from shallow monitoring wells using the criteria for Class G-I and Class G-II Ground Water as set forth in F.A.C. Chapter 17-3.404; the primary and secondary drinking water standards for public water systems as listed in Section 17-22.104, F.A.C., nutrients, oil and grease, and EDBs.

(n) A copy of any notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Applicant pursuant to Section 380.06(14)(d), Florida Statutes, and Paragraph 15 of this development order.

12. Definitions contained in Chapter 380, Florida Statutes, shall control in the construction of this development order. The developer Admiral corporation is referred to as the Applicant throughout this development order.

13. The obligations of this development order shall run with the land. Admiral Corporation, ITT Land and CDC are the present owners of the property which is the subject of this ADA.

Each of these corporations is bound by the terms of this development order so long as it owns such property. This development order shall be binding upon and inure to the benefit of the Applicant and its assignees or successors in interest. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this development order. If the County is a party in any judicial or administrative proceeding to enforce this development order, the Applicant or its successors shall pay the County, if the County prevails and the action is determined not to be frivolous, its reasonable attorney fees and costs of such action. Nothing contained herein shall preclude the Applicant from recovering its or the County's attorneys fees and costs from other parties when authorized by law or contract.

Notwithstanding any other provisions of paragraph 13, the Applicant shall have an ongoing responsibility as provided in Attachment A for the capital facility construction set forth in Section 3, and for the requirements set forth in Sections 9 and 11. The Applicant shall provide financial assurances to the County in the amount of \$3 million in the form of sureties, letters of credit, compensating balances, or other financial guarantees acceptable to the County guaranteeing compliance with this development order. The amount of the financial assurances provided herein shall be increased bi-annually to recognize any increases in the Federal Cost of Living Index. The form of the financial assurances shall be approved by the County.

The Applicant's obligation to provide financial assurances as set forth in this sub-paragraph shall be terminated as follows:

(a) the financial assurances shall be reduced by 1/3 in the event a central potable water supply becomes available to residents of the Hammock area;

(b) the financial assurances shall be reduced by 1/3 when the second bridge is completed as provided for in Section 4.1.b and 4.1.c of this development order; and

(c) all remaining financial assurances shall be terminated at the completion of all other obligations of the Applicant as described in this development order.

14. In the event that any portion or section of this development order is determined to be invalid by a court of competent jurisdiction, the remaining portions or sections of this development order shall remain in full force and effect.

15. Notice of the adoption of this resolution and a certified copy of this resolution shall be recorded by the Applicant in accordance with Section 380.06(14)(d), Florida Statutes.

16. The County Clerk shall transmit a certified copy of this development order by certified mail to the DCA, the RPC, and the Applicant.

PASSED AND ADOPTED this 30 day of MARCH 1984,
1984.

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

BY Thomas W. Ruzance

ATTEST:

BY Cheryl Dukes

APPROVED AS TO FORM:

By _____

ATTACHMENT A

Table of Contents

- 1.0 GENERAL CONDITIONS
- 2.0 EDUCATION
- 3.0 ECONOMY AND INFRASTRUCTURE
- 4.0 TRANSPORTATION
- 5.0 MARINA
- 6.0 LAND RESOURCES/DUNES
- 7.0 WETLANDS
- 8.0 WATER RESOURCES (SURFACE/GROUND)
- 9.0 VEGETATION AND WILDLIFE
- 10.0 HISTORICAL AND ARCHEOLOGICAL SITES
- 11.0 WATER SUPPLY
- 12.0 PUBLIC SAFETY
- 13.0 ENERGY
- 14.0 RECREATION AND OPEN SPACE
- 15.0 RESIDENTIAL RECREATION
- 16.0 OCEAN ESTATES COMMUNITY AND JOHNSON BEACH SUBDIVISION
- 17.0 DENSITY, BUILDING SPACING, LAND USE CLASSIFICATION,
AND OTHER DEVELOPMENT REQUIREMENTS

GENERAL AND SPECIAL CONDITIONS OF DEVELOPMENT

The following are the General Conditions for development of the Hammock Dunes Development of Regional Impact:

1.0 GENERAL CONDITIONS

1.1 The Hammock Dunes ADA as accepted June 7, 1983, and Sufficiency Response submitted August 3, 1983, and the commitments therein plus letters and information submitted by the Applicant on May 26 and 27; September 13; October 5; November 7 and 9 are made a part of the development order.

1.2 This development shall be subject to further Chapter 380 review in the event significant physical development, as determined by the County Engineer, has not commenced within three years of when this development order becomes final; provided this time period shall be tolled during the pendency of any judicial or administrative review of this development order or permits necessary thereto.

2.0 SCHOOL COMMITMENTS

- 2.1 To mitigate capital outlay expenditures required of the Flagler County School Board and to aid in providing convenient additional facilities and unique educational opportunities for the school age residents of Flagler County, including those of Hammock Dunes, the Applicant shall convey to the School Board at no charge:
- a. A fifteen (15) acre school site to be located at the Transportation Distribution Services (the TDS site);
 - b. A twenty (20) acre school and Intracoastal Waterway experience site to be located at the north end of Bon Terra/Harbor Village (the Bon Terra site); and
 - c. A five (5) acre oceanfront natural experience site to be located immediately south of the end of Malacompra Road (the oceanfront site). This unimproved site shall include 450 feet of ocean frontage.
- 2.2 The Applicant shall prepare the Bon Terra site for construction of a school facility including appropriate clearing, removal of unsuitable soils, filling, grading, and drainage as required

by the applicable codes, and the Applicant shall obtain any permits to satisfy the above requirements. The Applicant shall prepare the site and extend water and sewer lines at no cost to the School Board to the property lines of the TDS and Bon Terra sites within six months of the date the School Board receives approval of the particular school site from the Florida Department of Education. The Applicant shall have no other construction or service obligations with regard to the three sites described in paragraphs 2.1.a. - 2.1.c. above.

The Applicant has the right to fill and otherwise prepare the Bon Terra site for a school facility at any time prior to when the School Board commences construction of a school facility on this site.

- 2.3 The Applicant shall convey the three sites described in paragraphs 2.1.a. - 2.1.c. above by an unrestricted general warranty deed within sixty (60) days after the development order becomes final. Appropriate agreements separate from the deed shall give the Applicant a right of first refusal in the event of the sale of any of the sites to a non-governmental person or entity. Any such sale and the right of first refusal shall be subject to and exercisable only upon compliance with the valuation

and appraisal principles of Rule 6A-2.28, as amended, of the Florida Administrative Code. Applicant shall furnish the School Board with appropriate surveys of the sites prior to the delivery of the deeds. None of these sites described in paragraphs 2.1.a - 2.1.c above shall be offered for sale by the School Board to any non-governmental person or entity prior to completion of 3,000 dwelling units or 12 years from the date the development order becomes final, whichever is sooner.

- 2.4 Appropriate agreements shall allow the Applicant to continue to use the TDS buildings and parking areas at no cost for no more than 36 months after the date the Flagler County Commission issues the development order, unless such usage is otherwise extended by the School Board and the Applicant. The Applicant shall be responsible for maintenance and repairs to the buildings and property being used. The Applicant shall execute a hold harmless and indemnity agreement in favor of the School Board against any and all claims, actions, suits, judgments, damages, injuries, attorneys fees, and costs arising out of the Applicant's use of the TDS property. The Applicant shall carry and pay for insurance policies to cover general liability,

property damage, fire, flood, windstorm, and insurance covering any other peril that is normally carried on School Board property. The Applicant shall name the School Board as a co-insured on all of the policies and provide the School Board a certificate of insurance as co-insured in amounts and policy limits approved by the School Board. The agreement shall provide for allocation of insurance proceeds which is acceptable to the School Board and shall relieve the School Board of any obligation to rebuild or repair in the event of substantial destruction of any portion of the TDS site. The agreement shall provide that in the event of substantial destruction preventing use of the TDS building and property the School Board shall receive the proceeds of any insurance covering damage to property owned by the School Board.

3.1 The approval by the County of this development order is based on the fact that the project will be served by certain capital facilities. These capital facilities are:

- surface water management system
- internal potable water distribution and fire hydrant system
- wastewater collection, treatment and disposal systems
- major north/south arterial roads (main road network)
- an on-site public safety complex including a fire and police station
- on-site fire, police, emergency medical and secondary security equipment including vehicles and apparatus
- Intracoastal Waterway Bridge

3.2 The County has determined that it would prefer that the ownership, operation and maintenance of the above-listed capital facilities be provided through an independent special district. The County has further determined that, as presently authorized by Chapter 190, Florida Statutes, a Community Development District (CDD) is not such

an appropriate independent special district because of the overbroad powers granted to CDDs by state law.

It is the County's preference that Chapter 190 be amended so as to narrow the statutory powers granted to CDDs so that the County may support the creation of such an independent special district for this project. The Applicant is willing to seek such statutory amendments during the 1984 and subsequent regular legislative sessions.

3.3 In order to avoid unduly delaying the approval of this project and to assure that its approval is consistent with the Flagler County Comprehensive Plan and the Regional Planning Council's report and recommendations, the County finds that this project's capital facility needs will be satisfied by the following:

- a. The Applicant shall construct or convey at its own financial responsibility the following capital facilities, at no cost to the County:
 - a surface water management system
 - major north/south arterial roads

- the public safety complex as described in Condition 12.3
- the on-site fire, police, emergency medical and security equipment, including vehicles and apparatus, as described in Condition 12.4

b. It shall be the Applicant's own financial responsibility to construct, or cause to be constructed through a governmental entity, acceptable to the County, the following capital facilities to serve the dwelling units as they are constructed within a phase:

- internal potable water distribution and fire hydrant system
- wastewater collection, treatment, and disposal system.

In the event the Applicant constructs the capital facilities in paragraph 3.3.b, the Applicant may recover its capital costs through user contributions in aid of construction and/or user rates. If, after construction of the capital facilities listed in this subsection, there is created an appropriate governmental entity approved by the Flagler County Commission for the maintenance and

operation of these facilities, the Applicant shall transfer its ownership, operation, and maintenance responsibilities to that entity. The selling price would be the original cost of the system less net contributions-in-aid-of-construction (CIAC) (after accumulated amortization), less accumulated depreciation, less debt which is assumed by the purchaser.

- c. The Intracoastal Waterway Bridge (first two lanes) shall be constructed by the Applicant or the Applicant shall cause it to be constructed by a governmental entity acceptable to the County. The Applicant proposes that one-half of the Intracoastal Waterway Bridge shall be financed through Applicant-imposed impact fees levied against each dwelling unit equivalent at the time of the unit's construction and the other one-half of the bridge costs be financed through user tolls. The County does not object to the Applicant using this proposed financing as a method of satisfying its financial responsibility for this bridge. The Applicant, in cooperation with the County, shall make a good faith effort to seek acceptance of the responsibility to own, operate, and maintain the Intracoastal Waterway Bridge or bridges by the Florida Department of Transportation.

5/17
6/1/77
Zachary

3.4 In each instance where the Applicant is responsible for the ongoing maintenance of the capital facilities described in this section, the Applicant may transfer any and all of its responsibilities to improve and maintain such capital facilities to an appropriate private or governmental entity, acceptable to the County, which has been created to perform such responsibilities. If an appropriate governmental entity is created by the County or by other authorized means, the Applicant shall transfer the responsibility for operation and maintenance to that governmental entity, subject to the financial arrangements described in Section 3.3.b. and to the repayment of any outstanding indebtedness for the bridge for which user tolls are pledged to guarantee such repayment.

4.0 TRANSPORTATION

4.1 Intracoastal Waterway Bridge (ICWW)

- a. During Phase I, the Applicant shall construct, or cause to be constructed at no expense to Flagler County, the proposed two-lane Intracoastal Waterway Bridge and its ramp system as approved by the Florida Department of Transportation. Bridge construction shall begin no later than the commencement of dwelling unit construction and shall be completed not later than two years after the commencement of dwelling unit construction.

- b. When the Florida Department of Transportation and Flagler County determine that Level of Service "C" as that term is defined in the Federal Highway Capacity Manual of the Federal Highway Administration, as amended from time to time, has been met on the Intracoastal Waterway Bridge, the Applicant shall construct, or cause to be constructed at no expense to Flagler County, two additional through lanes of the bridge along with the necessary improvements to its ramp system. All improvements shall be approved by and constructed within the time frame established by the Florida Department of Transportation and Flagler County. Three years before Level of Service "C" is predicted to be reached on the first bridge, the Applicant shall commence necessary design activities and shall apply for the necessary construction permits for the second bridge. In the event the bridge is owned and operated by a district or the Florida Department of Transportation, the Applicant's duties to seek such permits may be performed by the district or the Department.
- c. The Applicant proposes that all or part of the cost of the bridge construction referred to in 4.1.b. above and all of the maintenance costs of both

bridges may be paid for through user tolls. The County does not object to the Applicant using this proposed financing as a method of satisfying its financial responsibility for this bridge. If the tolls from the first bridge exceed the cost of operation and maintenance, the operating entity of the bridge shall accumulate such excess funds and the interest thereon and apply them towards the construction costs of the second bridge.

If the second Intracoastal Waterway Bridge is not constructed within a reasonable time as provided by Section 4.1.b., such failure to construct shall be presumed to be a substantial deviation from this development order.

4.2 State Road 1A

- a. The Applicant shall construct concurrently with the first Intracoastal Waterway bridge:
 - an acceleration/deceleration lane on the east side of SR 1A at its intersection with the Intracoastal Waterway Bridge on and off ramp;
 - a left turn lane for southbound traffic on SR 1A at its intersection with the Intracoastal Waterway Bridge on and off ramp; and
 - a left turn lane on the Intracoastal Waterway Bridge on and off ramp at its intersection with SR 1A.
- b. The Applicant shall construct acceleration/deceleration and left turn lanes on SR 1A at all

intersections with the project's internal road system. Signalization shall be provided when warranted as determined by the Florida Department of Transportation's review of annual traffic reports. Capital cost of signalization shall be at the Applicant's expense.

- c. Upon determination by the Florida Department of Transportation that improvements are warranted on SR A1A, the Applicant shall be required to pay its proportionate share of the road improvement costs. The Florida Department of Transportation will review the annual traffic reports prior to making its determination. The Applicant shall escrow its share of the road improvement costs with the appropriate agency prior to proceeding to the next development phase. The Applicant's proportionate share (as determined by Florida Department of Transportation) shall be based on the percentage of Hammock Dunes' generated traffic using SR A1A. Flagler County will not pay any portion of these improvement costs.

4.3 Malacompra Road

Upon determination by Flagler County that improvements are warranted on Malacompra Road from A1A to its eastern terminus at the park entrance, the

Applicant shall be required to pay its proportionate share of the road improvement costs. The County will review the annual traffic reports prior to making its determination. The Applicant shall escrow its share of the road improvement costs with the appropriate agency prior to proceeding to the next development phase. The Applicant's proportionate share shall be based on the percentage of Hammock Dunes' generated traffic using Malacompra Road.

4.4 16th and Jungle Hut Roads

The Applicant shall upgrade these two facilities from SR A1A to their eastern termini at the entrance to the parks to meet current County road standards per Flagler County Development and Subdivision Regulations and shall construct the necessary improvements at the roads' intersections with SR A1A upon the completion of the Intracoastal Waterway Bridge. Once these roads have been improved to County road standards, the County shall be responsible for maintaining them.

4.5 In the event that carbon monoxide levels exceed the EPA/DER eight (8) low standard for carbon monoxide pollution, the Applicant shall be required

to improve the bridge interchange at AlA
(construct the next phase improvement) within
one year from the time of the filing of the
annual monitoring report.

4.6 St. Joe Grade/Palm Coast Parkway

- a. The concerns raised by the RPC relating to the construction of the appropriate additions to the I-95 overpass area are adequately provided for in an agreement between Flagler County and ITT Community Development Corporation dated March 30, 1984.

Except as provided in the March 30, 1984 agreement, the funds for this improvement will be from federal or state funds other than those which would be allocated to Flagler County for road and bridge improvements within the County.

No County funds or funds due to be expended by other agencies on projects within the County will be expended for this improvement.

- b. Upon determination by Flagler County that improvements are warranted at the following intersections, the County should require the Applicant to escrow the proportionate share of the Applicant's and CDC's improvement costs with the appropriate agency. These intersections are:

- St. Joe Grade/Palm Coast Parkway at Belle Terre Boulevard
- St. Joe Grade/Palm Coast Parkway at Old Kings Road
- St. Joe Grade/Palm Coast Parkway at Proposed Bifurcated Road; and
- Belle Terre Boulevard at Proposed Bifurcated Road

NOTE: See ADA maps on pages 31.25, 31.28, and 31.30.

4.7 The Applicant shall four-lane all or any part of the road and bridges located on Palm Harbor Parkway (formerly known as Norman Young Parkway) between Clubhouse Drive and Florida Park Drive when traffic count on these road segments exceeds 10,000 ADT. The Applicant shall commence design and other pre-construction activities for such improvements when traffic count on these road segments reaches 8,000 ADT.

4.8 Internal Road Systems

The Applicant shall construct all internal roadway improvements during the Phase identified in the ADA. These roads may be privately owned and, if so, shall be maintained at no expense to the County.

4.9 Whenever this development order requires the Applicant to construct facilities, the Applicant shall have the right to contract for the construction of these facilities through other

appropriate contractors or agents, including governmental entities. The purpose of this section is to allow the Applicant the convenience of contracting with various agents to do the actual work related to the capital items it is responsible to construct. This section is not intended to relieve the Applicant of any financial responsibility specifically imposed on it by this development order.

5.0 MARINA

- 5.1 At the same time marina permit applications are submitted to DER and the Corps of Engineers, the permit applications shall be sent by the Applicant to the RPC for review and comment to the agencies.
- 5.2 If DER denies the Applicant's request for a marina permit, the County shall determine whether any resulting changes in the development plan constitute a substantial deviation pursuant to F.S. 380.06(17)(a)(b) for the Harbor Village Community. If future review of the marina is determined to be required, such review shall be limited to the regional or local impacts of the Harbor Village Community, and shall not extend to the rest of the development.

- 5.3 The Applicant shall provide boat holding tank pump out facilities, the number and location to be approved by DER.
- 5.4 Final marina development site plans, by phase, shall be submitted to the RPC concurrently with the submission of the site plans to the County. The RPC will review the plans for conformance with the intentions and commitments presented in the ADA and Sufficiency Response.
- 5.5 The Applicant shall institute preventive measures to prevent Manatee mortality associated with construction and operation of the marina.
- 5.6 The excavation to be performed in the marina area shall be done in a manner to maintain the same water level, in the marina excavation, as is in the Intracoastal Waterway.

6.0 LAND RESOURCES/DUNES

- 6.1 The landward toe of the primary dune shall be determined by DNR in consultation with the Applicant and RPC; no excavation or other development shall be allowed on the landward toe of the primary dune that could destroy the integrity of the dune.
- 6.2 The primary dune breaches existing on Hammock Dune property, specifically #4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 (see page D-44 RPC DRI Assessment Report) shall be filled and stabilized with vegetation by the Applicant at the beginning of development, to be completed prior to the end of Phase I. The Applicant shall also restore primary dune breaches located within park sites being donated by it to the County. At the County's request, the Applicant shall pay to the County \$60,000 for the County to use in constructing appropriate motor vehicular dune crossovers at the end of Malacompra Road and at the south beach park site and \$17,000 for pedestrian walkovers at the end of 16th Road and Jungle Hut Road, or other beachfront park-related services. In order to ensure that these funds, which are currently adequate to pay the cost of such crossovers, remain adequate, the \$77,000 shall be increased on January 1 of each year

starting with January 1, 1985 by an amount equal to the one year Certificate of Deposit interest rate being paid by Barnett Bank of Flagler County on the principal and any accumulated interest. The inflation protection provision of this paragraph shall also apply to the \$50,000 provision of paragraph 14.1.f.

- 6.3 Preliminary development plans for areas adjacent to the dunes submitted to the County shall simultaneously be provided to the RPC and shall include the following information regarding protection of the dunes:

3/30/84

A-19a

The following paragraphs address the conditions recommended to be included in the development order by the Northeast Florida Regional Planning Council in its report dated December 1, 1983. These conditions address the regional issues identified by the council.

A. Flagler County Resolution

8, 11 and 13

B. Flagler County Resolution Attachment "A"

1.1, 1.2, 2.1, 2.2, 2.3, 2.4, 3.1, 3.3, 4.1,
4.2, 4.3, 4.4, 4.5, 5.1, 5.2, 5.3, 5.4, 5.5,
6.1, 6.2, 6.3, 6.4, 6.5, 7.1, 7.2, 7.3, 8.1,
8.2, 8.3, 9.1, 9.2, 9.3, 9.4, 9.5, 10.0,
11.1, 11.2, 11.3, 11.4, 12.1, 13.1, 13.2,
13.3, 13.4, 13.5, 13.6, 14.1, 14.2, 14.3,
14.5, 15.0 and 16.2

- a. All dunes to be preserved in the buffer area shall be mapped;
 - b. Measures to be taken to preserve the integrity of the dune system, e.g. filling and revegetation of blowouts, shall be specified.
- 6.4 Final development plans for areas adjacent to the dunes submitted to the County shall simultaneously be submitted to the RPC to demonstrate that the type, density and design of development proposed adjacent to the primary dune will not substantially alter the existing integrity of the dune system.
- 6.5 The Applicant shall submit to DER, St. Johns River Water Management District (District), and the RPC, an erosion control plan, by phase. No land shall be left ungraded without groundcover for more than 30 days, except that which is necessary for construction of the water management system, golf courses, and roadways. The erosion control plan shall address the steps to mitigate erosion for the construction of the water management system, golf courses and roadways in sufficient detail to justify the exclusion of these from this condition.

7.0 WETLANDS

- 7.1 The Applicant shall prepare a planting and management plan for the littoral zone that surrounds any created lake system. The plan shall include the

types, extent and timing of planting that will be provided in the littoral zone. Also included in the plan shall be the identification of any management activities that are intended to ensure the continuance and health of the littoral zone. The plan shall be subject to the approval of the County and the St. Johns River Water Management District, in consultation with the Florida Game and Freshwater Fish Commission, East Flagler Mosquito Control District, and the RPC, prior to beginning excavation of the lake system.

- 7.2 The Applicant shall preserve, to the maximum extent possible, a buffer zone of upland edge vegetation around all wetland habitats and lakes. The amount of preserved habitat that shall occur beyond the high water limit of the wetland or lake shall be 10 square feet of edge habitat per linear foot of wetland perimeter occurring on the property. This upland edge habitat to be preserved shall be located such that not less than 35 per cent of all wetlands or lake perimeter has at least a 10 foot wide buffer of natural "ecotone" or edge consisting of native upland vegetation surrounding it. Where it is impossible or impractical to preserve natural edge vegetation, the

- minimum requirements may be met by planting or landscaping with native plant materials.
- 7.3 A littoral zone of 10:1 slope ratio out to a three foot depth shall be created on the golf course sides of the lake system, provided that the value of the water management storage system for the design storm is not decreased. In locations of existing wetlands, the wetlands shall be retained to the maximum extent possible.
- 7.4 In order to reduce insect pests through natural means, the Applicant shall initially stock and maintain the created lake system with freshwater forage and game fish. The fish maintenance program shall be the responsibility of the entity responsible for the maintenance of the water management system.
- 7.5 The Applicant, in consultation with the East Flagler Mosquito Control District, shall maintain the open lake system and littoral zone to help reduce the incidence of mosquito production. The Applicant shall control aquatic weeds associated with mosquito production to the satisfaction of the East Flagler Mosquito Control District. Corrective action shall be taken by the Applicant within thirty (30) days after notification by the East Flagler Mosquito Control District.

8.0 WATER RESOURCES (SURFACE/GROUND)

8.1 In the event that the surficial aquifer on the project site is designated a single source aquifer (G-I) by the ERC, the County shall determine whether the resulting changes in the development's design, if any, constitute a substantial deviation.

8.2 A periodic monitoring program approved by the County Engineer shall be devised by the Applicant for the lake system that:

- a. Measures dissolved organic nitrogen and phosphate levels in the runoff entering the lake system and being discharged into the Intracoastal Waterway, and
- b. Measures dissolved organic nitrogen and phosphate levels in ground water at selected points near the perimeter of the site, and
- c. Measures results from shallow monitoring wells using the criteria for Class G-I and G-II Ground Water as set forth in F.A.C. Chapter 17-3.404; the primary and secondary drinking water standards for public water systems as listed in Section 17-22.104, F.A.C., nutrients, oil and grease, and EDBs.
- d. To protect against saltwater intrusion, all excavation of surface water management system, lakes, etc.

shall be performed by holding the ground water level at 4.0 m.s.l. or at the existing ground water level, whichever is less, within 300 feet of existing domestic and commercial wells.

8.3 A one year background ambient condition study of the Intracoastal Waterway shall be conducted by the Applicant prior to the commencement of any construction which would impact the Intracoastal Waterway. In addition, an Intracoastal water quality monitoring program shall be instituted to monitor changes. Details of the program shall be worked out with DER.

8.4 The Applicant shall take steps to ensure that biodegradable fertilizers and EPA/DER approved pesticides and fungicides are the only materials used within the development. The Applicant shall take all reasonable steps to ensure that persons to whom it sells individual building sites also adhere to this condition through restrictions and covenants. The Applicant or its successors shall not use EDB or dioxin within the development boundaries.

8.5 If at the end of Phase III the existing culverts under State Road A1A as shown on page 22.5 of the Application for Development Approval are not

adequate to handle the run-off from the Hammock Dunes development, they shall be replaced with appropriate structures capable of handling the increased flow at the expense of the Applicant.

9.0 VEGETATION AND WILDLIFE

9.1 The Applicant shall prepare and submit to the Game and Fresh Water Fish Commission for review and recommendations a plan to relocate any rare or endangered plant species or plant species of special concern found in areas to be developed, to be implemented prior to development in each phase.

9.2.a. The development in the Hammock area (hardwood forest area adjacent to Ala) located between 16th and Malacompra Roads shall be in compliance with and consistent with the provisions of Public Hearing Exhibit 7, which is a report entitled "Development Suitability Analysis of the Hammock Forest, 16th Road to Malacompra Road", revised January 14, 1984 and as amended March 30, 1984. During the construction within the area described in the Analysis, the Applicant shall pay the County for daily on-site inspections as required by the staff of the County Engineer's office to guarantee its compliance with this provision and to maximize the tree protection required by Section 9.3.

b. After it conveys the property to the School Board and it vacates the TDS site, the Applicant shall have no responsibility for the property conveyed to the School Board located adjacent to the TDS site in the Special Development Zone.

9.3 The Applicant shall take special care during any construction activity not to injure or destroy trees or tree root systems of trees identified as conservation or preservation on the PCD map on page 12.13 of the ADA as modified by Section 9.2.a. The Applicant shall by appropriate restrictions, obligate purchasers to comply with this standard during any construction undertaken by them. The areas covered by this provision include the Hammock area described in Section 9.2.a. and hardwood trees adjacent to the functional wetlands identified on the Preservation, Conservation, and Development Map, ADA p. 12.13.

The Applicant shall devise a system of financial penalties and inducements to encourage its contractors to comply with the terms of this section.

9.4 Prior to initial development in each phase, the Applicant shall relocate any existing Gopher Tortoises and Eastern Indigo Snakes from areas to be developed to suitable habitats as defined by the Game and Fresh Water Fish Commission.

9.5 A detailed restrictive beachfront lighting plan designed to protect the Loggerhead Turtle, a threatened specie, shall be submitted to the Florida Game and Freshwater Fish Commission for review and approval prior to initiation of development. The Applicant shall cause other developers, if any, to conform to the approved lighting plan.

9.6 In its landscaping program, Applicant shall use native trees which will mature into canopy trees.

10.0 HISTORICAL AND ARCHEOLOGICAL SITES

If, in the process of development, any additional archeological sites are discovered, the Applicant shall immediately notify the County and the State Division of Archives. No disruption of the findings shall be permitted after notification until the appropriate officials can make an investigation and thereafter only with County approval. If no County action is taken within six months, the Applicant may proceed.

11.0 WATER SUPPLY

11.1 The Applicant shall annually provide test results from potable water monitoring wells located west of the Intracoastal Waterway to the County and the St. Johns River Water Management District. The

Applicant shall also provide the County with any data it gathers from its on-site groundwater monitoring wells.

- 11.2 The Applicant shall provide a report on the feasibility of the use of a graywater system for irrigation purposes in Hammock Dunes, and submit it to the RPC, the County, and the District for review and recommendations prior to initial development.
- 11.3 To maximize water conservation in Hammock Dunes, the Applicant shall install or cause to have installed water conserving (low volume) water closets, and faucet and shower flow restrictors in all structures; retained storm water for irrigation and the use of indigenous plants for landscaping shall be used to the maximum extent feasible.
- 11.4 A Mitigation Plan shall be prepared by the Applicant and submitted to DER, the District, the RPC, and Flagler County for their review in a time period of not less than 60 days prior to the filing of application for initial surface water management permit. (The Mitigation Plan refers to the protection of the Surficial Aquifer.)
- 11.5 In the event that it is found that the Applicant's development activities adversely impact the

surficial aquifer to the extent it becomes unusable by existing owners or their successors, the Applicant shall commit to providing such owners with potable domestic water from the appropriate utility. The cost of any required extension of water mains and laterals or plant expansion to serve such owners shall not be charged to them in the form of hookup or other charges; however, such owners shall be required to pay the reasonable cost of the quantities of water they use, based upon the utility's prevailing rates.

The determination of adverse impacts and causes of such impacts will be determined on the basis of actual monitoring data. This data will be obtained from a monitoring program/plan devised in conjunction with the St. Johns River Water Management District and the Department of Environmental Regulation, which will document existing baseline conditions, monitor changes during and after development and assess impacts as to cause and effect.

Disputes as to impacts, causes and costs shall be subject to judicial review by the Circuit Court of Flagler County, Florida.

The extra monitoring required in order to determine impacts on the off-site surficial aquifer shall be discontinued if potable domestic water is provided to the existing users of the surficial aquifer pursuant to this section.

11.6 An adequate buffer around the perimeter of the wastewater treatment plant between the plant and the out-parcel shall be provided by the Applicant. The buffer area shall consist of an area of at least 150 feet measured from the plant oxidation ditch and/or grit chamber to the boundary line. A vegetation screen shall also be provided along the out-parcel boundary.

11.7 The Applicant shall install a standby electric generator for the wastewater treatment plant.

12.0 PUBLIC SAFETY

12.1 Hurricane Evacuation

Transfers of title to any property in the project shall be accompanied by a separate hazard disclosure document, stating that Hammock Dunes is within a hurricane hazard area, in which property is subject to damage and residents may be subject to an evacuation order in the event of any hurricane landfalling within 50 miles of Hammock Dunes.

34
Stairs

12.2 The Applicant shall require that all buildings in excess of three stories be equipped with internal fire suppression/protection equipment including standpipes and sprinkler systems and a minimum of two pressurized stairwells per each high rise building. In addition, streets leading to such buildings shall be wide enough and have a sufficient support to accommodate heavy fire suppression apparatus up to the size of a ladder truck.

12.3 The Applicant shall construct, or cause to be constructed, a public safety complex consisting of a two-bay facility of approximately 5,000 square feet within the convenience/commercial site located at the easterly end of the Intracoastal Waterway bridge. The facility shall be constructed before 1,000 dwelling units are built on site.

12.4 On or before the completion of the public safety complex described in 12.3 above, the applicant shall contribute the following new public safety equipment to the County or other appropriate entity:

- one emergency service line unit (advance life support);
- one 1,250 gallon capacity fire pumper/tanker;
- two patrol units for use by the Sheriff's Office.

The Applicant may contribute the equivalent value

of the patrol units to the Sheriff's Office for its use for public safety purposes in lieu of donating the two patrol units.

13.0 ENERGY

- 13.1 The Applicant has committed to construct all residential, multi-family, commercial and recreational facilities to the standards of the Florida Power & Light Company's Watt-Wise program or an equivalent standard. These units shall be certified by the utility as having merited the Watt-Wise designation or its equivalent.
- 13.2 The Applicant shall construct or cause to be constructed the bike path as shown on the Bikeway and Pedestrian System Plan (bike map, ADA, p. 31.33), residents' path, and residents' trail as depicted on such map. The bike and residents' paths shall link residential areas to the commercial and recreational areas and school if located on the Hammock Dunes property. The paths shall be constructed to concur with the phasing of the development.
- 13.3 The Applicant shall install or cause to be installed bike racks/devices at the commercial and recreational facilities.
- 13.4 All outdoor lighting systems in areas such as parking and recreation, shall use energy efficient lighting

such as high pressure sodium or low pressure sodium.

- 13.5 If swimming pools for the condo units and beach clubs are to be heated, the equipment shall meet the following standards: for fossil fuel systems, a steady state efficiency rating of 85% or greater; for electrical systems, a C.O.P. of 2 or greater.
- 13.6 To evaluate the success of including such conservation measures in the development, the Applicant shall provide the RPC with information as to the status of the implementation of these measures in the annual report required by F.S. 380.06(16).

14.0 RECREATION AND OPEN SPACE

- 14.1 The Applicant shall convey and the County shall accept and maintain the 67 acres of four oceanfront sites and 10 acres of Intracoastal park to the County on the following schedule:
- a. The Applicant shall convey two acres of land at the end of Jungle Hut Road for beach access and parking purposes upon completion of the ICWW bridge.
 - b. The Applicant shall convey eight acres of park land at the south end of the Hammock Dunes site (Beach Community) for park purposes upon approval

of the first site development plan for Hammock Dunes.

- c. The Applicant shall convey 19 acres of park land out of the total 24 acre Malacompra site shown in green on the Hammock Dunes ADA Master Development Map south of the Applicant's north Johnson Beach property line upon approval of the first site development plan for Hammock Dunes.
- d. The Applicant shall convey the balance of the Malacompra Road site shown in green on the Hammock Dunes ADA Master Development Plan map north of the Applicant's northern Johnson Beach property line upon request from the County any time after approval of the first site development plan for Hammock Dunes.
- e. The Applicant shall convey the 33 acres of park land at the end of 16th Road on the following schedule:
 - 1/3 of land and oceanfrontage upon completion of the ICWW bridge;
 - 1/3 of land and oceanfrontage upon completion of Phase I;
 - 1/3 of land and oceanfrontage upon completion of Phase II.

- f. The Applicant shall convey a 1.1 acre Intracoastal park as shown on the Master Development Plan at the conclusion of the Intracoastal Waterway bridge construction. Concurrent with the conveyance of the park site, the Applicant shall construct and convey to the County a two-bay boat ramp to be located in the vicinity of the Intracoastal Waterway bridge. This boat ramp shall comply with DNR and DER requirements. The Applicant may give the County \$50,000 in lieu of this obligation.
- g. In addition to the 77 acre park conveyances, the Applicant shall also convey to the County and the County shall accept and maintain for park purposes 13.9 acres designated on the original Master Development Plan Map as the Johnson Beach school site. This conveyance shall be made upon approval of the first Site Development Plan for Hammock Dunes.
- 14.2. The Applicant shall grade the park sites, except dune areas, in a reasonable manner suitable for recreational development under a schedule agreed upon with the County. The Applicant will assist the County in the design of the parks. All park conveyances referred to herein shall restrict the property's use to park or other governmental purposes, except for the conveyance described in 14.1.d.
- 14.3 The Applicant shall provide dune walkovers along the beachfront on the Applicant's property as submitted in the Sufficiency Response, p. S.27.13.

14.4 The Applicant shall contribute \$20,000 to the County for purposes of Malacompra park improvements such as the construction of picnic tables and other park facilities. These funds shall be contributed when the 19 acres of Malacompra park site are conveyed to the County.

14.5 Land identified for golf course usage on the Master Development Plan map (ADA, p. 12.5) shall be deed and plat restricted to ensure that the usage of this land is limited to golf courses (including appropriate associated golf club facilities), open space, parks or, if approved by the County Commission, other appropriate recreational usages. Since it is recognized that the final configurations of the proposed golf courses are not now available, the Applicant at the time of platting shall identify the specific acreage for golf course use. The plat shall show the boundaries and configurations of the golf courses. The plat and all deeds of land within the area so identified as golf course usage on the plat shall contain restrictions limiting the usage of the property platted to golf courses (including appropriate associated golf club facilities), open space, parks or, if approved by the County Commission, other appropriate recreational or governmental usages.

15.0 RESIDENTIAL RECREATION

The Applicant shall reserve two acres for Hammock Dunes resident recreational purposes in each of the following eight communities in Hammock Dunes: Ocean Estates, Racquet Club, Ocean Recreation, Destination Resort, Varn Lake, Fish Island, Fairways Community and Harbor Village. There are no acres reserved in Johnson Beach or the Beach Community.

16.0 OCEAN ESTATES COMMUNITY AND JOHNSON BEACH SUBDIVISION

Because of the land use requirements of Section 9.2.a. relating to the Hammock forest located along A1A between 16th and Malacompra Road, it was necessary for the Applicant to adjust the land use and cluster plan for the adjacent Ocean Estates Community. The Ocean Estates Insert Map dated February 10, 1984, revises the land plan for Ocean Estates previously shown on the January 14, 1984, Master Development Plan Map. The adjusted plan is consistent with the provisions of Section 9.2.a. and provisions of Section 17.5.

16.1 Because of the County's concern that during the later phases of this development there be adequate public beach park and/or governmental facilities in the beachfront area the remaining portions of the Johnson Beach acres shall not be sold or conveyed by the Applicant until the Applicant and County have conducted a joint study of the

need for additional park or governmental facilities in the beachfront area. This study shall be completed by the end of Phase II of the development. If the study shows that all or a part of the remaining Johnson Beach acreage is or will be needed for park or governmental purposes, the Applicant shall convey the needed property it now owns in the Johnson Beach area as shown on the Johnson Beach Site Study Map to the County for such purposes within sixty (60) days of such post-study determination of public need.

16.2 The Applicant will construct or provide for the construction of 120 moderate priced (\$40,000 in 1983 dollars) dwelling units on an area of approximately 35 acres (75 dwelling units to be constructed during Phase II and 45 dwelling units during Phase III) as designated on the Master Development Plan Map, or within a seven-mile radius of the resort core boundary, in a range of sizes which reflect typical employee housing.

17.0 DENSITY, BUILDING SPACING, LAND USE CLASSIFICATION,
AND OTHER DEVELOPMENT REQUIREMENTS

17.1 The Applicant shall perform site development work so as to minimize the impact of such work on existing housing and facilities. The Applicant shall perform its required infrastructure construction and site clearing in a contiguous manner whenever possible so that site construction will not be required in areas where there are existing houses and facilities. The phasing map, which is attached to the final development order and made a part thereof as composite Exhibit 2, shall be followed by the Applicant in its construction activities unless modifications are approved in advance by the County. Modifications of the timing of clusters within a phase shall not be a substantial deviation. Site development work including construction of the water management system, water and sewer facilities, drainage, grading, roads and dwelling units shall be at least 50% complete in Phase I prior to the start of site development work and dwelling units in Phase II. The following table sets forth the percentage of completion in the various phases which must be accomplished before construction may take place in a subsequent phase:

17.0 DENSITY, BUILDING SPACING, LAND USE CLASSIFICATION,
AND OTHER DEVELOPMENT REQUIREMENTS

17.1 The Applicant shall perform site development work so as to minimize the impact of such work on existing housing and facilities. The Applicant shall perform its required infrastructure construction and site clearing in a contiguous manner whenever possible so that site construction will not be required in areas where there are existing houses and facilities. The phasing map, which is attached to the final development order and made a part thereof as composite Exhibit 2, shall be followed by the Applicant in its construction activities unless modifications are approved in advance by the County. Modifications of the timing of clusters within a phase shall not be a substantial deviation. Site development work including construction of the water management system, water and sewer facilities, drainage, grading, roads and dwelling units shall be at least 50% complete in Phase I prior to the start of site development work and dwelling units in Phase II. The following table sets forth the percentage of completion in the various phases which must be accomplished before construction may take place in a subsequent phase:

<u>Percent Completed Phase I</u>	<u>% Permitted In Phase II</u>	<u>% Permitted In Phase III</u>
50%	Begin Construction in Phase II	0
60%	15%	0
70%	30%	0
80% (*)	Unlimited in Phase II	0
	50%	Begin Construction in Phase III
	60%	15%
	70%	30%
	80% (*)	Unlimited in Phase III

(*) - For the purpose of this Table, construction is considered complete in a phase when 80% of the authorized dwelling units in that phase have been completed.

The percentage of completion of dwelling units as defined above is to be determined by dividing the number of dwelling units completed by the number of dwelling units authorized within a given phase and multiplying by 100.

17.2 Combustible materials which are created as a result of construction or land clearing activities shall be burned completely on site or transported off site to an appropriate County authorized trash facility provided by the Applicant. Non-combustible construction or demolition debris shall be transported off site to an

appropriate County authorized trash facility provided by the Applicant.

- 17.3 Soil materials which are unsuitable for construction may be used by the Applicant for landscaping after building construction, but may not be otherwise used on buildable areas.
- 17.4 Coquina formation mining operations shall be prohibited within the project boundaries. This does not preclude the on-site use of coquina removed as part of other construction activities.
- 17.5 The Hammock Dunes DRI is a Planned Unit Development under Article X of the Flagler County Development and Subdivision Regulations because it provides adequate open space, vehicular circulation and parking, recreation, park and school sites, innovative housing designs, and the service needs for the tract when fully developed and populated, and because this development order provides adequate covenants or other legal provisions which will help assure conformity to and achievement of the purposes of Article X. For purposes of compliance with Article X and other County development ordinances, this project, during the life of this development order, shall be treated as a Planned Unit Development subject to the following substantive conditions:

a. Density

The Hammock Dunes ADA Master Development Plan Map identifies 893 acres for residential development out of 2,258 acres. Even without credit for lands which the Applicant will convey or dedicate to parks, open space, schools (See Section 2) and other uses under this development order, based upon a comparison of the project to the Flagler County Comprehensive Plan which allows for up to eight (8) dwelling units per acre, the Applicant is entitled to 7,144 units. Regardless of future density changes in the Flagler County Comprehensive Land Use Plan or other County regulations, this order limits the Applicant to a total of 6,670 dwelling units, which is equivalent to 7.47 dwelling units per acre on the designated 893 residential acres.

b. Residential Clusters

The maximum number of dwelling units allowed for this project are those set forth in Section 17.5.a. Residential clusters are identified in Exhibit 17.5.1. attached. Data about individual clusters including community location, density category, acreage and number of dwelling units is shown on Table 17.5.2. Cluster Data. Site development plans,

cluster diagrams, and any plats submitted for approval by the County shall comply with Table 17.5.2.

Individual clusters may vary 15% plus or minus from the cluster data identified in Table 17.5.2. In the event of such a change, the data of other clusters shall also be changed so that the overall dwelling units remain in balance. At the time of each site development plan and cluster diagram review, the Applicant shall also submit a revised Table 17.5.2 and revised Map 17.5.1, which reflects the data redistribution and clearly indicates those residential clusters affected.

c. Allowable Building Height

Within each cluster density category, there is a maximum allowable building height. Dwelling unit density and heights which are granted to the Applicant are regulated by the information below and Exhibits 17.5.1. (Residential Clusters) and 17.5.2.

Allowable Building Height

Cluster Data Density Category	Maximum Building Height in Stories
Low (L)	3
Low-Medium (L-M)	7
Medium-High (M-H)	20

d. Building Spacing

The spacing for buildings shall be determined by the County at the time of site development plan submittal giving due consideration to the need for variety and innovation in housing types within this project.

e. Impact of Development Requirements

The density units, building spacing, and height provisions granted by this development order are not precedent setting, but are based upon particular factual circumstances and conditions relating to this development of regional impact, including the Applicant's extensive park and school site contributions; transportation improvements; open space and preservation area commitments; and commitments of equipment, facilities, and other financial resources to mitigate the impacts of the project, as well as other conditions and obligations imposed by this development order.

f. Signage and Lighting

Prior to the construction of the first dwelling units, the Applicant shall prepare signage and lighting guidelines to be used throughout the

Hammock Dunes development. These guidelines shall deal with the type, location, dimensions and materials used for signage and lighting.

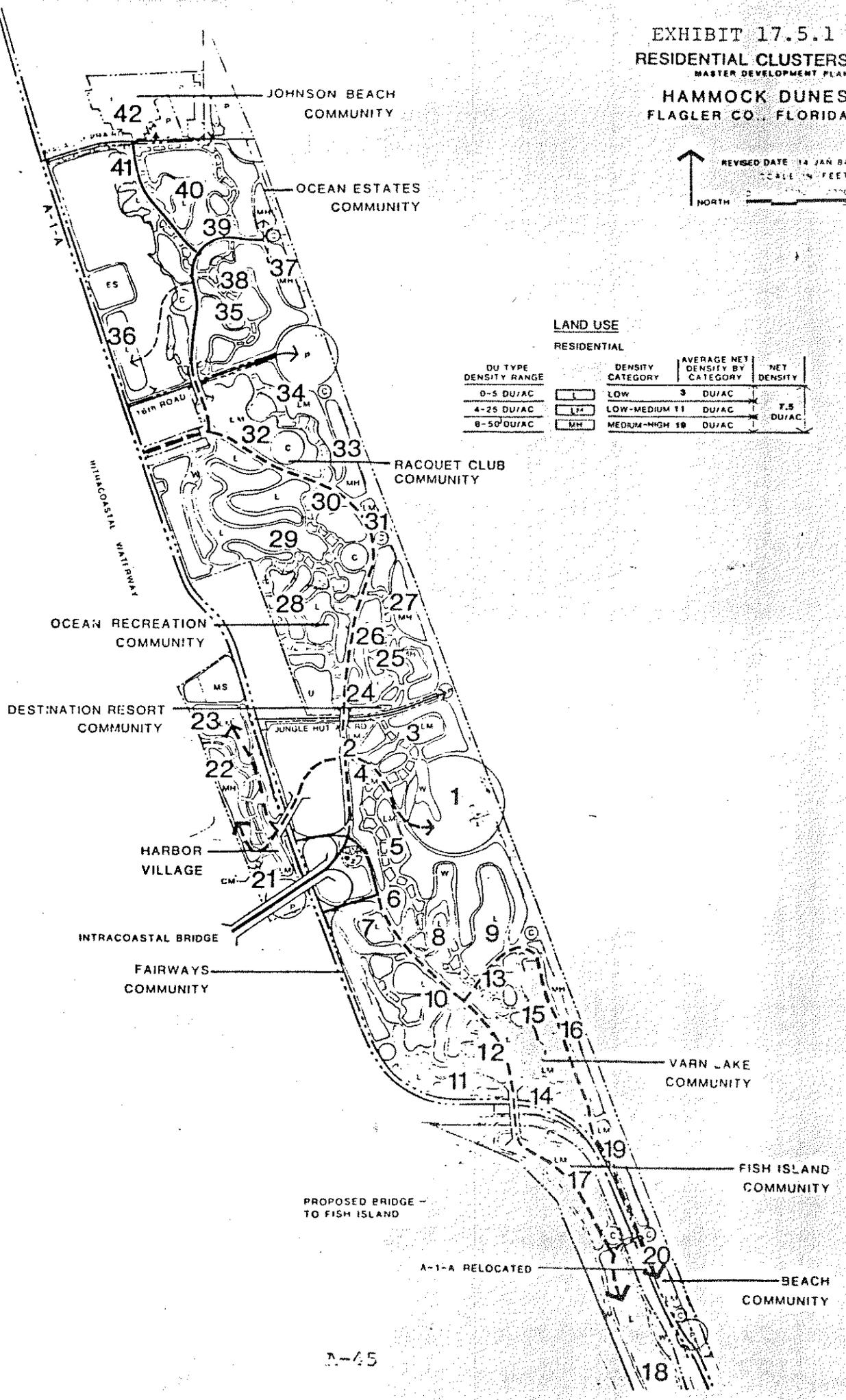
g. Flexibility Considerations

As a Planned Unit Development, this project is expected to seek flexibility within the County Development and Subdivision Ordinances, but any changes must first be approved through the site development plan review procedures of Section 17.6. Regulations which may be affected include, but are not limited to:

1. Yard, lot width and size, depth and building orientation requirements;
2. Minimum road rights-of-way widths, typical sections and paving sections;
3. Road swales and rights-of-way clearing requirements, particularly where trees and natural vegetation systems are to be preserved or protected;
4. Cul-de-sac length, right-of-way and turn around width provisions;
5. Block length and width provisions;
6. Bridge and other pedestrian walk requirements;
7. Off-street parking space requirements;
8. Drainage maintenance easements;
9. Waterway minimum depth and width.

EXHIBIT 17.5.1
 RESIDENTIAL CLUSTERS
 MASTER DEVELOPMENT PLAN
 HAMMOCK DUNES
 FLAGLER CO., FLORIDA

REVISED DATE 14 JAN 84
 SCALE 1/4" = 100'
 NORTH



LAND USE

RESIDENTIAL

DU TYPE DENSITY RANGE	DENSITY CATEGORY	AVERAGE NET DENSITY BY CATEGORY	NET DENSITY
0-5 DU/AC	L	3 DU/AC	7.5 DU/AC
4-25 DU/AC	LM	LOW-MEDIUM 11 DU/AC	
8-50 DU/AC	MH	MEDIUM-HIGH 18 DU/AC	

HAMMOCK DUNES
RESIDENTIAL CLUSTER DATA

CALCULATED NET RESIDENTIAL DENSITY: 7.47 UNITS PER ACRE

Cluster Number	Cluster Community	Density Category	Acreage	Dwelling Units
1	D. Resort	M-H	22	545
2	D. Resort	L-M	8	80
3	D. Resort	L-M	16	118
4	D. Resort	L-M	6	35
5	D. Resort	L-M	7	72
6	Fairway	L	24	48
7	Fairway	L	9	18
8	Fairway	L	9	18
9	Fairway	L	29	65
10	Fairway	L	63	154
11	Fairway	L	19	38
12	Fairway	L	4	16
13	Fairway	L	15	81
14	Fairway	L	13	52
15	Varn Lake	L-M	26	156
16	Varn Lake	M-H	25	444
17	Fish Island	L-M	55	752
18	Fish Island	L	145	145
19	Beach	L-M	17	168
20	Beach	L-M	7	43
21	Harbor	L-M	11	94
22	Harbor	M-H	16	310
23	Harbor	L-M	17	190
24	Ocean Rec.	L	6	28
25	Ocean Rec.	M-H	10	204
26	Ocean Rec.	L-M	3	46
27	Ocean Rec.	M-H	17	288
28	Ocean Rec.	L	22	110
29	Ocean Rec.	L	68	342
30	Ocean Rec.	L	4	16
31	Ocean Rec.	L-M	7	105
32	Racq. Club	L-M	36	409
33	Racq. Club	M-H	23	357
34	Racq. Club	L-M	19	269
35	D. Estate	L-M	8	72
36	D. Estate	L	22	100
37	D. Estate	M-H	20	437
38	D. Estate	L-M	4	48
39	D. Estate	L	3	12
40	D. Estate	L	8	32
41	D. Estate	L	16	32
42	Johnson Beach	L	34	121
TOTAL			893	6670

17.6 For purposes of compliance with the Flagler County Development and Subdivision Regulations and other development ordinances, this project for procedural purposes shall be treated as a "Planned Unit Development" under Article X of those regulations. This project shall be subject only to the following review provisions which are an elaboration of the review provisions of Article X.

a. Preliminary Planning Conference

The Applicant shall meet with appropriate County staff to review the preliminary design prior to the submittal of the site development plan. The preliminary design shall include a sufficient level of information to allow the conference participants to identify issues, coordinate requirements and otherwise promote proper and efficient review of the proposed development.

b. Site Development Plan

A site development plan which complies with this development order shall be submitted to the Flagler County Commission for approval prior to the start of construction. Where a residential cluster is to be phased, and a site development plan is submitted for only a portion of the cluster, a

cluster diagram must be included along with the site development plan.

c. Submittal Requirements

The site development plan and any necessary supporting documents or exhibits shall contain the following information:

(1) Site Development Plan

- (a) application form and fees;
- (b) lot area in acres or square feet;
- (c) existing site conditions including contours, water course, flood plains, coastal zone setback lines, unique natural features and wooded areas;
- (d) proposed lot lines, plot designs, easements, and public rights-of-way;
- (e) the location, height, and floor area of all existing and proposed buildings, structures and other improvements and the use and type of all structures shall be indicated;
- (f) if residential use, the total number and number of each type of dwelling units, plus:
 - gross residential density;
 - percentage and square feet of building coverage;

- percentage and square feet of driveway and parking;
 - percentage and square feet of street right-of-way.
- (g) the location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common open space, public parks, recreational areas, bicycle paths, schools and other public and semi-public uses;
- (h) the existing and proposed circulation system or arterial, collector, and local streets, including the number of off-street parking spaces, loading areas, service areas, and points of access to the circulation system;
- (i) the existing and proposed utility systems including sanitary sewers and water, electric, gas and telephone lines;
- (j) the existing and proposed water drainage pattern and any natural or man-made facilities to manage storm water, including their capacities and specifications;
- (k) general landscape plan including existing and proposed vegetation, statement of Applicant's landscape plans and commitments,

proposed treatment of perimeter of development with notes concerning signage and lighting;

- (l) such engineering plans and drawings as may be required by the County Engineer for review including street layout and design, street cross sections and profiles, sanitary sewer design, storm drainage facilities and other utility lines and facilities;
- (m) indication of the public or private ownership of all major facilities and amenities.

(2) Cluster Diagram

A cluster diagram is required along with a site development plan for residential developments which do not encompass an entire residential cluster. The cluster diagram shall contain the following information:

- (a) the boundary and number of the cluster identified on Exhibit 17.8.2.;
- (b) the location, acreage, and density of the proposed site development plan, any existing development, and the undeveloped portion of the cluster;

(c) a diagrammatic land use plan showing overall utilities, vehicular and pedestrian circulation, water management, and all other appropriate project features.

(3) Approval of the Site Development Plan

The County shall review the Site Development Plan (and cluster diagram, if required) for conformance with the development order. Within sixty (60) days of submittal, the site development plan shall be approved, approved with conditions, or denied. If the site development plan is determined to be in compliance with the development order, it shall be approved. Written notice of action to deny the site development plan shall be given to the Applicant within ten (10) days after the action.

(4) Recording

Upon approval of the Site Development Plan and receipt of notification of such action from the County Commission, the Applicant may present such copies as are required to the Clerk of the Circuit Court of Flagler County for recording. A copy of the Site

Development Plan shall also be sent to
the Development Administrator.

17.7 The County and the Applicant recognize that this development order will form the basis upon which the Applicant or its successors will plan and conduct its phased development activities. Nothing contained herein shall be considered an endorsement or approval by the County of any trade practices, method of sale, construction or sales activities conducted by the Applicant or its successors.

COMPOSITE EXHIBIT 2 PHASING MAP

HAMMOCK DUNES
FLAGLER CO., FLORIDA

REVISED 10 FEB 84
SCALE IN FEET
0 1000 2000

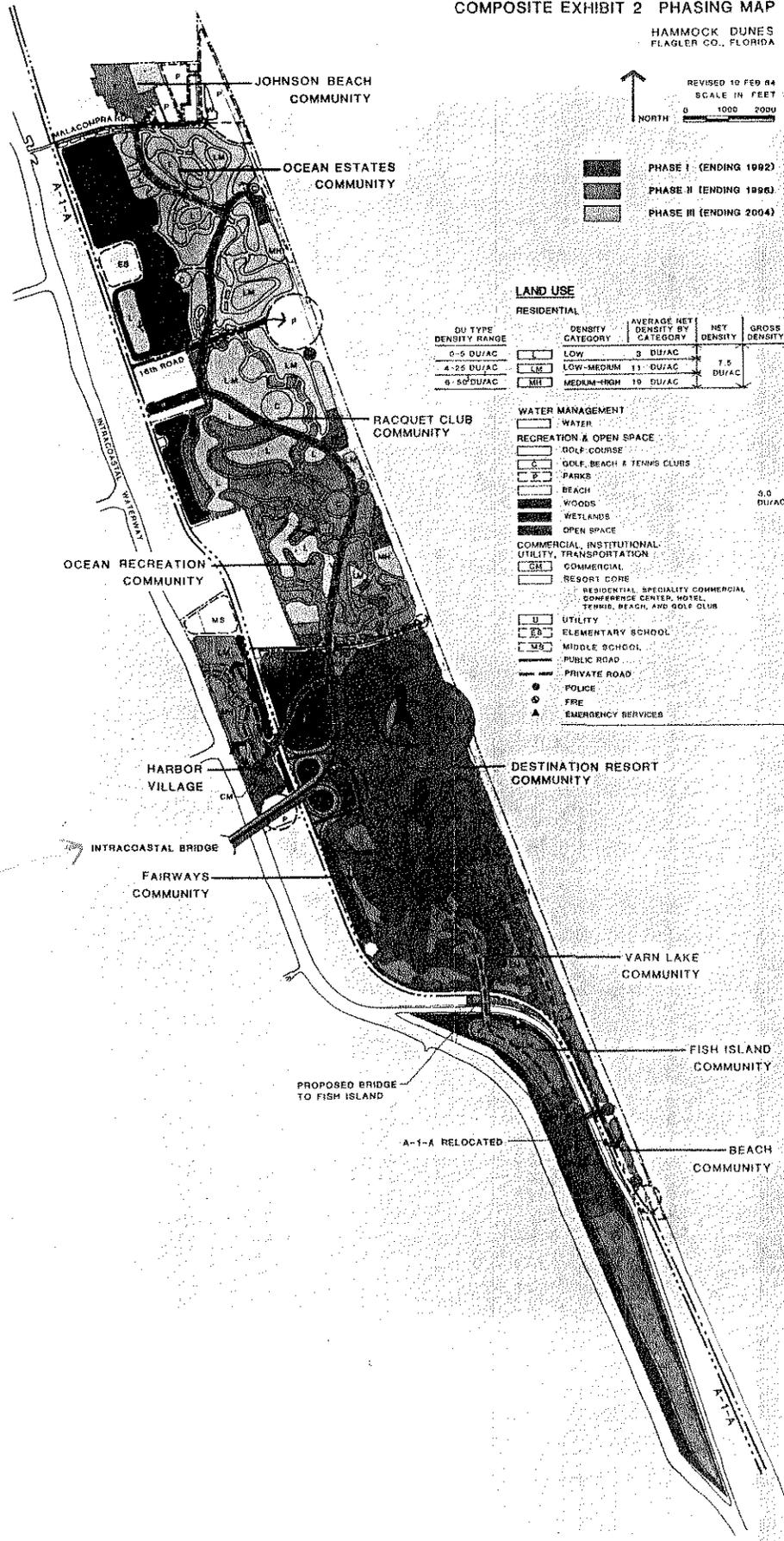


- PHASE I (ENDING 1982)
- PHASE II (ENDING 1986)
- PHASE III (ENDING 2004)

LAND USE

RESIDENTIAL		AVERAGE NET DENSITY BY CATEGORY		NET DENSITY		GROSS DENSITY	
DU TYPE	DENSITY RANGE	DENSITY CATEGORY					
	0-5 DU/AC	L	LOW	3 DU/AC			
	4-25 DU/AC	LM	LOW-MEDIUM	11 DU/AC		7.5 DU/AC	
	6-50 DU/AC	MH	MEDIUM-HIGH	16 DU/AC			

WATER MANAGEMENT		RECREATION & OPEN SPACE		COMMERCIAL, INSTITUTIONAL, UTILITY, TRANSPORTATION	
	WATER		GOLF COURSE		COMMERCIAL
	PARKS		GOLF, BEACH & TENNIS CLUBS		RESORT CORE
	BEACH		WOODS		UTILITY
	WETLANDS		WETLANDS		ELEMENTARY SCHOOL
	OPEN SPACE		MIDDLE SCHOOL		PUBLIC ROAD
	COMMERCIAL		PRIVATE ROAD		POLICE
	RESIDENTIAL SPECIALITY COMMERCIAL, CONFERENCE CENTER, HOTEL, TENNIS, BEACH, AND GOLF CLUB		FIRE		EMERGENCY SERVICES



Bridge

Adam Mengel

From: Adam Mengel
Sent: Wednesday, May 21, 2014 4:54 PM
To: 'Jeff Southmayd'
Subject: RE: Question
Attachments: Resolution #84-7.pdf

Hi Mr. Southmayd:

I have attached Resolution No. 84-7, the original Development Order; subsequent D.O. amendments did not change this section.

Also, regarding your previous request for notification of future actions – both as a citizen/resident and member of the media – we cannot provide individual notice, but I will do my best to keep you informed. Please feel free to periodically contact me for any updates or if any submittal has been made. You can also subscribe to meeting notices using the “Notify Me” link on the left side of the County’s webpage; the first review step for any submittal is the staff-level Technical Review Committee, followed by the Planning and Development Board, and the Board of County Commissioners.

I hope this information is useful and please contact me with any questions.

Thank you!

Adam

From: Jeff Southmayd [mailto:wNSSFM@aol.com]
Sent: Wednesday, May 21, 2014 3:24 PM
To: Adam Mengel
Subject: RE: Question

Adam;

Can you direct me to the Flager County development Order that is referred to in ALJ Alexander's Order in the Ginn matter? He continually references section 14.5 of the DO.

Thanks.

Jeff Southmayd

**4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.445.9156
888.557.3686 FAX
jdsouthmayd@msn.com**

THIS TRANSMISSION IS INTENDED ONLY FOR THE ADDRESSEE SHOWN ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, OR OTHERWISE PROTECTED FROM DISCLOSURE. IF YOU ARE NOT THE INTENDED RECIPIENT, PLEASE DO NOT READ, COPY, OR USE IT, AND DO NOT DISCLOSE IT TO OTHERS. PLEASE NOTIFY THE SENDER OF THE DELIVERY ERROR BY REPLYING TO THIS MESSAGE AND THEN DELETE IT FROM YOUR SYSTEM. THANK YOU.

From: amengel@flaglercounty.org
To: wnssfm@aol.com
CC: ssherman@flaglercounty.org; ahadeed@flaglercounty.org
Date: Fri, 25 Apr 2014 17:19:15 -0400
Subject: RE: Question

Good afternoon Mr. Southmayd:

Thank you for the inquiry.

A Phase I Environmental Site Assessment should not be necessary since this is a developed site and there is no reasonable assumption of site contamination for contaminants listed in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. §9601) or petroleum products. In this instance and without a presumption of site contamination, completion of a Phase I Environmental Site Assessment is optional, will be at the discretion of the landowner, and even if completed, would not wholly eliminate uncertainty regarding site contamination (i.e., at best, the Phase I helps to reduce uncertainty about contamination). Please advise if there is some justification for a Phase I to be requested.

As for other requirements, many other regulations may apply; for example, construction seaward of the Coastal Construction Control Line (CCCL) would require review and permitting by the Florida Department of Environmental Protection (FDEP). Since the County has not received an application submittal, I do not know if this will be required or not. Approval – likely as a modification to an existing Environmental Resource Permit – by the St. Johns River Water Management District (SJRWMD) will be necessary where additional impervious surfaces are proposed. There are other considerations within our own regulations, like the sea turtle lighting regulations in Sec. 6.05.00. of the Flagler County Land Development Code, where compliance will ultimately be demonstrated through any submittal we receive.

For now, it is difficult to identify what processes will be necessary since no submittal has been made. Upon receipt by the County, the submittal will be routed and generate comments to identify necessary information as part of any RAI as we do for other projects.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 **Go Green:** Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: Sally A. Sherman
Sent: Friday, April 25, 2014 4:46 PM
To: Adam Mengel
Subject: FW: Question

Adam:

Would you please prepare a response to Mr. Southmayd request. Thanks Sally

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]

Sent: Friday, April 25, 2014 3:32 PM

To: Albert J. Hadeed

Cc: Sally A. Sherman

Subject: Re: Question

Albert;

Thank you. I look forward to hearing from her.

JDS

-----Original Message-----

From: Albert J. Hadeed <ahadeed@flaglercounty.org>

To: JEFF SOUTHMAYD-PD <wnssfm@aol.com>

Cc: Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Fri, Apr 25, 2014 10:08 am

Subject: Re: Question

I have to refer your inquiry to Ms Sherman who oversees the Growth Management Department.

Thank you

On Apr 24, 2014, at 11:58 AM, "JEFF SOUTHMAYD-PD" <wnssfm@aol.com> wrote:

Albert;

In order for Salamander to get a permit to tear down the Ocean Hammock Lodge and then build the proposed 200 room hotel at the site, what environmental showings will the county require them to provide? I assume since they will be filing an application to a public agency for a change of use or other discretionary land use permit that a Phase 1 environmental impact study will be required? Is that correct? Will they have to provide anything else since it sits on the beach?

Thanks.

Jeff Southmayd

WNSS-FM 89.3

4 OCEAN RIDGE BOULEVARD SOUTH

PALM COAST, FLORIDA 32137

386.447-7108 FAX 888-557.3686

WNSSFM@AOL.COM

WEB: WWW.WNSSFM.COM

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Jeff Southmayd [wnssfm@aol.com]
Sent: Thursday, May 22, 2014 5:19 PM
To: Adam Mengel
Subject: RE: Question

Adam;

Would mold be a site contaminant that would require some form of inspection or environmental impact study prior to demolition of an existing building? One of the reasons the owners have given for needing to replace the Lodge at Ocean Hammock is the infestation of mold since it has been an existing building on the ocean for a decade without proper amelioration of mold.

Jeff Southmayd

**4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.445.9156
888.557.3686 FAX
jdsouthmayd@msn.com**

THIS TRANSMISSION IS INTENDED ONLY FOR THE ADDRESSEE SHOWN ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, OR OTHERWISE PROTECTED FROM DISCLOSURE. IF YOU ARE NOT THE INTENDED RECIPIENT, PLEASE DO NOT READ, COPY, OR USE IT, AND DO NOT DISCLOSE IT TO OTHERS. PLEASE NOTIFY THE SENDER OF THE DELIVERY ERROR BY REPLYING TO THIS MESSAGE AND THEN DELETE IT FROM YOUR SYSTEM. THANK YOU.

From: amengel@flaglercounty.org
To: wnssfm@aol.com
CC: ssherman@flaglercounty.org; ahadeed@flaglercounty.org
Date: Fri, 25 Apr 2014 17:19:15 -0400
Subject: RE: Question

Good afternoon Mr. Southmayd:

Thank you for the inquiry.

A Phase I Environmental Site Assessment should not be necessary since this is a developed site and there is no reasonable assumption of site contamination for contaminants listed in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. §9601) or petroleum products. In this instance and without a presumption of site contamination, completion of a Phase I Environmental Site Assessment is optional, will be at the discretion of the landowner, and even if completed, would not wholly eliminate uncertainty regarding site contamination (i.e., at best, the Phase I helps to reduce uncertainty about contamination). Please advise if there is some justification for a Phase I to be requested.

As for other requirements, many other regulations may apply; for example, construction seaward of the Coastal Construction Control Line (CCCL) would require review and permitting by the Florida Department of Environmental Protection (FDEP). Since the County has not received an application submittal, I do not know if this will be required or not. Approval – likely as a modification to an existing Environmental Resource Permit – by the St. Johns River Water Management District (SJRWMD) will be necessary where additional impervious surfaces are proposed. There are other considerations within our own regulations, like the sea turtle lighting regulations in Sec. 6.05.00. of the Flagler County Land Development Code, where compliance will ultimately be demonstrated through any submittal we receive.

For now, it is difficult to identify what processes will be necessary since no submittal has been made. Upon receipt by the County, the submittal will be routed and generate comments to identify necessary information as part of any RAI as we do for other projects.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 **Go Green:** Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: Sally A. Sherman
Sent: Friday, April 25, 2014 4:46 PM
To: Adam Mengel
Subject: FW: Question

Adam:

Would you please prepare a response to Mr. Southmayd request. Thanks Sally

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]
Sent: Friday, April 25, 2014 3:32 PM
To: Albert J. Hadeed
Cc: Sally A. Sherman
Subject: Re: Question

Albert;

Thank you. I look forward to hearing from her.

JDS

-----Original Message-----

From: Albert J. Hadeed <ahadeed@flaglercounty.org>
To: JEFF SOUTHMAYD-PD <wnssfm@aol.com>
Cc: Sally A. Sherman <ssherman@flaglercounty.org>
Sent: Fri, Apr 25, 2014 10:08 am
Subject: Re: Question

I have to refer your inquiry to Ms Sherman who oversees the Growth Management Department.

Thank you

On Apr 24, 2014, at 11:58 AM, "JEFF SOUTHMAYD-PD" <wnssfm@aol.com> wrote:

Albert;

In order for Salamander to get a permit to tear down the Ocean Hammock Lodge and then build the proposed 200 room hotel at the site, what environmental showings will the county require them to provide? I assume since they will be filing an application to a public agency for a change of use or other discretionary land use permit that a Phase 1 environmental impact study will be required? Is that correct? Will they have to provide anything else since it sits on the beach?

Thanks.

Jeff Southmayd

WNSS-FM 89.3

4 OCEAN RIDGE BOULEVARD SOUTH

PALM COAST, FLORIDA 32137

386.447-7108 FAX 888-557.3686

WNSSFM@AOL.COM

WEB: WWW.WNSSFM.COM

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Adam Mengel
Sent: Friday, May 30, 2014 12:21 PM
To: 'Jeff Southmayd'
Subject: RE: Question

Hi Mr. Southmayd:

My apology for the delay in my response.

I checked with Mark Boice, Chief Building Official for the County, and confirmed that mold is not listed in the Florida Building Code. No inspection, special study, or plan is required for its removal.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

From: Jeff Southmayd [mailto:wsssfm@aol.com]
Sent: Thursday, May 22, 2014 5:19 PM
To: Adam Mengel
Subject: RE: Question

Adam;

Would mold be a site contaminant that would require some form of inspection or environmental impact study prior to demolition of an existing building? One of the reasons the owners have given for needing to replace the Lodge at Ocean Hammock is the infestation of mold since it has been an existing building on the ocean for a decade without proper amelioration of mold.

Jeff Southmayd

**4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.445.9156
888.557.3686 FAX
jdsouthmayd@msn.com**

THIS TRANSMISSION IS INTENDED ONLY FOR THE ADDRESSEE SHOWN ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, OR OTHERWISE PROTECTED FROM DISCLOSURE. IF YOU ARE NOT THE INTENDED RECIPIENT, PLEASE DO NOT READ, COPY, OR USE IT, AND DO NOT DISCLOSE IT TO OTHERS. PLEASE NOTIFY THE SENDER OF THE DELIVERY ERROR BY REPLYING TO THIS MESSAGE AND THEN DELETE IT FROM YOUR SYSTEM. THANK YOU.

From: amengel@flaglercounty.org
To: wsssfm@aol.com

CC: ssherman@flaglercounty.org; ahadeed@flaglercounty.org

Date: Fri, 25 Apr 2014 17:19:15 -0400

Subject: RE: Question

Good afternoon Mr. Southmayd:

Thank you for the inquiry.

A Phase I Environmental Site Assessment should not be necessary since this is a developed site and there is no reasonable assumption of site contamination for contaminants listed in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. §9601) or petroleum products. In this instance and without a presumption of site contamination, completion of a Phase I Environmental Site Assessment is optional, will be at the discretion of the landowner, and even if completed, would not wholly eliminate uncertainty regarding site contamination (i.e., at best, the Phase I helps to reduce uncertainty about contamination). Please advise if there is some justification for a Phase I to be requested.

As for other requirements, many other regulations may apply; for example, construction seaward of the Coastal Construction Control Line (CCCL) would require review and permitting by the Florida Department of Environmental Protection (FDEP). Since the County has not received an application submittal, I do not know if this will be required or not. Approval – likely as a modification to an existing Environmental Resource Permit – by the St. Johns River Water Management District (SJRWMD) will be necessary where additional impervious surfaces are proposed. There are other considerations within our own regulations, like the sea turtle lighting regulations in Sec. 6.05.00. of the Flagler County Land Development Code, where compliance will ultimately be demonstrated through any submittal we receive.

For now, it is difficult to identify what processes will be necessary since no submittal has been made. Upon receipt by the County, the submittal will be routed and generate comments to identify necessary information as part of any RAI as we do for other projects.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 **Go Green:** Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: Sally A. Sherman
Sent: Friday, April 25, 2014 4:46 PM
To: Adam Mengel
Subject: FW: Question

Adam:

Would you please prepare a response to Mr. Southmayd request. Thanks Sally

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]
Sent: Friday, April 25, 2014 3:32 PM
To: Albert J. Hadeed
Cc: Sally A. Sherman
Subject: Re: Question

Albert;

Thank you. I look forward to hearing from her.

JDS

-----Original Message-----

From: Albert J. Hadeed <ahadeed@flaglercounty.org>

To: JEFF SOUTHMAYD-PD <wnssfm@aol.com>

Cc: Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Fri, Apr 25, 2014 10:08 am

Subject: Re: Question

I have to refer your inquiry to Ms Sherman who oversees the Growth Management Department.

Thank you

On Apr 24, 2014, at 11:58 AM, "JEFF SOUTHMAYD-PD" <wnssfm@aol.com> wrote:

Albert;

In order for Salamander to get a permit to tear down the Ocean Hammock Lodge and then build the proposed 200 room hotel at the site, what environmental showings will the county require them to provide? I assume since they will be filing an application to a public agency for a change of use or other discretionary land use permit that a Phase 1 environmental impact study will be required? Is that correct? Will they have to provide anything else since it sits on the beach?

Thanks.

Jeff Southmayd

WNSS-FM 89.3

4 OCEAN RIDGE BOULEVARD SOUTH

PALM COAST, FLORIDA 32137

386.447-7108 FAX 888-557.3686

WNSSFM@AOL.COM

WEB: WWW.WNSSFM.COM

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Craig Coffey
Sent: Monday, June 09, 2014 7:45 AM
To: Adam Mengel; Sally A. Sherman
Subject: FW: Art Center Proposal and Resort presentation available online

For the record and questions to address. Craig

From: Frank Meeker
Sent: Monday, June 09, 2014 7:33 AM
To: Ann Butler; Craig Coffey; Albert J. Hadeed
Subject: Re: Art Center Proposal and Resort presentation available online

Ann,

Thanks for providing your thoughts on this. I've been spending a lot of time looking over plats, the old Hammock Dunes DRI (Ocean Hammock is just phases 2 and 3 of that old project), past vesting arguments and looking at the Land Development Codes. I have many years of experience in DRI's land use issues and almost equal Mr. McLaughlin's on the land use and land development code side of things. We complement each other on our strengths that way. Many of the issues you've raised will be included in the staff's review and presentation to the commission. Some of the issues are outside of the staff's review as they are not subjects found in the land development code or are not really part of staff's analysis (such as the financial issues of the ability of this project competing with Daytona Beach). I'm sure you understand it is not the counties prerogative to encourage, support or deny what is a business decision based on economics, market or competition for any commercial venture. That all being said, no commissioner will be taking any firm position on this matter until the entire matter is discussed in a public forum, with both sides presenting the pros and cons for the project. That is what the sunshine laws are all about. We'll listen to our constituents on both sides, attend public meetings, read emails, but we should not state any position until a full public hearing. To do so at this time would give one side or the other the belief that any commissioner is pre-disposed to a view prior to hearing all of the facts. The side feeling slighted or wronged could then argue to have that commissioner recused from voting, and rightfully so. Therefore, I again thank you for taking the time to list your concerns, I will copy my response to Mr. Coffee who will understand that I will expect answers to these and many other concerns being raised when this comes before the commission.

Thanks again for taking the time to write,

Frank J. Meeker, C.E.P.
Flagler BOCC, District 2

On Jun 6, 2014, at 4:56 PM, "Ann Butler" <annbutler110@cfl.rr.com> wrote:

Dear Commisioners

Let me first say that I am a club member and really do want our club to be successful. Salamander has told the membership they were in the black in 2012 and had a net profit of 2 million in 2013. They could be even more successful if they were innovative and practiced even the most basic good business practices
I do have very serious concerns for the Hotel plan
First and foremost how can the county ignore the plat restrictions? If our county overturns or ignores the plat restrictions the population will never be able to trust the county on anything!. A terrible precedent will be set . There will be no reason for the owners not to cry poor again in a few years and ask for lever larger/ taller buildings or a series of buildings. They say they are staying within the footprint of the present lodge but they are planning to tear down a golf club building, swimming pool, member rooms, golf areas, spinning area and put up a building that is

primarily a hotel. The plat restriction says the area is for golf and recreational purposes and only. The only reason the present building was allowed to have 20 hotel rooms was that the county commissioners agreed to a special exception so that golf players in tournaments could be accommodated.

The 16th street beach park will no longer be a viable place for Hammock and Flagler county residents to enjoy. The beach club members and guests already take up most of the beach there. Can you imagine how 400+ hotel guests will impact the beach?

What are the environmental impacts of such a hotel on our bird and turtle population? The club has a very poor track record on environmental issues such as allowing the golf course to become riddled with vines and invasive trees that are killing our native vegetation. There is only token recycling at the present club. How on earth is the county going to handle all the garbage of a 200 room hotel?

How will Palm Coast Villas survive if their guests can no longer use the only beach within walking distance?

How will parking be handled?

How will emergency evacuations be impacted?

How will traffic be impacted?

How will the increased population affect the demand for county services such as fire and rescue.

Will Hammock Beach lose its wonderful wedding business once the club area becomes a concrete jungle?

Is a hotel really viable considering Daytona Beach will soon be the premier conference spot. Can our club really compete with the likes of Hard Rock which is going to be built in Daytona.

How will the present condos survive if they are not given rental priority. Heavens, why would Lupert Adler even care since they don't own the condos.

Salamander was not open about their lack of equity in the club. For years we have been told they have 10% and we have recently learned they have not exercised the 10% option.

Salamander and previous management companies have allowed the club especially the lodge to deteriorate in maintenance and cleanliness..What makes anyone think they will maintain the new hotel. Do we need an eyesore on the beach?

Salamander has not been open with Club Membership about the real reasons the condo Association turned down their offer of \$4000,000 to renovate the lobby. There were too many strings and the deal was a bad one.

Salamander keeps saying that 86 percent of those that voted on the concept of a hotel were in favor. They do not eagerly say that only 15% of the membership voted and that the process was fraught with difficulties. They also do not advertise that many of our membership live in other areas of the county and will be unaffected by the change in how the Hammock feels or looks. Many folks are only in agreement with the hotel because they fear they will not get any

improvements in upkeep of the club unless they agree to the hotel plan. Many that are opposed are tired from fighting this same battle three years ago and the fights over short term rentals. Salamander was very smart in their timing to present this. Many of the leaders of our community are worn out.

As a club member there seems to be little consideration for the inconvenience and hardship the added clientele will have on club amenities. The County and Hammock citizens should think long and hard about our vision for the Hammock and consider whether this proposed hotel is in keeping with our vision.

I always thought Flagler county and the hammock was very special because it was clean, quiet and beautiful. I thought we were seeking ecotourism. I never dreamed the focus would change to wanting a convention center and seeking to turn us into a Daytona Beach.

Adam Mengel

From: Sally A. Sherman
Sent: Wednesday, June 11, 2014 7:17 PM
To: Craig Coffey
Cc: Adam Mengel
Subject: RE: Salamander

Craig:

We have not received a formal submittal from Salamander. Sally

From: Craig Coffey
Sent: Wednesday, June 11, 2014 6:43 PM
To: Sally A. Sherman
Subject: Fwd: Salamander

Sent from my iPad

Begin forwarded message:

From: Frank Meeker <fmeeker@flaglercounty.org>
Date: June 11, 2014 at 3:36:07 PM EDT
To: Craig Coffey <ccoffey@flaglercounty.org>
Subject: Fwd: Salamander

They have had a pre-application meeting in house correct? But have the formally submitted an application that is under review by staff?

Frank J. Meeker, C.E.P.
Flagler BOCC, District 2

Begin forwarded message:

From: JEFF SOUTHMAYD-PD <wnssfm@aol.com>
Date: June 11, 2014 at 2:52:31 PM EDT
To: Frank Meeker <fmeeker@flaglercounty.org>
Subject: Salamander

Frank;

Has Salamander made any formal proposal to the County for their proposed hotel? I have not seen anything made public in that regard and there is significant opposition here in the Hammock to any attempt to modify the deed restriction on the current lodge property to allow a larger hotel facility with all the associated traffic/parking/congestion/environmental damage, etc. I am particularly opposed to their very vague and ambiguous plans as presented to the homeowners here. Moreover, I thought the issue of the modification of the deed restriction had been finally determined in connection with the Ginn proposal as not possible.

We want to make sure that we are allowed to present our views at the appropriate time.

Thanks as always for all you do.

Jeff Southmayd

WNSS-FM 89.3

The Christian Voice of Palm Coast, Florida

4 OCEAN RIDGE BOULEVARD SOUTH

PALM COAST, FLORIDA 32137

386.447-7108 FAX 888-557.3686

WNSSFM@AOL.COM

WEB: WWW.WNSSFM.COM

Adam Mengel

From: Luci Dance
Sent: Monday, June 30, 2014 12:26 PM
To: Barbara S. Revels; Charles Ericksen Jr.; Frank Meeker; Frank Meeker (fmeeker@bellsouth.net); George Hanns; Nate McLaughlin
Cc: Craig Coffey; Sally A. Sherman; Adam Mengel; Albert J. Hadeed; Sean Moylan; Jan G. Carter
Attachments: 2014 07 01 Packet from Dr. Rosewater RE Options to Salamander Proposed Hotel.pdf

Good Afternoon Commissioners,

Dr. Rosewater asked that the attached documents be distributed to the Commission. The original packets are in your boxes.

Have a great day,
Luci

Luci Dance
Executive Assistant to Board of County Commissioners
and the Deputy County Administrator
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110
Phone: (386) 313-4093
Email: LDance@FlaglerCounty.org



Adam Mengel

From: Sally A. Sherman
Sent: Monday, June 30, 2014 2:55 PM
To: Luci Dance; Barbara S. Revels; Charles Ericksen Jr.; Frank Meeker; Frank Meeker (fmeeker@bellsouth.net); George Hanns; Nate McLaughlin
Cc: Craig Coffey; Adam Mengel; Albert J. Hadeed; Sean Moylan; Jan G. Carter; Gina Lemon
Subject: RE: Opposition to Salamander Proposed Hotel on Ocean Hammock Golf Course Property
Attachments: Ocean Hammock Mtg Attendees 5-7-14.pdf

Good Afternoon:

Please note, staff has not received an application of any type regarding the above mentioned matter. Salamander requested and received a pre-application meeting with Adam and I on May 7, 2014 to provide a general overview of their future request. Additionally, attached is the list of attendees from Salamander and the Ocean Hammock Golf Community.

Should you have any questions, please feel free to contact me. Have an excellent day.

Sally A. Sherman
Deputy County Administrator
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110
386-313-4001 - Office

From: Luci Dance
Sent: Monday, June 30, 2014 12:26 PM
To: Barbara S. Revels; Charles Ericksen Jr.; Frank Meeker; Frank Meeker (fmeeker@bellsouth.net); George Hanns; Nate McLaughlin
Cc: Craig Coffey; Sally A. Sherman; Adam Mengel; Albert J. Hadeed; Sean Moylan; Jan G. Carter
Subject:

Good Afternoon Commissioners,

Dr. Rosewater asked that the attached documents be distributed to the Commission. The original packets are in your boxes.

Have a great day,
Luci

Luci Dance
Executive Assistant to Board of County Commissioners
and the Deputy County Administrator
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110
Phone: (386) 313-4093
Email: LDance@FlaglerCounty.org



Planning and Zoning

1769 E. Moody Blvd Bldg 2
Suite 105
Bunnell, FL 32110



www.flaglercounty.org

Phone: (386)313-4009

Fax: (386)313-4109

July 1, 2014

Phil Pate, Association President
Bob Corliss, Association Vice President
Sylvia Whitehouse, Association Secretary
Hammock Beach Club Condominium Association, Inc.
P.O. Box 351001
Palm Coast, FL 32135

RE: MAY 1, 2014 LETTER REGARDING SALAMANDER RESORTS PROPOSED DEVELOPMENT

Dear Messrs. Pate and Corliss and Ms. Whitehouse:

This letter is in response to the letter from the Association dated May 1, 2014 and bearing each of your signatures. I have been asked to respond on behalf of the County Administrator, Mr. Craig Coffey, regarding your inquiries as these are mostly related to planning and zoning processes within Flagler County.

As you are likely aware, no proposal has been formally received from Salamander Resorts regarding any development in Flagler County, so your letter and any response to it would be premature. However, Dr. Lynne Bravo Rosewater, in her packet submitted to the Board of County Commissioners yesterday, June 30, 2014, and dated July 1, 2014, referenced both her appointment as liaison to the Board of County Commissioners (as appointed by the Board of Directors of the Phase 1 Condominiums) and the lack of a response to the May 1, 2014 letter from your Association seeking "legal opinions on these issues." This warrants a reply. I will take each of your inquiries in turn, followed by the County's response, below (for brevity, only the questions from the May 1, 2014 letter are repeated here):

1.a. How does a 198-room convention hotel, consisting of two new buildings, meet those [plat restrictions] criteria?

Both the recorded plat (Map Book 33, Pages 11-18. Public Records of Flagler County, Florida) and the Plat Addendum for the Ocean Hammock Golf Course (Official Records Book 786, Page 824, Public Records of Flagler County, Florida) establish the plat-related conditions for development. An applicant would demonstrate compliance with these, together with the Flagler County Comprehensive Plan and Land Development Code, at the time of application.

1.b. Is what Salamander is proposing consistent with the past legal decisions that have been rendered?

No application has been made, so comment on a proposal is premature. Staff's involvement (on May 7, 2014, at a meeting attended by representatives of Salamander and several residents, including Dr. Rosewater; the list of attendees is attached) at this point has been identification of process steps should an application be made.

District 1
Charles Ericksen, Jr.

District 2
Frank Meeker

District 3
Barbara Revels

District 4
Nate McLaughlin

District 5
George Hanns

2. *Is what Salamander is proposing consistent with the past legal decisions that have been rendered? [This question specific to Phase I Condo owners, their oceanfront view and economic impact.]*

Again, no application has been made, so comment on a proposal is premature.

3. *What is the legal definition of a "footprint"?*

As defined at Section 3.08.02. of the Flagler County Land Development Code (and specific to its use in Article III. Zoning District Regulations), "footprint" is defined as: "The horizontal area as seen in plan, measured from outside of all exterior walls and supporting columns. It includes buildings, residences, garages, covered carports, and accessory structures but not trellises, patios, and areas of porch, deck and balcony less than thirty (30) inches from finished grade." At Section 6.01.01. of the Land Development Code (and specific to its use in Article VI. Resource Protection Standards), "building footprint" is defined as: "The portion of the lot, tract or parcel upon which buildings are to be placed."

4. *Is adding 177 rooms and another building consistent with a "proposal for a new Lodge"?*

Again, no application has been made, so comment on a proposal is premature. Whether an application is made for a new Lodge, the renovation of the existing Lodge, an addition to the existing Lodge, the demolition of the existing Lodge, or other scenario – of which there are likely many variants and many ways to describe each of these – is immaterial, as the request will be reviewed based on the substance of the request. In the end, the specific verbiage of the request is of less relevance in the County's review versus the proposal itself.

5. *What are the parking requirements for a 198-room hotel?*

The minimum off-street parking space requirements for a hotel are: "Hotels and motels: One (1) space for each sleeping room plus one (1) space per employee for the maximum number on the premises at any time. Additional spaces for accessory uses such as restaurants and lounges shall also be provided to the extent needed to serve the public other than hotel/motel guests." (Section 3.06.04.A.9., Flagler County Land Development Code).

6. *Is green space an issue?*

The Mixed Use: Low Intensity, Low/Medium Density Future Land Use category has a minimum 25% open space requirement for each development site. (Policy A.1.1.3.(2)(a), Flagler County Comprehensive Plan 2010-2035). Again, no application has been made, so comment on a proposal – and whether sufficient open space has been provided – is premature.

July 1, 2014

7. *Does a hotel of 198 rooms need to have a lobby?*

This is a design consideration and not the prerogative of the County as the local government having land development regulation and permitting authority.

In summary, the Association's May 1, 2014 letter referenced proposals that the County was not aware of until the May 7, 2014 meeting with representatives from Salamander Resorts and residents. In staff's review of the May 1, 2014 letter and the questions provided therein, the same questions were generally made by residents at the May 7, 2014 meeting and responses from Salamander and the County respectively were provided. As of the date of this letter, the County has not received an application for any development from Salamander Resorts, their agents or assigns. Likewise, no application has been received from the golf course parcel owner, LRA Hammock Beach Ocean, LLC (as successor to Ginn-LA Hammock Beach Ocean Ltd., LLLP), their agents or assigns. A review of an application by the County will occur upon receipt of an application by the County.

Please note that this letter is not a legal opinion as the County does not provide legal advice to private parties; legal advice for your Association is handled through any counsel that the Association provides to its Board or its membership.

I hope that this satisfies your inquiries as it relates to this matter. Please contact me with any additional questions.

Sincerely,



Adam Mengel, AICP
Planning Director

Attachment: Attendance sign-in sheet from May 7, 2014 meeting

cc: Dr. Lynne Bravo Rosewater
Board of County Commissioners
Craig M. Coffey, County Administrator
Sally Sherman, Deputy County Administrator
Al Hadeed, County Attorney

5-7-14

Name	Phone Number	Email
ADAM MENGEL	386-313-4065	amengel@flaglercounty.org
Sally Sherman	386-313-4001	ssherman@flaglercounty.org
Tim DIGBY	386-246-5511	TDIGBY@HAMMOCKBEACH.COM
KNOXI COVELL	386 986-2277	mcnaesq@yahoo.com
Galvia Whitehouse	200 380-240-0553	SIRENE23@ME.COM
Lynne Bravo Rosewater	386-246-6458	lynnerosewater@me.com
John Mamepe	386-246-4129	jjmamepe@juno.com
Jack Fretz	386-447-1828	jfretzj@aol.com
Neil Fretz	386-447-1828	GJFretz@aol.com
HERB HILTON	954-2534583	HAMILTON44@AOL.COM
GEORGE MACKO	386-237-5229	GEMACKO@BELLSOUTH.NET
Ann Butler	386-246-5004	ANNButler110@cfl.rr.com
Joy Ellis	386-445-8566	joyellis@cfl.vr.com
Sue Ockon	386-986-4999	sue.ockon@hotmail.com
MARGE ANKROM	386-931-2784	MARGE@MARGEANKROM.COM
Vijay Singh	843 991 7629	VICE PRESIDENT OPS. SALAMANDER
Daniel Baker	386 / 246-5245	dbaker@zpccommunities.com
TREY DELADAS		RESORT JSP: A

Packet For: Flagler County Commissioners

From: Hammock Beach Phase I Board of Directors

**Concerning: Opposition to Salamander Proposed Hotel
On Ocean Hammock Golf Course Property**

Contents:

Letter from Dr. Lynne Bravo Rosewater

Addendum #1: Sketches of Proposed Salamander Hotel
(The New Lodge)

Addendum #2: May 1, 2014 Letter to Craig Coffee from
The Board of Directors, Hammock Beach Phase I Condos

Addendum #3: Picture of Hammock Beach Chairs on the Beach north of 16th
Road

Addendum #4: Item 39- Hammock Dunes DRI –Phase Two Ocean Hammock
Clubhouse- Preliminary Plat Site Development Plan in
a PUD

Addendum #5: Picture of green space that will be eliminated if Salamander
New Lodge (Three new buildings) are erected

*Dr. Lynne Bravo Rosewater
200 Ocean Crest Drive, Apartment 815
Palm Coast, FL 32137
386-246-6458 (h), 216-965-6260 (cell)
lynnrosewater@me.com*

July 1, 2014

George Hans, Chairman
Flagler County Commissioners
1769 East Moody Boulevard
Building 2
Bunnell, FL 3210

Dear Commissioner Hans,

I have been appointed as a liaison to the Flagler County Commissioners by the Board of Directors of the Phase 1 Condominiums (the big central building which is the central part of the Hammock Beach Resort) with one hundred and forty-eight three to four bedroom units, I have lived at Hammock Beach ever since it opened in the summer of 2003.

First and foremost we are appalled that four years we hired attorneys to fight for our rights against the NOPC (Notice of Proposed Change) to build a hotel on the Ocean Hammock Golf Course property, and now another attempt is being made by Salamander to build a 198 room hotel, consisting of three new buildings, two to house guests (These buildings, while the same height as the Lodge, are twice as long) and one new building to connect the two with bars and restaurants. (See attached Addendum Item #1) The irony is that they call this the "New Lodge" when it is 500% bigger than the existing lodge.

As you are aware this fight against the NOPC consisted of three separate hearings, one with the County Commissioners who voted 5-0 to disallow the NOPC. This fight was then taken by Ginn LLC to an administrative judge, D. R. Alexander, who after the trial issued his ruling on April 6, 2010 that "Petitioners have no right to construct up to 561 dwellings on 12 acres of land located in the Ocean Hammock Golf Course **that is now platted and restricted in perpetuity for golf course purposes only.**" Ginn LLC, again appealing, took this fight to the Governor, whose executive committee unanimously upheld Judge Alexander's ruling.

Salamander representative, Prem Devidas has never answered any questions about the existence of the plat restrictions, and has publically stated Salamander "has the right to build on the footprint because they own the property." (Actually Lubert/Adler owns the property.) Our Board sent a letter to Craig Coffee, seeking legal opinions on these issues, and, to date has had no response (See Addendum Item #2).

Prem Devidas states, "Hammock Beach cannot compete for convention business unless it builds another 198 new hotel rooms." Hammock Beach is a **resort**. Check any website that advertizes for Hammock Beach, including its own. Devidas also claims if no hotel were built, Hammock Beach "would fail." We would ask what are they doing with

the \$620,200 they make each month from member dues? (650 Beach Club Memberships at \$415.00 per month and 430 Golf Memberships at \$815.00 per month).

Further we would ask why no financial records have been made available to prove any of the statements Devidas makes about Hammock beach being unviable. The Ocean Hammock Golf course was purchased for a reported \$36,000,000 and is today worth \$6,000,000. How much of the roughly \$30,000,000 loss is being written off to show financial losses? Devidas claims Salamander is an "equity partners with Lubert/Adler," despite the fact that Salamander has no equity in Hammock Beach.

While Devidas brags that 84% of owners support this proposal, this vote is based on asking for consensus without any other side being presented to members and on scare tactics, such as repeating telling their property values would continue to diminish (they are, in fact on the upswing). We asked our Phase 1 Condo owners "whether they approved or disapproved of a new hotel being built, and 78% of our members voted "No."

Residents of Hammock Beach community are tired from fighting for our rights: First the NOPC and then the neighborhood rentals. My husband, George Macko, and I attended every county meeting on the rental issues and supported the homeowners who didn't want a "hotel in their backyard." Ironically the homeowners who support the Salamander proposal fail to see that this proposed hotel **is** in our backyard.

As owners we were promised the use of the \$6,000,000 pool complex. There are currently 33 seats allotted for members at the pool complex. Guests at Hammock Beach have use of all its facilities. It is virtually impossible from Memorial Day to Labor Day to get a seat at the pools that we pay a monthly membership for. And now Salamander wants to remove one pool, add two (sum total gain, one pool and add another 400 guests!

The Flagler County Board of Commissioners had given concessions to Ginn, including twenty-two acres of beachfront property, which former Commissioner Mellissa Holland testified to at the hearing at the Governors executive committee. The agreement Ginn made was to make sure that green space was protected. The sketches for the proposed hotel shows that the three buildings take up every bit of green space besides the actual golf course. (See Addendum Items #1 and #5). The individuals who purchased condominiums were told **nothing** would ever be built in front of their ocean views.

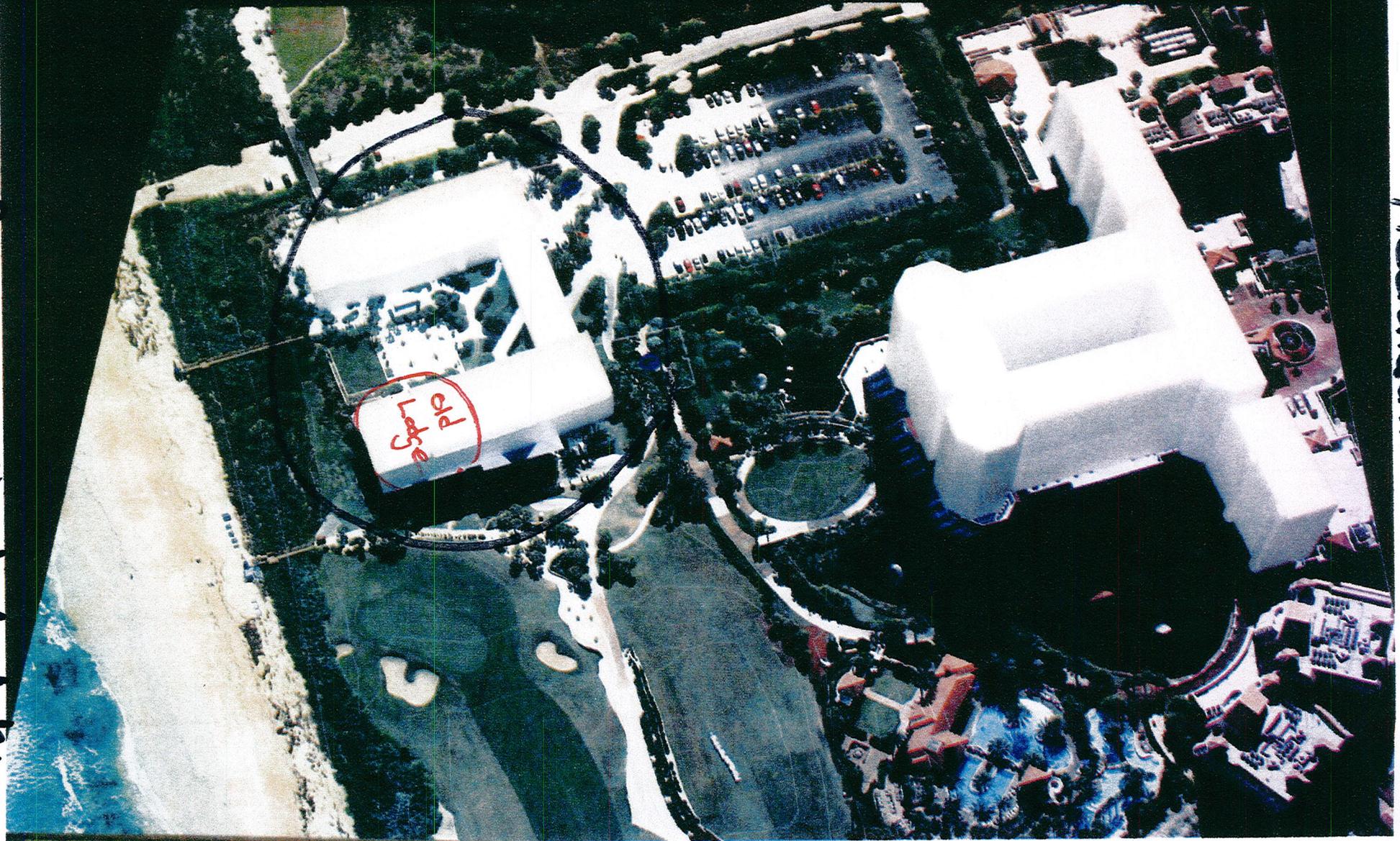
The other deal made with the Flagler County Commissioners was to have public beach access at 16th Street. Currently the beach is full of Hammock Beach chairs covering the entire frontage of Hammock Beach, including the front of the Lodge. (See Addendum #3) Members often cannot even get a seat at the beach. Very lit

Original members of the Ocean Hammock Golf Course have stated that the twenty-one rooms granted to the Lodge were a special exemption for out-of-town golf members. Thanks to the help of Carl Laundrie, I'm enclosing the original document, dated July 11, 2001, labeling these rooms as "golf suites." (See Addendum #4) We believe this document belies Devidas' claim that the Lodge always has been a "hotel."

In addition Salamander has not addressed the key issues of water, environmental planning, traffic on the barrier island, emergency evacuation beach access, nor have they addressed how to handle parking for the 198 rooms, except to say it would be probably off-site and have valet parking. How would you get those people who don't have access to their cars out if time was of the essence?

Addendum #1

Scaled Massing Model- Existing "Big House" and New Lodge



Proposed New Lodge - Salamander

Addendum #1

Addendum #2

Hammock Beach Club Condominium Association, Inc.

Post Office Box 351001, Palm Coast, FL 32135

Telephone: (386) 446-6333, Toll Free (800) 439-9408, Facsimile: (386) 446-1830

www.ssmgroupinc.com

May 1, 2014

Mr. Craig Coffee, Flagler County Administrator
1769 Moody Boulevard, Building #2
Bunnell, Florida 32110

Dear Mr. Coffee:

It has come to our attention that Prem Devadas, President of Salamander Resorts, is meeting with Adam Mengel, Flagler County Zoning Commission, on May 7, 2014 to discuss the new 198 unit hotel that Salamander would like to build on the oceanfront. As you know, we fought this very hard and long the first time and have intentions of doing the same again this time. It is clear that there are certain issues that will be raised by the Salamander proposal that can be easily reviewed by applying the land development code. However, other issues in the discussion are either policy driven or driven by legal concerns. The Board of Directors of the Phase I Condos (the "Big House") of Hammock Beach, which is opposed to the Salamander proposal, would like the issues to be addressed either by you or other staff members or by Mr. Hadeed:

- (1) Salamander has never discussed that there is an administrative court recommendation upheld by FLWAC that the property at the Hammock Beach Golf Course is plat restricted "in perpetuity" for golf and recreation only. How does a 198-room convention hotel, consisting of two new buildings, meet those criteria? ***Is what Salamander is proposing consistent with the past legal decisions that have been rendered?***
- (2) Many of the Phase I Condos currently located on deeded and plat restricted land will have their views totally blocked and they have written to say they're distressed by losing their view and the consequent economic impact. ***Is what Salamander is proposing consistent with the past legal decisions that have been rendered?***
- (3) Salamander claims they own the "footprint" of the Lodge, which they describe as all the space except the actual Ocean Hammock Golf Course and the driving ranges. ***What is the legal definition of a "footprint"?***
- (4) The proposed construction, called euphemistically the "Proposal for a New Lodge" would add 177 rooms that do not currently exist. The 21 bedrooms given the Lodge were a special exemption. ***Is adding 177 rooms and another building consistent with a "proposal for a new Lodge"?***
- (5) Salamander's plans include NO parking, not is there room on the land they propose to build on for the parking that would be required for an extra 177 rooms. ***What are the parking requirements for a 198-room hotel?***
- (6) The two proposed new buildings would eliminate much of the greenery. ***Is green space an issue?***
- (7) There is nothing in this proposal for a lobby of any kind. ***Does a hotel of 198 rooms need to have a lobby?***
- (8) The Phase I Condominium Association has also done a survey of its members and 78% were against any oceanfront building.

We would appreciate your responses to these inquiries.

Yours sincerely,

Phil Pate
Association President

Bob Corliss
Association Vice President

Sylvia Whitehouse
Association Secretary



Addendum # 3

Addendum #4

June 11, 2001
Regular Meeting

ITEM 39 - HAMMOCK DUNES DRI - PHASE TWO - OCEAN HAMMOCK CLUBHOUSE - PRELIMINARY PLAT SITE DEVELOPMENT PLAN IN A PUD

Chairman Darby reviewed the following information provided by Planning Director Barrett:

**Board of County Commissioners
Agenda Request**

Item # 39

SUBJECT: THE PLANNING BOARD REQUESTS THE BOARD OF COUNTY COMMISSIONERS APPROVE A PRELIMINARY PLAT SITE DEVELOPMENT PLAN REVIEW IN A PUD LOCATED WITHIN OCEAN HAMMOCK; BEING A PORTION OF HAMMOCK DUNES DRI GOLF COURSE AND CLUSTER 33 LYING NORTH OF 16TH ROAD

DATE: JUNE 11, 2001

DEPT: PLANNING AND ZONING

STATEMENT OF ISSUE: The Board of County Commissioners (BCC) is requested to approve a preliminary plat site development plan review in a PUD in the Hammock Dunes DRI Phase Two of Ocean Hammock Clubhouse Site.

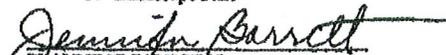
BACKGROUND: On May 8, 2001, the Planning Board recommended to approve the preliminary Plat/Site Plan Review in the Hammock Dunes DRI Golf Course and Cluster 33 lying North of 16th Road with conditions. The proposed project of 6.53 acres more or less includes 46,200 SF permanent clubhouse (including +/-9,000 SF cart storage) swim fitness center, 21 golf suites and associated swimming pool and deck, bar/dining room and outdoor pool bar and grill.

FACTS AND ISSUES: The County Technical Review Committee (TRC) reviewed the preliminary plan/site development plan on April 18, 2001 and offered comments (attached). As per Flagler County Land Development Code, Article IV, Subdivision Regulations, Section 4.07.00 the Planning Board must review preliminary plats and site plans for projects in a PUD District and make a recommendation to the County Commission for their final decision.

RECOMMENDATION: The Planning Board and the Planning Department staff recommend approval of the preliminary plat site development plan in a PUD in the Hammock Dunes DRI Golf Course and Cluster 33 lying North of 16th Road.

ATTACHMENTS:

1. Application for Review, Preliminary Plat/Site Development Plan Review in a PUD
2. May 8, 2001 Memo to the Flagler County Planning Board
3. April 18, 2001 Technical Review Committee Comments
4. Site Plan
5. Landscape Plan


PLANNING DIRECTOR


COUNTY ADMINISTRATOR

Addendum #5



Adam Mengel

From: Daniel Baker [dbaker@acpcommunities.com]
Sent: Wednesday, August 27, 2014 5:00 PM
To: Adam Mengel
Subject: New Lodge Site Development Plan Application
Attachments: Letter.pdf; Application.pdf; Application Fee.pdf

Good afternoon Adam,

Please find attached an introductory letter, executed application form, and copy of application fee related to the above referenced project. Hard copies are being submitted to your office along with the supporting information.

Daniel Baker
VP Development & Operations



P 386.246.5845 | **M** 386.931.6462 | **F** 386.246.5855
200 Ocean Crest Drive, Suite 31, Palm Coast, FL 32137
E dbaker@acpcommunities.com



VIA HAND DELIVERY & ELECTRONIC MAIL

August 27, 2014

Mr. Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Board of County Commissioners
1769 East Moody Boulevard, Building 2, Suite 105
Bunnell, FL 32110
amengel@flaglercounty.org

RE: Hammock Dunes Planned Unit Development
Application for Site Development Plan Review in a PUD
New Lodge and Conference Facilities at Hammock Beach

Dear Mr. Mengel,

On behalf of LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC (collectively, "Applicant" or "LRA"), Salamander Hotels & Resorts (hereinafter "Salamander" or "Agent") is pleased to submit the enclosed Application for Site Development Plan Review in a PUD for the New Lodge and Conference Facilities located within Hammock Beach, an Oceanfront Club and Resort Destination, and part of the 2,200 acre Hammock Dunes Planned Unit Development. The Application package represents the information we discussed with you on May 7, 2014 and includes the following:

1. Executed Form of Application for Site Development Plan Review in a PUD;
2. Application fee of \$1,600.00;
3. Pre-application due diligence including:
 - o Conceptual Renderings (December 2013 Presentation),
 - o April 2014 Proposal for New Lodge and Statement of Opportunity,
 - o 2014 Community Outreach Correspondence (Town Hall Presentation), and
 - o Summary of 2014 Town Hall Polling;
4. Conceptual Drawings, Including Illustrative Site Plan, Renderings, and Elevations;
5. Basis of Design and Development Criteria;
6. Site Development Plans; and
7. Warranty Deeds for subject properties.

As we discussed in May at our pre-application meeting, this Application is the culmination of considerable and thoughtful planning combined with extensive communication and consensus building

for the New Lodge and Conference Facilities at Hammock Beach (the "Project"). Due to the importance and significance of this effort many Hammock Beach members and property owners have invested time and energy to assist the Applicant and Salamander with this endeavor. For purposes of background and context, the following provides a brief synopsis of the evolution of the enhancements embodied in the Application.

Background

When Hammock Beach Resort (also known as the Club at Hammock Beach and hereinafter the "Resort") opened on June 4th, 2004, it was hailed as one of the finest new resort communities on the East Coast, featuring many luxurious amenities, highlighted by a variety of dining experiences, spa and fitness, waterpark and pools, and with the addition of the Conservatory in 2008, the Resort offered two of the best golf courses in the Southeast. Now, more than 10 years since opening, the Resort has survived a massive economic downturn and needs to be positioned for future success, to benefit the owners, members, guests and the community as a whole.

The economic downturn led to considerable reductions in Membership and Resort guests, leaving the Resort with significant operating shortfalls. During this time, capital was primarily used to address operating deficits, which left the Resort without adequate funding to perform capital improvements on a normal life cycle, resulting today in a physically outdated appearance and an aging mechanical infrastructure. The existing lodge building, nestled between the front and back nines of one of the best golf courses on the East Coast, epitomizes the deterioration that has taken place.

Compounding the challenge of sustaining the Membership and Resort operations at a high level, Hammock Beach Resort's primary resort competitors, including Amelia Island Plantation, PGA National, Ritz Carton Amelia Island, and the Marriott Sawgrass, have all recently completed multi-million dollar renovations and are now attracting clients from the all-important group markets who had previously been loyal to Hammock Beach in years past, such as Anheuser Busch, Bellsouth, Bayer, Exxon Mobil, Genetech, KPMG, and Monsanto.

Over the past 18 months, Salamander has studied various options in search of a financially feasible way to make improvements to the aging infrastructure in order to enhance the Members' experience and reverse the declining business trends. The solution is centered around the Resort's need to successfully compete for large corporate groups who typically hold meetings during mid-week. In order to attract this group segment, it was determined that the Resort required a minimum of 325 hotel-like accommodations with complimenting conference facilities. Using the existing the 127 one-bedroom condominiums as the core of the new lodging concept, a plan was developed to add a new 198 room lodge facility at the existing lodge site. This facility would house new ocean front dining, golf club house facilities worthy of Nicklaus' Ocean Course, and new Member Only facilities which will significantly elevate the club experience for our social and golf

members. Equally important, the scope of construction would include much needed improvements to many existing facilities, in order to achieve a substantially renovated Resort along with a newly constructed addition.

Conceptualization and Community Consensus

Discussions regarding these potential improvements, and the potential of a new lodge, began with the Hammock Beach community in December 2013 at a community wide Town Hall meeting. The positive feedback led to the formation of the Hammock Beach Community Committee, which included representatives from across all phases of the Hammock Beach community. The Community Committee, a group of 13 property owner representatives (see the enclosed Town Hall Presentation material for a list of the members and their represented communities), met with the Salamander team on three separate occasions to provide input on the potential improvements and assist in setting direction for the proposed project. In addition to the Community Committee, several stakeholder groups (Hammock Beach Club Condominium Association, One Bedrooms at Hammock Beach Club Condominium Association, Ocean Towers Condominium Association, Conservatory Property Owners Association, and the Yacht Harbor Village Condominium Association and Harbor Village Marina Property Owners Association) were called upon for input. Ultimately, dozens of individual club members and community residents were solicited for insight, opinion, and ideas on the proposed improvements. This comprehensive and collaborative input from the community formed the basis for the new Lodge proposal and continued to inform its concepting.

While the prospect of a New Lodge that includes (1) member only facilities, (2) significant upgrade of Resort amenities currently offered, and (3) addition of new amenities, was central to the new concept, several other member focused improvement initiatives were created through the New Lodge concepting. The New Lodge provides the platform and opportunity for Salamander to commit additional resources for specific member centric Resort amenities that would be initiated once the New Lodge plan received County approval. These include the following expansions and enhancements:

- Major renovation of the spa, and expansion of the fitness center and aerobics room (pending condominium association coordination);
- Refurbishment of Delfinos restaurant and renovation of Loggerheads;
- Expansion of the Ocean Course Hammock House to create enclosed dining facilities in addition to the outdoor seating;

In addition to these improvements the Resort will take over responsibility for the 16th Road landscape maintenance, relieving the Ocean Hammock Property Home Owner's Association of this expense. The planning and implementation of these enhancements will commence in the months

following County approval of the New Lodge Site Development Plan Review in a PUD Application. They are intended primarily to address current physical deficiencies of important member and guest amenities, and will also significantly mitigate the impact of the construction phase.

After developing the New Lodge concept and membership amenity enhancement package, and in keeping with a commitment Salamander made to pursue the New Lodge only if the opportunity was supported by a large majority of Hammock Beach members and property owners, the next phase of the concept development involved presentation of the concept and supporting information, open dialogue with a question and answer session, closed polling with Community Committee oversight and transparency, and tallying and presentation of the polling results. This was accomplished by conducting a follow up Town Hall meeting on Saturday April 5th for the purpose of presenting the most recent proposed Lodge concept to the membership and the community. This meeting ran several hours, as it included a full presentation and open forum Q&A session. The Q&A was open to all participants, and afforded the opportunity for those not physically present at the meeting to participate as well. At the conclusion of this meeting, a Straw Poll was taken of those in attendance to gauge the interest level and support for continuing the process. The results of that Straw Poll, which were announced at the end of the meeting, were as follows: 181 ballots (85%) supporting the proposal, and 31 ballots (15%) against the proposal.

In order to validate the Straw Poll process and ensure every member and property owner had full opportunity to participate, a follow up viewing and polling process was established. The timeline and steps are outlined below:

- Tuesday April 8th: Posting of entire Town Hall meeting on Club website via Youtube video, along with Polling Instructions, and a supporting eblast sent.
- Wednesday April 9th: Improved Ballot Link Posted, deadline extended to Saturday, and a supporting eblast sent.
- Thursday April 10th: Additional Q&A Conference Call for nonresident members held.
- Saturday April 12th: Voting closes at 5 PM.
- Monday April 14th: Final Votes Tabulated.
- Tuesday April 15th: Final Numbers validated by Charles Kerr, President ABOG, and Charlie DeMartin, Yacht Harbor Village Condominium Owners Association Board of Directors representative.

With 200 additional ballots received online, the Straw Poll count totaled 382 ballots, of which 354 ballots / 86% were cast in support of the proposal, and 58 ballots / 14% were cast against the proposal. Upon developing consensus of Hammock Beach property owners and members in a collaborative process, Salamander also took initiative to request the opportunity to present the new Lodge concept to the A1A Scenic Pride on May 6, 2014. After presenting the information and answering questions, Salamander committed to returning and presenting additional information as the concept was more fully developed. In like manner, Salamander also conducted preliminary

discussions with representatives from the Dunes Community Development District to confirm infrastructure capabilities and service capacities for the new Lodge.

The Straw Poll results, combined with the meeting with A1A Scenic Pride and the Dunes Community Development District, tangibly demonstrated broad community support and infrastructure readiness, for Salamander to advance the concept to the next phase of the process - developing a detailed site development plan for submission to, and consideration by, Flagler County.

Therefore, we are truly excited, after many months of effort, to formally submit the Application. We look forward to working together with a coalition of Hammock beach members and property owners, business partners, local stakeholders, and members of the general public, to review the Application with Flagler County representatives and bring this economic development opportunity to realization.

Best Regards,



Prem Devadas

President

Enc.

Cc: Hammock Beach Advisory Board of Governors
Hammock Beach Community Committee
Hammock Beach Members and Property Owners
A1A Scenic Pride
Sheila Johnson, Salamander
Neill Faucett, Lubert Adler
Amy Wilde, ACP Communities

Application for Site Development Plan Review in a PUD
New Lodge and Conference Facilities
Hammock Dunes Planned Unit Development



APPLICATION FOR SITE DEVELOPMENT PLAN REVIEW IN A PUD

1769 E. Moody Blvd, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009 Fax: (386) 313-4109

Application/Project #: _____

PROPERTY OWNER(S)	Name(s):	LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC		
	Mailing Address:	200 Ocean Crest Drive, Suite 31		
	City: Palm Coast	State: FL	Zip: 32137	
	Telephone Number	386.246.5500	Fax Number	386.246.5855

APPLICANT /AGENT	Name(s):	Salamander Hospitality, LLC		
	Mailing Address:	10 North Pendleton Street		
	City: Middleburg	State: VA	Zip: 20117	
	Telephone Number	540.687.3710	Fax Number	540.338.3117
	Email Address:	Prem Devadas <pdevadas@salamanderhotels.com>		

SUBJECT PROPERTY	SITE LOCATION (<i>street address</i>):	105 16th Road and 200 Ocean Crest Drive		
	LEGAL DESCRIPTION: <i>(briefly describe, do not use "see attached")</i>	See attached description.		
	Parcel # (<i>tax ID #</i>):	See attached description.		
	Parcel Size:	See attached description.		
	Current Zoning Classification:	Planned Unit Development		
	Current Future Land Use Designation:	Mixed Use: Low Intensity, Low/Medium Density		
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	

PURPOSE OF SUBMISSION / PROJECT DATA: Improvement and renovation of
areas of Hammock Beach Resort, including the Lodge and expanded conference facilities.

Signature of Owner(s) or Applicant/Agent
if Owner Authorization form attached

8/27/14

Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/ACTION:

APPROVED []
*APPROVED WITH CONDITIONS []
DENIED []

Signature of Chairman: _____

Date: _____ *approved with conditions, see attached.

BOARD OF COUNTY COMMISSIONERS ACTION:

APPROVED []
*APPROVED WITH CONDITIONS []
DENIED []

Signature of Chairman: _____

Date: _____ *approved with conditions, see attached.

NOTE: The applicant or a representative, must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application.

Required Attachments for Site Development Plan Review in a PUD Application:

- 1.) Copy of Owner(s) recorded Warranty Deed;
- 2.) Application fee is \$970 plus \$45/acre or portion thereof plus the cost of newspaper ad(s) and postage at prevailing rate and \$50 for each notification of public hearing (posting of sign). If parcel is located within the A1A Scenic Corridor Overlay, there is an additional \$100. Make check payable to BOCC. Fee amount per Resolution 2008-31.
- 3.) 33** Sets of Plan meeting requirements of Section 3.04.03, Flagler County Land Development Code.
10 sets of plans for the Technical Review Committee **due upon submittal of application, 13 sets of plans for Planning Board, and 10 sets of plans for the BCC.

NOTE: All applicants are requested to provide at least one set of documents/plans in a size no larger than 11" x 17" plus one electronic formatted submittal.

3.04.03. Site development review of a PUD.

- A. *Site development plans.* Following the enactment of an ordinance creating a PUD, a detailed site development plan shall be submitted to the technical review committee prior to the start of construction. The technical review committee shall review the site development plan to determine compliance with county development ordinances and consistency with the Flagler County Comprehensive Plan. The site development plan shall then be reviewed by the planning board. The planning board will recommend approval or denial to the Flagler County Commission. The Flagler County Commission will make the final decision for approval or denial on the plan. Where the PUD is to be phased, the site development plan submitted may be for only that portion for which construction is pending.
- B. *Submittal requirements.* The site development plan and any necessary supporting documents or exhibits shall contain the following information:
 1. The applicant shall meet with the development administrator, county engineer, and county attorney to review the proposal prior to the submittal of all application materials. The development administrator, county engineer and county attorney may request additional plans, maps, studies, and reports as they may reasonably require to make a recommendation on the proposal to the county commission.
 2. A PUD master plan at an appropriate scale for presentation, showing and/or describing the following:
 - (a) Proposed land uses and their location and acreage;
 - (b) Lot sizes, indicated by lot lines drawn on their proposed location or by a statement noted on the face of the master plan concerning lot sizes, including minimum lot sizes proposed;
 - (c) Building setbacks defining the distance buildings will be set back from:
 1. Surround property lines;
 2. Proposed and existing streets;
 3. Other proposed buildings;
 4. The centerline or banks of rivers, streams and canals;

5. The high-water line of freshwater lakes, mean high-water line for saltwater;
 6. The coastal setback line unless the FDNR has issued a permit for construction seaward of the coastal construction control line;
- (d) Maximum height of buildings;
 - (e) The number and type of residential units proposed, their general site distribution, average density and price ranges;
 - (f) Proposed floor area ratios and maximum ground coverage for nonresidential uses;
 - (g) A table showing acreage for each category of land use;
 - (h) Vehicular, pedestrian and mass transit peakhour vehicular traffic movement throughout the property, and indicating its point(s) of access to or egress from the property (this requirement may be waived by the development administrator when it is determined that the proposed development is of such limited size that it will create no undue volume of vehicular traffic movement);
 - (i) Location, character and scale of parking including:
 1. Developed recreation;
 2. Common open space;
 3. Natural areas; and
 4. Screening, buffering and landscaped areas, with estimates of approximate acreage to be dedicated and that to be retained in common or private ownership.
 - (j) A topographic map at an appropriate scale showing existing contour lines, including all existing buildings and wooded areas;
 - (k) Relation of abutting land uses and land use districts to the proposed planned unit development, including where view protection is an objective, location of principal public viewpoints into or through the proposed planned unit development.
3. A proposed utility service concept plan, including sanitary sewers, storm drainage, potable water supply, and water supplies for fire protection, including a definitive statement regarding the disposal of sewage effluent and stormwater drainage, and showing general location of major water and sewer lines, plant location, lift stations and indicating whether gravity or forced systems are planned. Size of lines, specific locations and detailed calculations are not required at this stage.
 4. A statement indicating the type of legal instrument that will be created to provide for the maintenance and ownership of common areas.
 5. If applicable, a description of the proposed staging plan shall be submitted indicating, for each project stage:
 - (a) The uses, location, floor areas, and residential or other densities to be developed;
 - (b) Streets, utilities, and other improvements necessary to serve each proposed project stage;
 - (c) The proposed dedication of land to public use, and setting forth anticipated staging and completion dates for each project stage; provided that in lieu of an indication of specific timing, initiation of succeeding stages may be made dependent upon completion of all or substantial portions of earlier stages.

6. A statement with general information regarding provisions for fire protection.
 7. A statement regarding the contributions which will be made by the developer to local government for facility expansion required as a result of development.
 8. Proposals concerning any restrictive covenants to be recorded with respect to property included in the planned unit development.
 9. Any special surveys, approvals or reports.
 10. Reduced copies of the preliminary master plan, suitable for mailing, must be provided to the planning and zoning director at the time of application.
- C. *Approval of development plan.* The Flagler County Commission shall review the site development plan for conformance with the ordinance passed under subsection 3.04.02 and with the Standards and criteria of subsection 3.04.04. Action to approve, modify or deny the site development plan shall be taken by the commission within sixty (60) days of receipt of the plan by the commission. Written notice of action to deny the plan shall be given to the applicant within thirty (30) days of the action.
- D. *Recording.* Upon approval of the site development plan and approval of notification of such action from the county commission, the applicant may present such copies as are required to the Clerk of the Circuit Court of Flagler County for recording. A copy of the site development plan shall also be sent to the planning and zoning director.
- E. *Permits required.* All construction in the development of a PUD shall proceed only under applicable permits, issued by the building official's office; and no building permit, certificate or other document authorizing construction or occupancy within the PUD shall be issued, except in accordance with the approved development plan.

(Ord. No. 02-02, § 1, 1-22-02)

Application for Site Development Plan Review in a PUD
New Lodge and Conference Facilities
Hammock Dunes Planned Unit Development

DATE	8/27/2014	CHECK NUMBER	020257
------	-----------	--------------	--------

INVOICE NUMBER	INVOICE DATE	DESCRIPTION	GROSS AMOUNT	DISCOUNT	NET AMOUNT
082714 Application Fee	8/27/2014	Vchr: VO052628	\$1,600.00	\$0.00	\$1,600.00
PRINT BATCH	VENDOR CODE	PAY TO NAME			NET TOTAL
1,105	FLACOU	Flagler County BOCC			\$1,600.00



The Club at Hammock Beach, LLC
200 Ocean Crest Drive
Palm Coast, FL 32137

Intracoastal Bank
1290 NW Palm Coast Parkway
Palm Coast, FL 32137 63-1555/631

DATE	8/27/2014	CHECK NUMBER	020257
------	-----------	--------------	--------

PAY One thousand six hundred and 00/100 Dollars Only *****

AMOUNT	\$1,600.00
--------	------------

TO THE ORDER OF
Flagler County BOCC
1769 E. Moody Blvd
Bunnell, FL 32110

[Handwritten Signature]

⑈020257⑈ ⑆0631⑆6562⑆ ⑆0058362⑈

Adam Mengel

From: Carl Laundrie
Sent: Wednesday, September 03, 2014 11:35 AM
To: Gina Lemon; Adam Mengel
Cc: Luci Dance
Subject: FW: PRR - Site Plans Ocean Hammock Golf Course and Hammock Beach Phases 1, 2 & 3

Adam Gina: I need to know if digging out this stuff will take longer than 30 minutes. If it does then we will charge. I assume the parking question we can just answer in an email. . . carl

Luci: Does she want to look at them or obtain copies? Copies will cost and I will have to give her an estimate . . .carl

From: Luci Dance
Sent: Wednesday, September 03, 2014 10:33 AM
To: Carl Laundrie
Cc: 'lynnrosewater@me.com'
Subject: PRR - Site Plans Ocean Hammock Golf Course and Hammock Beach Phases 1, 2 & 3

Dr. Rosewater 216-965-6260 would like site plans for the following:

Ocean Hammock Golf Course
Hammock Beach South Towers (understands they are set back 10 ft due to propane tanks – need to know where they are buried)
Hammock Beach Phase 1
Hammock Beach Phase 2
Hammock Beach Phase 3

If not included in the site plan they need the property lines of the above items.

Also, she has a question regarding the number of parking spaces. When proposing this new hotel can Salamander include the space approved for golf parking in his hotel parking space count?

Thank you,
Luci

Luci Dance
Executive Assistant to Board of County Commissioners
and the Deputy County Administrator
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110
Phone: (386) 313-4093
Email: LDance@FlaglerCounty.org



Adam Mengel

From: Gina Lemon
Sent: Wednesday, September 03, 2014 11:39 AM
To: Adam Mengel
Subject: RE: PRR - Site Plans Ocean Hammock Golf Course and Hammock Beach Phases 1, 2 & 3

FYI –Hammock Beach is not the name of a development that has a related site development plan

Gina

From: Carl Laundrie
Sent: Wednesday, September 03, 2014 11:35 AM
To: Gina Lemon; Adam Mengel
Cc: Luci Dance
Subject: FW: PRR - Site Plans Ocean Hammock Golf Course and Hammock Beach Phases 1, 2 & 3

Adam Gina: I need to know if digging out this stuff will take longer than 30 minutes. If it does then we will charge. I assume the parking question we can just answer in an email. . . carl

Luci: Does she want to look at them or obtain copies? Copies will cost and I will have to give her an estimate . . .carl

From: Luci Dance
Sent: Wednesday, September 03, 2014 10:33 AM
To: Carl Laundrie
Cc: 'lynnrosewater@me.com'
Subject: PRR - Site Plans Ocean Hammock Golf Course and Hammock Beach Phases 1, 2 & 3

Dr. Rosewater 216-965-6260 would like site plans for the following:

Ocean Hammock Golf Course
Hammock Beach South Towers (understands they are set back 10 ft due to propane tanks – need to know where they are buried)
Hammock Beach Phase 1
Hammock Beach Phase 2
Hammock Beach Phase 3

If not included in the site plan they need the property lines of the above items.

Also, she has a question regarding the number of parking spaces. When proposing this new hotel can Salamander include the space approved for golf parking in his hotel parking space count?

Thank you,
Luci

Luci Dance
Executive Assistant to Board of County Commissioners
and the Deputy County Administrator
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110
Phone: (386) 313-4093
Email: LDance@FlaglerCounty.org



Adam Mengel

From: Luci Dance
Sent: Wednesday, September 03, 2014 11:40 AM
To: Carl Laundrie; Gina Lemon; Adam Mengel
Subject: RE: PRR - Site Plans Ocean Hammock Golf Course and Hammock Beach Phases 1, 2 & 3

She said copies but you are welcome to contact her for clarification.

From: Carl Laundrie
Sent: Wednesday, September 03, 2014 11:35 AM
To: Gina Lemon; Adam Mengel
Cc: Luci Dance
Subject: FW: PRR - Site Plans Ocean Hammock Golf Course and Hammock Beach Phases 1, 2 & 3

Adam Gina: I need to know if digging out this stuff will take longer than 30 minutes. If it does then we will charge. I assume the parking question we can just answer in an email. . . carl
Luci: Does she want to look at them or obtain copies? Copies will cost and I will have to give her an estimate . . . carl

From: Luci Dance
Sent: Wednesday, September 03, 2014 10:33 AM
To: Carl Laundrie
Cc: 'lynnrosewater@me.com'
Subject: PRR - Site Plans Ocean Hammock Golf Course and Hammock Beach Phases 1, 2 & 3

Dr. Rosewater 216-965-6260 would like site plans for the following:

Ocean Hammock Golf Course
Hammock Beach South Towers (understands they are set back 10 ft due to propane tanks – need to know where they are buried)
Hammock Beach Phase 1
Hammock Beach Phase 2
Hammock Beach Phase 3

If not included in the site plan they need the property lines of the above items.
Also, she has a question regarding the number of parking spaces. When proposing this new hotel can Salamander include the space approved for golf parking in his hotel parking space count?

Thank you,
Luci

Luci Dance
Executive Assistant to Board of County Commissioners
and the Deputy County Administrator
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110
Phone: (386) 313-4093
Email: LDance@FlaglerCounty.org



Adam Mengel

From: Adam Mengel
Sent: Wednesday, September 03, 2014 12:23 PM
To: 'lynnrosewater@me.com'
Subject: Public records request -- clarification

Importance: High

Tracking:	Recipient	Delivery	Read
	'lynnrosewater@me.com'		
	Gina Lemon	Delivered: 9/3/2014 12:23 PM	Read: 9/3/2014 2:09 PM
	Carl Laundrie	Delivered: 9/3/2014 12:23 PM	Read: 9/3/2014 4:38 PM

Hi Dr. Rosewater:

I was in the County Commission meeting this morning and apologize for missing your visit.

As provided to us by County Administration, you have requested copies of site plans for the Ocean Hammock Golf Course and Hammock Beach South Towers, Hammock Beach Phase 1, Hammock Beach Phase 2, and Hammock Beach Phase 3. We do not have any projects named Hammock Beach other than the Hammock Beach River Club. Is this what you are looking for?

Please reply at your convenience; you may respond by email or by phone.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 **Go Green:** Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Lynne Bravo Rosewater [lynnerosewater@me.com]
Sent: Wednesday, September 03, 2014 12:58 PM
To: Adam Mengel
Cc: Phil Pate
Subject: Re: Public records request -- clarification

Mr. Mengel,

I find it difficult to believe you cannot find the property I'm describing. This is property developed by Bobby Ginn, known as The Club at Hammock Beach, which was developed in three different phases, the first being three and four bedroom condos (Phase 1), the second being the development of one bedroom hotel rooms (Phase 2) and the third being the development of the North and South Towers (phase 3). The address of The Club at Hammock Beach is 200 Ocean Crest Drive. As an owner of property and a registered voter, I have the right to request these site plans and am incredulous that you claim not to be able to find them.

I have called Frank Meeker, out Flagler County Commissioner to ask his assistance in this matter.

Dr. Lynne Bravo Rosewater

Sent from my iPhone

On Sep 3, 2014, at 12:23 PM, Adam Mengel <amengel@flaglercounty.org> wrote:

Hi Dr. Rosewater:

I was in the County Commission meeting this morning and apologize for missing your visit.

As provided to us by County Administration, you have requested copies of site plans for the Ocean Hammock Golf Course and Hammock Beach South Towers, Hammock Beach Phase 1, Hammock Beach Phase 2, and Hammock Beach Phase 3. We do not have any projects named Hammock Beach other than the Hammock Beach River Club. Is this what you are looking for?

Please reply at your convenience; you may respond by email or by phone.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, <image001.jpg>
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 **Go Green:** Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Adam Mengel
Sent: Wednesday, September 03, 2014 1:50 PM
To: Carl Laundrie
Cc: Gina Lemon; Sally A. Sherman
Subject: FW: Public records request -- clarification

Importance: High

Hi Carl:

I am discontinuing my efforts on this. I do not respond to bullying.

Thank you,

Adam

From: Lynne Bravo Rosewater [<mailto:lynnerosewater@me.com>]
Sent: Wednesday, September 03, 2014 12:58 PM
To: Adam Mengel
Cc: Phil Pate
Subject: Re: Public records request -- clarification

Mr. Mengel,

I find it difficult to believe you cannot find the property I'm describing. This is property developed by Bobby Ginn, known as The Club at Hammock Beach, which was developed in three different phases, the first being three and four bedroom condos (Phase 1), the second being the development of one bedroom hotel rooms (Phase 2) and the third being the development of the North and South Towers (phase 3). The address of The Club at Hammock Beach is 200 Ocean Crest Drive. As an owner of property and a registered voter, I have the right to request these site plans and am incredulous that you claim not to be able to find them.

I have called Frank Meeker, out Flagler County Commissioner to ask his assistance in this matter.

Dr. Lynne Bravo Rosewater

Sent from my iPhone

On Sep 3, 2014, at 12:23 PM, Adam Mengel <amengel@flaglercounty.org> wrote:

Hi Dr. Rosewater:

I was in the County Commission meeting this morning and apologize for missing your visit.

As provided to us by County Administration, you have requested copies of site plans for the Ocean Hammock Golf Course and Hammock Beach South Towers, Hammock Beach Phase 1, Hammock Beach Phase 2, and Hammock Beach Phase 3. We do not have any projects named Hammock Beach other than the Hammock Beach River Club. Is this what you are looking for?

Please reply at your convenience; you may respond by email or by phone.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, <image001.jpg>
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org



Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Adam Mengel
Sent: Wednesday, September 03, 2014 5:58 PM
To: Carl Laundrie
Subject: FW: Ocean Hammock Plat Addendum List

Hi Carl:

This is what I am remembering... never sent to Dr. Rosewater. The links are all dead now because of the changes to the Clerk's website. I'll pull all the docs together.

Thanks,

Adam

From: Adam Mengel
Sent: Thursday, May 02, 2013 11:17 AM
To: Craig Coffey; Albert J. Hadeed; Kate K. Stangle
Subject: FW: Ocean Hammock Plat Addendum List

From: Adam Mengel
Sent: Tuesday, January 15, 2013 4:59 PM
To: Craig Coffey
Cc: Christie L. Mayer
Subject: Ocean Hammock Plat Addendum List

Mr. Coffey:

I have put together the links to each of the plat addenda within Ocean Hammock:

Ocean Hammock Golf Course [OR Book 786](#) [Page 824](#)

Ocean Hammock Parcel A-5 Plat One [OR Book 790](#) [Page 459](#)

Ocean Hammock Parcel A-5 Plat Two [OR Book 806](#) [Page 1765](#)

Ocean Hammock Parcel B-1 Hammock Dunes Tract II [OR Book 653](#) [Page 1894](#)

Ocean Hammock Parcel B-2 Hammock Dunes Tract II [OR Book 665](#) [Page 639](#)

Ocean Hammock Parcel B-3 Hammock Dunes Tract II [OR Book 699](#) [Page 1245](#)

Ocean Hammock Parcel B-4 Hammock Dunes Tract II [OR Book 653](#) [Page 1859](#) (1st Amendment to Plat Addendum [OR Book 681](#) [Page 718](#))

Ocean Hammock Parcel B-5 [OR Book 710](#) [Page 1144](#) (1st Amendment to Plat Addendum [OR Book 1161](#) [Page 1441](#))

Northshore Plat One Hammock Dunes Tract II [OR Book 686](#) [Page 684](#)

Northshore Plat Two [OR Book 745](#) [Page 596](#)

Northshore Plat Three [OR Book 745](#) [Page 626](#)

Northshore Plat Four Hammock Dunes Tract II [OR Book 686 Page 713](#)

Northshore Plat Five [OR Book 733 Page 486](#)

For your information, we did not specifically – historically – distinguish Ocean Hammock within the Hammock Dunes DRI; I believe that this list includes all developments within the Ocean Hammock portion of Hammock Dunes.

Thank you!

Adam

Adam Mengel

From: Dennis Clark [denrclark@gmail.com]
Sent: Thursday, September 04, 2014 7:58 AM
To: 'Daniel Baker'
Cc: 'Digby, Tim'; Adam Mengel; Anne Wilson
Subject: RE: New Lodge Presentation - Scenic A1A Pride

Daniel,

Yes. Our next scheduled Scenic A1A PRIDE meeting is Sep 26 (9am at Hammock Comm. Ctr) and I can put you on the agenda. I'm pretty sure that Anne Wilson will not be able to attend on the 26th. Let me verify that we have a quorum and/or if it would be possible to move the meeting to the 19th, if Anne is available. Would either date work for you?

Thanks,
Dennis

From: Daniel Baker [<mailto:dbaker@acpcommunities.com>]
Sent: Wednesday, September 03, 2014 3:12 PM
To: denrclark@gmail.com
Cc: Digby, Tim (tdigby@hammockbeach.com)
Subject: New Lodge Presentation - Scenic A1A Pride

Good afternoon Dennis,

Would you mind directing us to the right person(s) to request an opportunity for the Salamander team to present the New Lodge site development plan and concepts to Scenic A1A Pride? Adam Mengel advised us to reach out to you as a start, but said you may be the right person to facilitate this request.

It appears the next scheduled meeting is September 26th from 8 AM until noon, but not sure if the agenda would permit our presentation, or if the time is fixed. The presentation would likely require about one hour, including some time allocated for Q&A. One logistical challenge on our end is that the President of Salamander, Prem Devadas, is coming from Middleburg, VA, and would likely get to the Hammock around noon. Prem would like to personally address the group and lead the presentation of the plan, if possible.

Thanks in advance for your assistance.

Daniel Baker
VP Development & Operations



P 386.246.5845 | M 386.931.6462 | F 386.246.5855
200 Ocean Crest Drive, Suite 31, Palm Coast, FL 32137
E dbaker@acpcommunities.com

Adam Mengel

From: Dennis Clark [denrclark@gmail.com]
Sent: Thursday, September 04, 2014 8:28 AM
To: 'Daniel Baker'
Cc: 'Digby, Tim'; Adam Mengel; Anne Wilson
Subject: RE: New Lodge Presentation - Scenic A1A Pride

Oops. I just reread your email and will see about changing the time of the meeting to about 1pm to allow Prem to present. I would still like to see Anne Wilson be present, so we'll see what works best for all.

Dennis

From: Daniel Baker [<mailto:dbaker@acpcommunities.com>]
Sent: Wednesday, September 03, 2014 3:12 PM
To: denrclark@gmail.com
Cc: Digby, Tim (tdigby@hammockbeach.com)
Subject: New Lodge Presentation - Scenic A1A Pride

Good afternoon Dennis,

Would you mind directing us to the right person(s) to request an opportunity for the Salamander team to present the New Lodge site development plan and concepts to Scenic A1A Pride? Adam Mengel advised us to reach out to you as a start, but said you may be the right person to facilitate this request.

It appears the next scheduled meeting is September 26th from 8 AM until noon, but not sure if the agenda would permit our presentation, or if the time is fixed. The presentation would likely require about one hour, including some time allocated for Q&A. One logistical challenge on our end is that the President of Salamander, Prem Devadas, is coming from Middleburg, VA, and would likely get to the Hammock around noon. Prem would like to personally address the group and lead the presentation of the plan, if possible.

Thanks in advance for your assistance.

Daniel Baker
VP Development & Operations



P 386.246.5845 | M 386.931.6462 | F 386.246.5855
200 Ocean Crest Drive, Suite 31, Palm Coast, FL 32137
E dbaker@acpcommunities.com

Adam Mengel

From: Toby Tobin [toby@gotoby.com]
Sent: Thursday, September 04, 2014 8:42 AM
To: Adam Mengel
Subject: Hammock Beach Club plans

Adam,

In April, the Hammock Beach Club presented their plan for a new lodge facility to club members. Since then, the club has spend time with county staff to make sure that their plans are in alignment with the county's vision. They are going to have another presentation meeting to members this Friday.

Upon review of the information at the link you provided, it looks like the plans have not changed substantially. Are there any aspects of their current plan in particular that have changed due to county input?

Toby Tobin

GoToby.com: Real Estate Services

386-597-2185

mobile: 386-931-7124



Adam Mengel

From: Carl Laundrie
Sent: Thursday, September 04, 2014 12:13 PM
To: 'lynnrosewater@me.com'
Subject: Public records request
Attachments: Northshore Plat 5.pdf

Dr. Rosewater:

There was some confusion on your request as it was sent to me (copied below) . Specifically what you have requested doesn't exist. However I spent some time with the planning department to sort out what you may be requesting and have attached it for your review. If it is not what you are looking contact me and I will refine the search. We also have 5 pages of the PUD site development plan for Northshore which is 24 inches by 36 inches that you may come to Government Services building to review. If you want copies of the PUD site development plans there will be a fee of approximately \$40 to have them printed. We cannot copy them here they have to be sent out to be printed.

We are looking through our records for the PUD site Development Plans for the Ocean Hammock Golf Course. As soon as I have that I will forward it, if it is in a format that I send it to you. If not, I will be in contact with you.

As always please contact me if there are questions . . . carl

Public Records request:

Ocean Hammock Golf Course

Hammock Beach South Towers (understands they are set back 10 ft due to propane tanks – need to know where they are buried)

Hammock Beach Phase 1

Hammock Beach Phase 2

Hammock Beach Phase 3

If not included in the site plan they need the property lines of the above items.

Also, she has a question regarding the number of parking spaces. When proposing this new hotel can Salamander include the space approved for golf parking in his hotel parking space count?

Carl

Carl Laundrie

Flagler County

Communications Manager

(386) 313-4039 Cell: (386) 931-6316

Email claundrie@flaglercounty.org

Adam Mengel

From: Adam Mengel
Sent: Thursday, September 04, 2014 12:31 PM
To: 'Toby Tobin'
Subject: RE: Hammock Beach Club plans

Hi Toby:

We met back on May 7, 2014 with representatives from Salamander and the community (see attached list of attendees) and discussed the submittal and review process. Since this meeting, there have been several emails received from folks in the community and a couple of phone calls with the applicant to discuss submittal deadlines, but no other specifics of the project have been discussed. No submittal – either informally or formally – took place at or following (until last week) the meeting on May 7.

Upon receipt of their submittal last Wednesday, we routed the application package to the Technical Review Committee (TRC) members for their comments, due by close of business on the 12th. We will then send the comments out to the applicant, then meet to discuss any questions on the comments on the 17th. So far, I have received no comments from the TRC reviewers.

Please contact me with any questions.

Thank you,

Adam

From: Toby Tobin [<mailto:toby@gotoby.com>]
Sent: Thursday, September 04, 2014 8:42 AM
To: Adam Mengel
Subject: Hammock Beach Club plans

Adam,

In April, the Hammock Beach Club presented their plan for a new lodge facility to club members. Since then, the club has spend time with county staff to make sure that their plans are in alignment with the county's vision. They are going to have another presentation meeting to members this Friday.

Upon review of the information at the link you provided, it looks like the plans have not changed substantially. Are there any aspects of their current plan in particular that have changed due to county input?

Toby Tobin

GoToby.com: Real Estate Services
386-597-2185
mobile: 386-931-7124



Adam Mengel

From: Toby Tobin [toby@gotoby.com]
Sent: Thursday, September 04, 2014 2:14 PM
To: Adam Mengel
Subject: FW: GoToby.com News: Hammock Beach to Share New Lodge Plans with Club Members

From: Toby Tobin [mailto:toby@gotoby.com]
Sent: Thursday, September 04, 2014 2:07 PM
To: toby@gotoby.com
Subject: GoToby.com News: Hammock Beach to Share New Lodge Plans with Club Members



Hammock Beach to Share New Lodge Plans with Club Members

Grist for the history mill: Bobby Ginn, Lubert Adler, real estate bubble, bad blood, Lowe Development, Centex departure, two golf courses and politics

[Read the full story](#)

For more information, visit www.GoToby.com

Copyright © 2014 GoToby.com, LLC. All rights reserved.

This message was sent to toby@gotoby.com from:

Toby Tobin | toby@gotoby.com | GoToby.com | 35 Riverview Bend S # 1816 | Palm Coast, FL 32137

[Unsubscribe](#)

Email Marketing by
iContact 
try it free

Inst No: 01006942 Date: 03/19/2001
GAIL WADSWORTH, FLAGLER County
By: V. [Signature] D.C. Time: 16:01:20

PLAT ADDENDUM

OFF REC 0733 PAGE 0486

Northshore Plat Five

This Agreement is entered into this 19th day of March, 2001, between **NORTHSHORE OCEAN HAMMOCK INVESTMENT, L.P.**, a Georgia Limited Partnership, 5 Blue Heron Lane, Palm Coast, Florida 32137, (904) 446-8446 ("Developer") and the **BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA**, 1200 E. Moody Boulevard #1, Bunnell, Florida 32110 (the "County"), and they are collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, Developer has applied for and the County has approved a plat for Northshore Plat Five located within Flagler County, Florida (the "Plat"). This plat is binding on the Developer, their successors in title and shall run with the land and bind all future owners.

In consideration of the mutual promises, covenants and conditions contained herein, the parties agree as follows in regard to the plat:

1. **PERFORMANCE BOND**

Prior to recordation of the Plat, Developer shall install all improvements as provided in Section 4.03.02 of the Land Development Code of Flagler County (the "LDC") or post a performance surety bond in lieu of installation of improvements as provided in Section 4.03.02 of the LDC. The scope and value of the improvements are identified in the attached Exhibit "A" (Engineers' Estimate of Probable Cost of Improvements, prepared by Gee & Jenson Engineers-Architects-Planners, Inc.). A maintenance bond shall be provided by the Developer to the County per section 4.03.03 of the Land Development Code for all subdivision improvements assured by the performance bond.

2. **PLAT RECORDATION**

The plat shall be recorded in Map Book 32, page 38-40 of the Public Records of Flagler County, Florida.

3. **DEVELOPMENT ORDER CONDITIONS**

Northshore Plat Five is contained within the Resort Community of the Hammock Dunes (DRI) development and is subject to all conditions of the Hammock Dunes Development Order issued by the County in Resolution 84-7 dated March 30, 1984, as amended in Resolution 95-50 dated July 17, 1995 and as amended in Resolution 98-10 dated March 6, 1998 (the "Development Order").

4. **PROJECT DESCRIPTION**

Northshore Plat Five is a resort condominium project containing a maximum of 486 one, two, three or more bedroom units. In addition, the project includes members only, country club style ancillary features including social/meeting space, swimming pools, walkways and decks, putting course, restaurant/bar, and exercise/spa areas. These facilities are private and intended for the use of resident members and guests only.

The Developer shall not offer, market or convey any of the units in this plat as a "timeshare unit," estate, license, or plan as defined in Chapters 498, 718, 719 and 721, *Florida Statutes*, as amended from time to time.

The Developer shall not offer, market or convey any of the units in this plat as a "lockout unit." A "lockout unit" is defined as a room or suite of rooms within a larger dwelling unit, including a single-family or multiple-family dwelling, which may be offered for sub-lease or short-term use, separate from the remaining area of the dwelling unit.

Parking for residents, guests and employees shall be provided in accordance with Flagler County Development Code requirements. Handicap parking facilities will be in accordance with the State of Florida Handicap Accessibility laws.

5. **MAINTENANCE RESPONSIBILITY**

Northshore Plat Five will be a privately owned development with all property owners required to belong to the Northshore Plat Five Property Owners Association (the "Association"). The Association shall be responsible for maintenance of all internal roadways, common landscape improvements, the internal stormwater management system and any common property or facilities owned by the Association within the platted area, provided, however, that the Association and/or Developer shall have the right to transfer such maintenance obligation and/or title of the common property or facilities owned by the Association or Developer within the platted area to the Dunes Community Development District.

Exterior maintenance responsibility for each building shall be in common and comply with the association documents.

The Dunes Community Development District is responsible for maintenance of the community wide drainage system, the wastewater collection system, water distribution system and reuse water system.

6. **WATER/SEWER AND REUSE**

All proposed residential units and facilities within this subdivision will be served by central water and sewer services. Potable wells and/or septic systems are prohibited.

Installation of reuse lines is required to serve the entire development for irrigation including all open space and common areas.

7. **BUILDING SETBACKS**

"Setback line" is defined in Section 3.08.02 of the Land Development Code of Flagler County. The minimum setbacks as illustrated on the attached Exhibit "D" (Northshore Plat Five building setback map, prepared by Gee & Jenson Engineers-Architects-Planners, Inc.) for the Northshore Plat Five Subdivision shall be as follows:

Building 1	
Front (west)	N/A
Rear (east)	30 ft. minimum from easterly plat limits to building; 10 ft. for pools, decks & screen enclosures
Side	30 ft. minimum from southerly plat limits to building; 15 ft. from northerly plat limits to building (minimum of 15 ft. building separation) 10 ft. for pools, decks and screen enclosures to the north or south plat limits
Building 2	
Front (west)	20 ft. minimum from Ocean Crest Dr. R/W to building
Rear (east)	15 ft. minimum from easterly plat limits to building
Side (north)	20 ft. minimum from Northshore Plat Four Lot 1
Side (south)	N/A (minimum 15 ft. building separation from Building 1 if detached, 0 ft. if Building 2 is attached to Building 1)
Building 3	
Front (west)	N/A
Rear (east)	15 ft. minimum from easterly plat limits to building
Side (south)	20 ft. minimum from 16 th Road R/W to building
Side (north)	N/A (minimum 15 ft. building separation from Building 1 if detached, 0 ft. if Building 3 is attached to Building 1.
Building 4	
Front (west)	N/A
Rear (east)	0 ft. building may be attached to Building 1
Sides (N&S)	N/A
Buildings 5-10	
Front (north)	15 ft. minimum from Ocean Crest Dr. R/W to building
Rear (south)	N/A
Sides (E&W)	N/A (minimum 30 ft. building separation)
Buildings 11-14	
Front (north)	N/A (minimum 4 ft. from parking lot pavement)
Rear (south)	15 ft. minimum from 16 th Road R/W to building
Sides (E&W)	N/A (minimum 25 ft. building separation)

All setbacks will be measured from the adjacent defined limits to the wall of the building and overhanging eaves not exceeding 2.5 feet shall be permitted within the front, side and rear setbacks but not within any easement.

8. **SUBDIVISION IMPROVEMENTS, BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

Prior to completion of subdivision improvements and provided Developer has received final plat approval, the County may issue building permits to builders approved by Developer. Developer hereby acknowledges and agrees that the County shall not issue a certificate of occupancy (the "CO") for any building completed on the Property until such time as sufficient subdivision improvements to serve that building have been completed and approved by the County. Furthermore, Developer hereby covenants and agrees that it shall not permit any third party to occupy any completed residence or unit located on the Property, nor shall Developer allow any third party to place any furniture or other personal belongings within such completed residence or unit until and unless the subdivision improvements have been fully and finally completed and a CO has been issued with respect to said residence or unit. Once the subdivision improvements have been fully and finally completed and approved by the County, all appropriate parties shall be entitled to obtain building permits for purposes of construction on any lot located within the Property.

9. **FLAGLER COUNTY LAND DEVELOPMENT CODE REQUIREMENTS**

Development is subject to the Flagler County Land Development Code except to the extent preempted by the Development Order.

10. **MINIMUM FINISH FLOOR ELEVATIONS**

Minimum Finish Floor Elevations shall be one foot (1') above the 100-year flood elevation for this subdivision or one foot (1') above the road centerline elevation adjacent to the front lot line, whichever is greatest. However, the minimum floor elevations shall not be lower than elevation +9.3. Structured parking minimum finish floors shall not be lower than elevation 8.80 (six inches (6") above the 100-year storm elevation). A final certified as-built survey will be provided to the County prior to the issuance of a certificate of occupancy to confirm compliance with this criteria.

11. **OAK SCRUB PROTECTION**

The Developer shall make reasonable efforts to preserve or protect the scrub oak and other oak communities in the common areas and other areas of the property not intended to be used as pavement.

2.2.2.

12. LANDSCAPE REQUIREMENTS

The Developer shall at a minimum install additional landscaping in accordance with the 16th Road Buffer Plan attached hereto as Exhibit "F." All landscaping material required by Exhibit "F" shall be alive and in satisfactory growth one calendar year after the date of installation. Developer shall post a performance surety bond in lieu of installation of said additional landscaping. The scope and value of the said additional landscaping are identified in the attached Exhibit "G" (Northshore Plat 5 16th Road Buffer Plan Estimate, prepared by Consultants For Environmental Design, Inc.).

13. PROOF OF OWNERSHIP

The Developer shall provide appropriate legal title documentation to the County reflecting all legal or equitable interests in the platted property at the time the Board of County Commissioners approves the Final Plat.

14. INTERNAL LAKES

All internal water management lake systems shall be stocked and maintained with native game fish. Lakes not utilized for stormwater management purposes and maintained above the surface water control elevation 3.50 NGVD, may be lined and stocked with ornamental fish in accordance with all Federal, State and local requirements.

15. IRRIGATION

The Developer shall install reuse water lines that will provide reuse water for irrigation to open space and common areas.

16. REDUCTION IN DENSITY OF DWELLING UNITS

Developer acknowledges and agrees to the commitments in accordance with the document from the Ginn Company dated November 19, 1999 and incorporated and attached to this Plat Addendum as Exhibit "B." The limits of the lands defined in Exhibit "B" are incorporated and attached to this Plat Addendum as Exhibit "C."

17. LIGHTING

All project lighting shall strictly comply with Federal, State and local laws and regulations regarding protection of endangered sea turtles. Example of methods to be utilized when required to reduce lighting levels are: low level and low wattage exterior lighting; can and soffit lighting for porches and balconies. Low "E" glass on the east face of buildings to reduce exterior illumination. Parking lot lights may be a maximum of 12' high, to be low pressure sodium vapor and to be located within the shadow of the buildings. Lights outside the shadow of the buildings to be bollard type with 9-watt fluorescent bulbs and gold tint shading.

18. PARKING

Developer shall prohibit its employees and employees of all other entities doing business on the platted lands from parking at the Flagler County 16th Road park during working hours. Developer shall also discourage residents and guests, through language in the condominium documents and in information distributed to residents and guests, from parking at the Flagler County 16th Road park. Parking in other areas of the 16th Road right-of-way outside the park area shall be prohibited.

19. SIGNALIZATION AND TURN LANE IMPROVEMENTS

Developer has provided to the County a traffic study indicating the potential need for signalization at S.R. A-1-A. Developer hereby acknowledges and agrees to post a performance surety bond for the installation of traffic signalization at the intersections of S.R. A-1-A and 16th Road and the intersection of S.R. A-1-A and Camino del Mar (a/k/a A-1-A Connector Road). The scope and value of the improvements are identified in the attached Exhibit "E" (Engineers' Estimate of Probable Cost of Signalization Improvements, prepared by Gee & Jenson Engineers-Architects-Planners, Inc.). The performance surety bond is provided by the Developer pursuant to item 4.2b of the "Development Order." Both the County and the Developer agree that the signalization improvements will not be required until traffic warrants according to the Florida Department of Transportation have been met and the signalization improvements have been approved by the Florida Department of Transportation.

The traffic study also identified the need for turn lane improvements within the 16th Road right-of-way for the intersection at Ocean Crest Drive. These improvements have been indicated on the project site plan and detailed in the development construction plans prepared by Gee & Jenson Engineers-Architects-Planners, Inc., provided to Flagler County and shall be completed with the other subdivision improvements related to this project.

20. BUILDING HEIGHT

Developer shall gradually reduce the height of Buildings 1, 2, 3 and 4 from a maximum of 12 stories to 8 stories. The building height will be reduced by stair stepping the rooflines. These height reductions shall be implemented in conformity with the site plan prepared by Gee & Jenson Engineers-Architects-Planners, Inc., and approved by Flagler County.

21. PUBLIC SAFETY ENHANCEMENTS

The Developer has made a voluntary contribution in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) to Flagler County. This contribution was provided pursuant to the commitment made at the Board of County Commissioners Public Meeting on January 16, 2001, when Preliminary Plat approval was granted for the Northshore Plat 5 project. These funds are being retained by the Clerk of the Court in a separate interest bearing account. Said principal and all interest earned thereon shall be used to enhance public safety facilities and/or operations in the Hammock community as determined by the Board of County Commissioners. This contribution is to address in part the additional infrastructure and concurrency impacts created by this project.

22. BEACH SHUTTLE

Developer shall provide, as a part of the private club amenities, a beach shuttle service for the residents and guests of the resort condominium. The purpose of the shuttle will be to provide transportation of residents, guests and "beach related items" from the resort condominium to the beach.

The beach shuttle access points shall be by private walkways to private dune walkover points. The beach shuttle shall not utilize the Flagler County 16th Road park beach access opening in the dunes or the parking area for the County's 16th Road park.

23. ORDER OF PRECEDENCE

In the event of any conflict between the provisions of the plat and the provisions of this Plat Addendum, the provisions of the plat shall control. In the event of any conflict between the provisions of this Plat Addendum and the provisions of any Exhibit attached hereto, the provisions of this Plat Addendum shall control.

24. MISCELLANEOUS

A. The exclusive jurisdiction and venue for resolving any issues relating to this Agreement shall be the Circuit Court of Flagler County, Florida.

B. Developer or its successors shall be obligated to pay all costs of the County to enforce this Agreement, or arising out of this Agreement, including reasonable attorneys fees and costs.

C. This Agreement shall be recorded in the Public Records of Flagler County. It shall be a restriction and covenant running with the land, and shall be binding on the heirs, successors, executors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Plat Addendum, Northshore Plat Five, as of the day and year first above written.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

3.19.01
James A. Darby
James A. Darby, Chairman

ATTEST:

Gail Wadsworth
Gail Wadsworth, Clerk and Ex Officio
Clerk to the Board

APPROVED AS TO FORM
[Signature]
COUNTY ATTORNEY

APPROVED BY THE
FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS

ON March 5, 2001

NORTHSHORE OCEAN HAMMOCK
INVESTMENT, L.P., a Georgia Limited Partnership
By: HAMMOCK G.P., LLC.
a Georgia Limited Liability

WITNESS:

Maria Hughes

Ed. R. Ginn
Edward Robert Ginn, Manager

(CORPORATE SEAL)

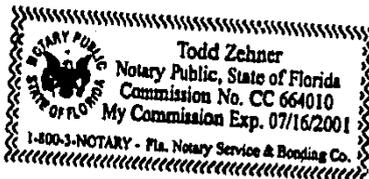
WITNESS:

Melissa Clegerman

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing Plat Addendum was acknowledged before me on the 12th day of February, 2001, by Edward Robert Ginn, Manager of Hammock G.P., L.L.C., a Georgia Limited Liability, on behalf of the Corporation. He is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Todd Zehner
Notary Public, State of Florida



PLAT ADDENDUM
EXHIBIT "A"

OFF REC 0733 PAGE 0494

ENGINEER'S ESTIMATE OF PROBABLE COST					Job #98-152.13
NORTHSHORE PLAT FIVE					By: Chk:
486 CONDOMINIUM UNITS					1/12/01
PART I - PAVING, GRADING & DRAINAGE					
ITEM	DESCRIPTION	QTY	UNIT	UNIT COST	ESTIMATED COST
1	Clearing & Grubbing	25.1	Ac	\$3,300.00	\$82,830.00
2	Earthwork/Grading (complete incl. Bldg pad area)	1	LS	\$500,000.00	\$500,000.00
3	Silt Fence	1,500	LF	\$1.00	\$1,500.00
4	Erosion Control	1	LS	\$1,500.00	\$1,500.00
5	1-1/4" ACSC Type SIII	17,900	SY	\$5.00	\$89,500.00
6	1-1/2" ACSC Type SIII	6,900	SY	\$5.50	\$37,950.00
7	2" ACSC Type SIII	6,300	SY	\$6.75	\$42,525.00
8	6" Limerock Base Course LBR 100	17,900	SY	\$6.50	\$116,350.00
9	8" Limerock Base Course LBR 100	13,200	SY	\$7.50	\$99,000.00
10	8" Stabilized Subgrade LBR 40	26,100	SY	\$2.00	\$52,200.00
11	12" Stabilized Subgrade LBR 40	7,400	SY	\$2.50	\$18,500.00
12	18" Miami Curb & Gutter	4,900	LF	\$6.00	\$29,400.00
13	Type D Curb	8,900	LF	\$7.00	\$62,300.00
14	Type 4 Inlet	2	Ea.	\$2,500.00	\$5,000.00
15	Type 3 Inlet	10	Ea.	\$2,500.00	\$25,000.00
16	Round Inlet	6	Ea.	\$1,800.00	\$10,800.00
17	Convert existing Structure	1	Ea.	\$1,500.00	\$1,500.00
18	Type C Inlet	19	Ea.	\$1,200.00	\$22,800.00
19	Manhole	10	Ea.	\$2,500.00	\$25,000.00
20	15" RCP	1,127	LF	\$25.00	\$28,175.00
21	18" RCP	392	LF	\$27.00	\$10,584.00
22	24" RCP	550	LF	\$38.00	\$20,900.00
23	36" RCP	443	LF	\$48.00	\$21,264.00
24	48" RCP	1,285	LF	\$60.00	\$77,100.00
25	15" MES	1	Ea.	\$500.00	\$500.00
26	18" MES	1	Ea.	\$500.00	\$500.00
27	24" MES	1	Ea.	\$600.00	\$600.00
28	36" MES	1	Ea.	\$2,000.00	\$2,000.00
29	54" MES	1	Ea.	\$2,500.00	\$2,500.00
30	Sod - R/W and Lake Banks	3,000	SY	\$1.20	\$3,600.00

Michael Chen
2-21-01

ENGINEER'S ESTIMATE OF PROBABLE COST					Job #98-152.13
NORTHSHORE PLAT FIVE					By: Chk:
486 CONDOMINIUM UNITS					1/12/01
31	Hay Bales	1	LS	\$1,500.00	\$1,500.00
32	Sign & Stripe	1	Job	\$6,000.00	\$6,000.00
33	Remove Existing Pavement & Gutter Sta 17+65.18 to 18.99.08	1	LS	\$1,500.00	\$1,500.00
34	6.5' Concrete Sidewalk	1,400	LF	\$14.00	\$19,600.00
35	Plat Corners & PCP's	1	LS	\$5,000.00	\$5,000.00
36	Survey Layout & Testing	1	Job	\$20,000.00	\$20,000.00
Subtotal Part I					\$1,444,978.00
PART II - 16TH ROAD LEFT TURN LANE					
1	Maintenance of Traffic	1	LS	\$1,500.00	\$1,500.00
2	Remove Existing Curb & Gutter	500	LF	\$2.00	\$1,000.00
3	Remove Existing Sidewalk	80	LF	\$3.00	\$240.00
4	2" ACSC Type SIII	550	SY	\$6.75	\$3,712.50
5	8" Limerock Base Course LBR 100	550	SY	\$7.50	\$4,125.00
6	12" Stabilized Subgrade LBR 40	650	SY	\$2.50	\$1,625.00
7	Mill & Overlay 1" ACSC Type SIII	1,500	SY	\$8.00	\$12,000.00
8	New 18" Curb & Gutter	420	LF	\$6.00	\$2,520.00
9	Modify Existing Drainage Structure	1	LS	\$1,500.00	\$1,500.00
10	Striping	1	LS	\$2,000.00	\$2,000.00
11	Survey Layout & Testing	1	LS	\$2,500.00	\$2,500.00
Subtotal Part II					\$32,722.50
PART III - WATER DISTRIBUTION & WASTEWATER COLLECTION					
1	10" PVC DR 18 Water Main	750	LF	\$15.50	\$11,625.00
2	8" PVC DR 18 Water Main	1,750	LF	\$14.00	\$24,500.00
3	6" PVC DR 18 Water Main	150	LF	\$10.00	\$1,500.00
4	4" PVC DR 18 Water Main	400	LF	\$8.00	\$3,200.00
5	10" RSGV & Box	3	Ea.	\$1,200.00	\$3,600.00
6	8" RSGV & Box	6	Ea.	\$900.00	\$5,400.00
7	4" RSGV & Box	10	Ea.	\$600.00	\$6,000.00
8	Fittings	1	LS	\$10,500.00	\$10,500.00
9	Fire Hydrant & Assembly	7	Ea.	\$2,000.00	\$14,000.00
10	Gatehouse Single Water Service Comp	1	LS	\$2,000.00	\$2,000.00
11	Sanitary Sewer				

PLAT ADDENDUM
EXHIBIT "A"

OFF REC 0733 PAGE 0496

ENGINEER'S ESTIMATE OF PROBABLE COST					Job #98-152.13
NORTHSHORE PLAT FIVE					By: Chk:
486 CONDOMINIUM UNITS					1/12/01
a	8" PVC 0'-6' Depth	469	LF	\$16.00	\$7,504.00
b	8" PVC 6'-8' Depth	699	LF	\$17.00	\$11,883.00
c	8" PVC 8'-10' Depth	93	LF	\$20.00	\$1,860.00
d	8" PVC 10'-12' Depth	82	LF	\$24.00	\$1,968.00
12	Manholes				
a	0'-6' Depth	2	Ea.	\$1,400.00	\$2,800.00
b	6'-8' Depth	3	Ea.	\$2,000.00	\$6,000.00
c	10'-12' Depth	1	Ea.	\$2,800.00	\$2,800.00
10	6" Single Sewer Service Complete	11	Ea.	\$1,000.00	\$11,000.00
11	Survey Layout & Testing	1	LS	\$6,000.00	\$6,000.00
	Subtotal Part III				\$134,140.00
PART IV - REUSE WATER DISTRIBUTION					
1	6" PVC Reuse Main	770	LF	\$10.00	\$7,700.00
2	8" PVC Reuse Main	720	LF	\$14.00	\$10,080.00
3	4" Gate Valve	1	Ea.	\$600.00	\$600.00
4	8" Gate Valve	2	Ea.	\$900.00	\$1,800.00
5	Fittings	1	LS	\$5,000.00	\$5,000.00
6	Survey Layout & Testing	1	LS	\$6,000.00	\$6,000.00
	Subtotal Part IV				\$31,180.00
	TOTAL: PARTS I-IV				\$1,643,020.50

Flagler County Plat Surety Amount @150%

\$2,464,530.75



DEVELOPMENT
REAL ESTATE
HOSPITALITY

RECEIVED

DEC 0 8 1999

ENGINEERING
FLAGLER COUNTY, FLA.

RECEIVED

DEC - 2 1999

COUNTY ATTORNEY
FLAGLER COUNTY, FLORIDA

November 19, 1999

TO: Noah McKinnon
Counsel to Flagler County

Ocean Hammock, Tract B, is owned by Northshore Hammock, L.P. ("NH") and Northshore Ocean Hammock Investment, L.P. ("NOHI"). NOHI has the right to purchase Ocean Hammock, Tract C, from ITT CDC. Tracts B and C are currently zoned under the Hammock Dunes Development Order, as amended ("DO") for 2076 dwelling units.

If Flagler County accepts the guarantees of ITT CDC and its parent ITT Industries, Inc. and the other financial assurances offered by ITT CDC and ITT Industries, Inc. at the Board of County Commissioners meeting, Friday, November 19, 1999 with respect to the obligations of Admiral Corporation under the DO, NH and NOHI will agree to cause Tracts B and C to be developed with not more than 1476 dwelling units, in the aggregate, which represents a reduction in density of 600 dwelling units.

By entering into this agreement neither NH nor NOHI are waiving or releasing any rights or remedies which NH or NOHI may now or hereinafter have under any of its agreements with ITT CDC or under the DO including without limitation, that Section 2 (c) of Resolution No. 95-50 does not apply to ITT CDC's sale of of Tracts B or C to NH or NOHI.

This agreement is conditioned on Flagler County processing and approving NH and NOHI's requests for subdivision plats and development and building permits in the ordinary course of administration in accordance with Flagler County's applicable rules and regulations without any claim or allegation by Flagler County that Section 2(c) of Resolution 95-50 applies to NH or NOHI or that Admiral Corporation or ITT CDC are in default under the DO for having failed to comply with Section 2 (c).

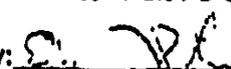
Northshore Hammock, L.P.

Northshore Ocean Hammock
Investment, L.P.

By Northshore G.P., L.L.C.

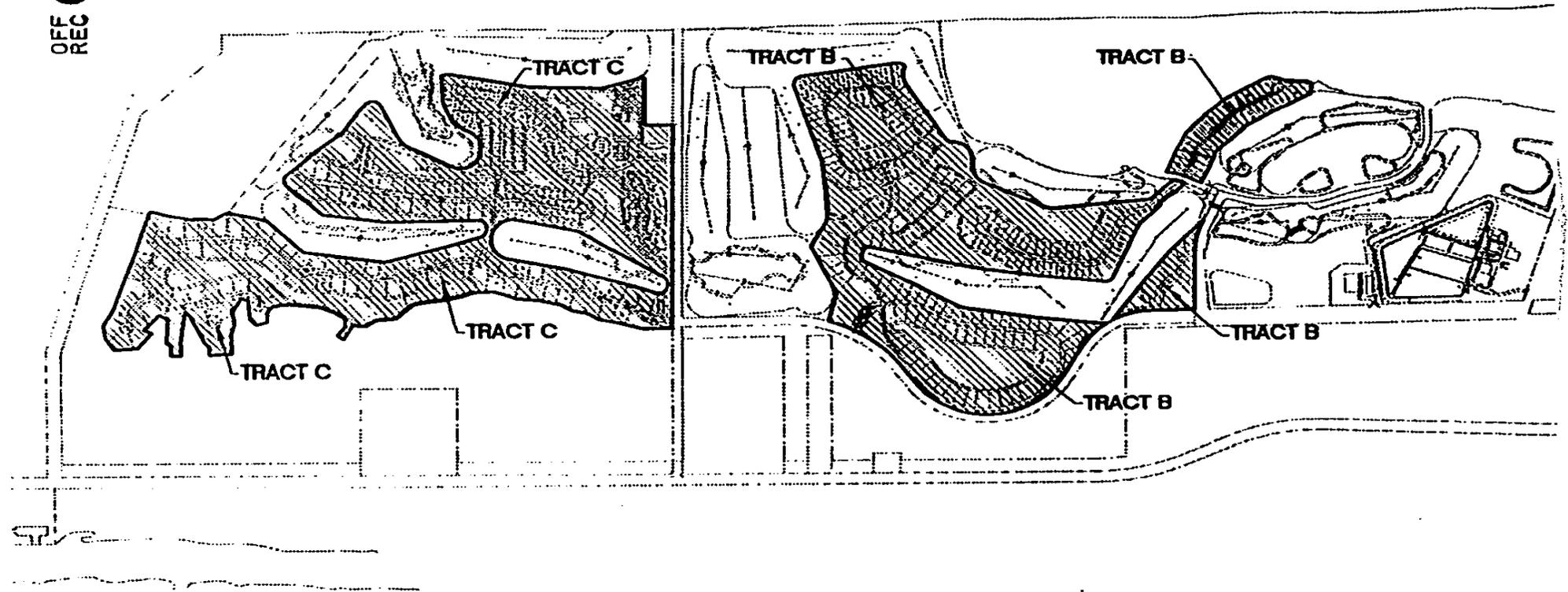
By Hammock G.P. L.L.C.

By: 
Edward R. Sinn, Manager

By: 
Edward R. Sinn, Manager

OFF 0733 PAGE 0498

PLAT ADDENDUM
EXHIBIT 'C'
NORTHSHORE PLAT FIVE



OCEAN HAMMOCK
(HAMMOCK DUNES DR)

DATE	APPROVED	DESIGNED	DRAWN	SCALE	DATE	PROJECT

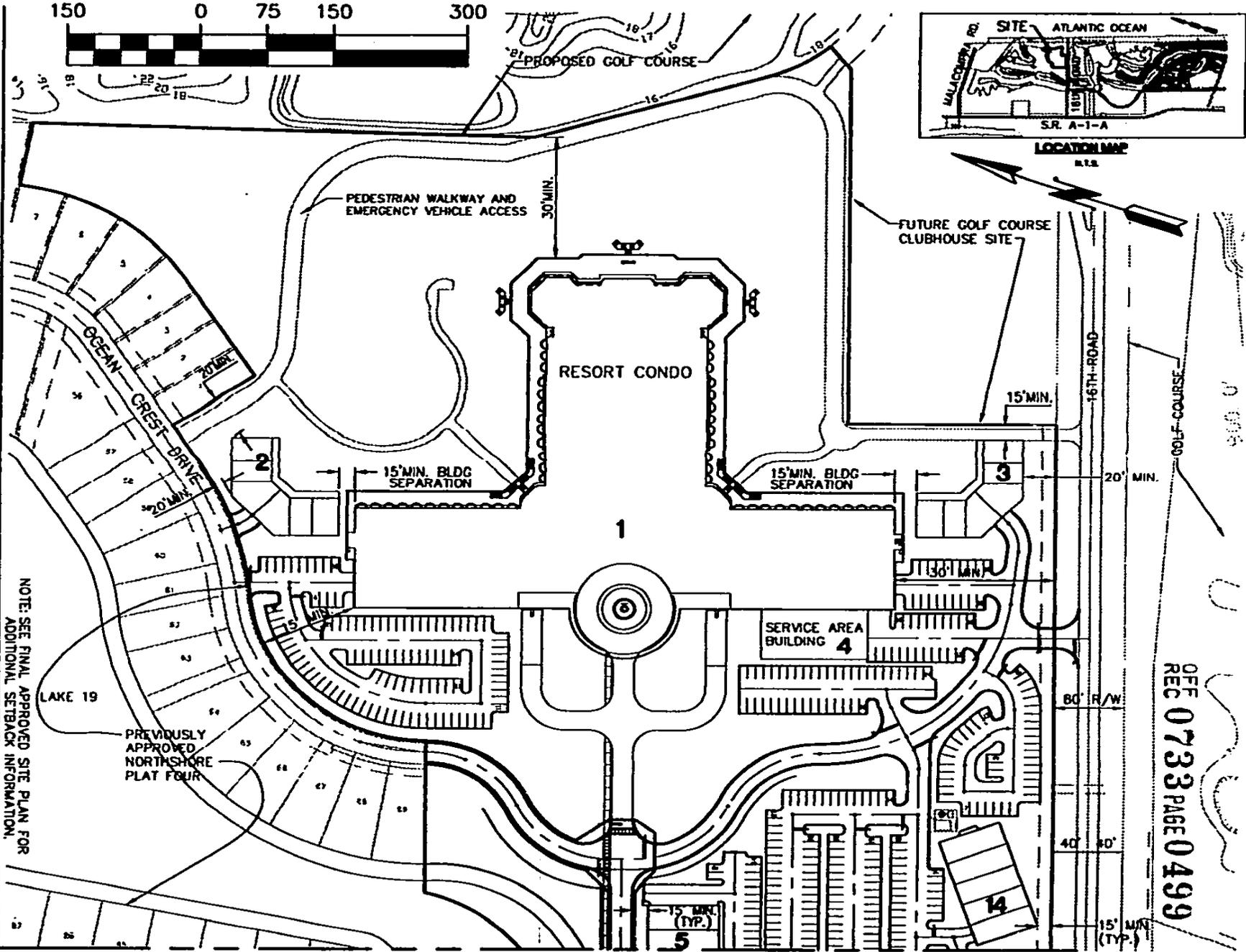
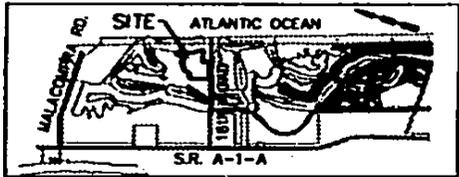
NORTHSHORE PLAT 5
NORTHSHORE HAMMOCK LP
PALM COAST, FL
BUILDING SETBACK MAP

EXHIBIT 'D'



JOB No.	08-025
CAD FILE	04-001
SHEET NUMBER	1
SHEET	OF 2

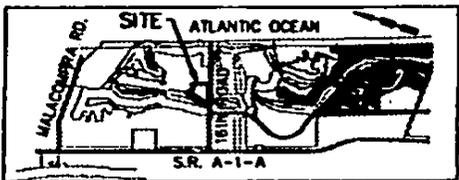
150 0 75 150 300



NOTE: SEE FINAL APPROVED SITE PLAN FOR ADDITIONAL SETBACK INFORMATION.

MATCH LINE A-A SEE DWG. SHT. 2

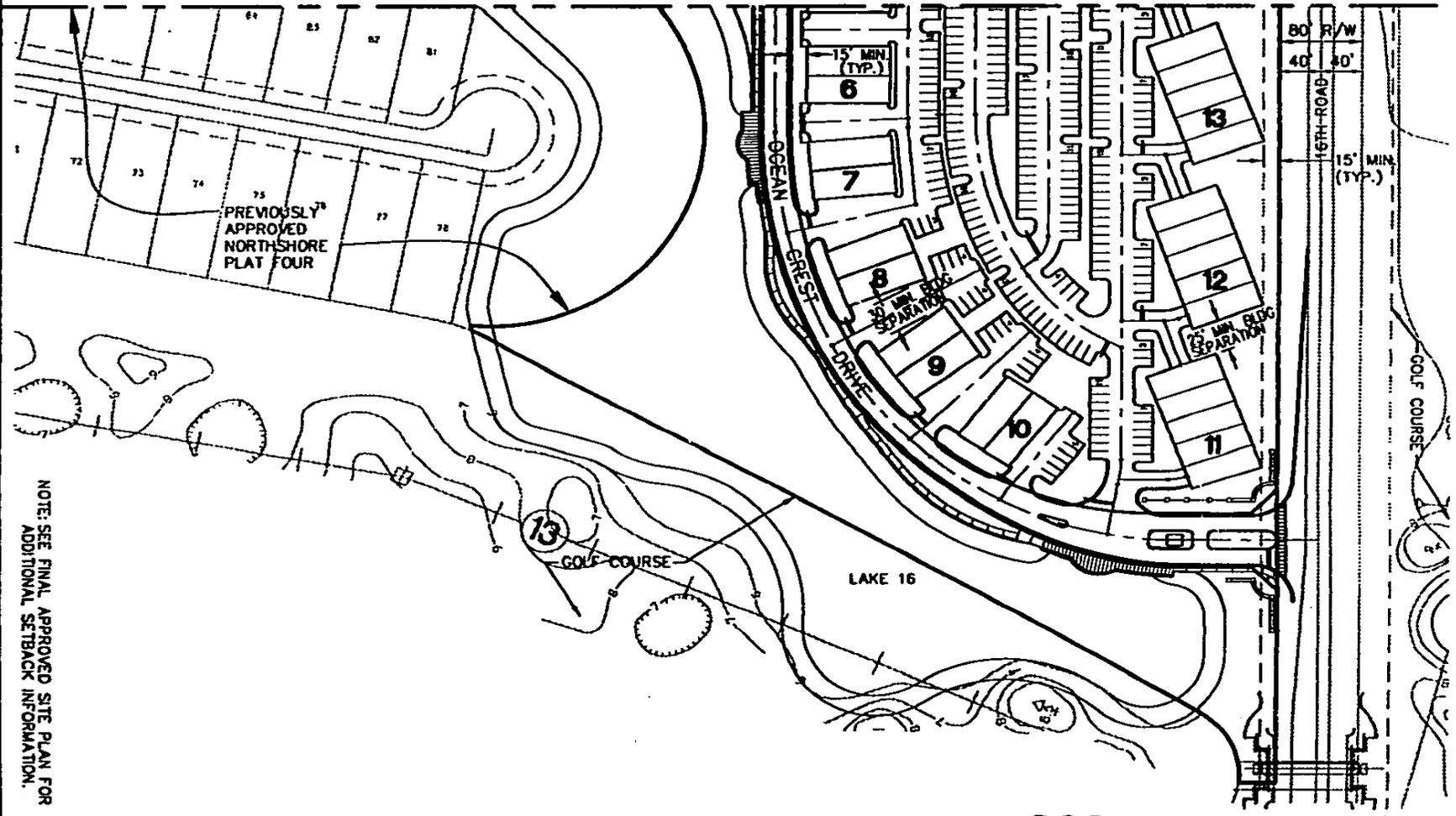
OFF 0733 PAGE 0499



LOCATION MAP
R.E.S.



MATCH LINE A-A SEE DWG. SHT. 1



NOTE: SEE FINAL APPROVED SITE PLAN FOR
ADDITIONAL SETBACK INFORMATION.

OFF 0733 PAGE 0500

DATE	APPROVED	BY

NORTHSORE PLAT 5
 NORTHSORE HAMMOCK LP
 PALM COAST, FL
 BUILDING SETBACK MAP

EXHIBIT 'D'



JOB NO.	07-3330
CAD FILE	07-3330
SHEET NUMBER	2
SHEET	OF 2

EXHIBIT "E"					
ENGINEER'S ESTIMATE OF PROBABLE COST					
SIGNALIZATION IMPROVEMENTS					
ITEM					
No.	DESCRIPTION	QTY	UNIT	UNIT COST	ESTIMATED COST
1	Mast Arm Type Signalization at the Intersection of S.R. A-1-A and 16th Road	1	Job	LS	\$80,000.00
2	Mast Arm Type Signalization at the Intersection of S.R. A-1-A and Camino del Mar (aka A-1-A Connector Rd.)	1	Job	LS	\$80,000.00
3	Overhead Utility Relocation Allowance	1	Job	LS	\$20,000.00
	Total				\$180,000.00
	Flagler County Bond Amount @ 150%				\$270,000.00

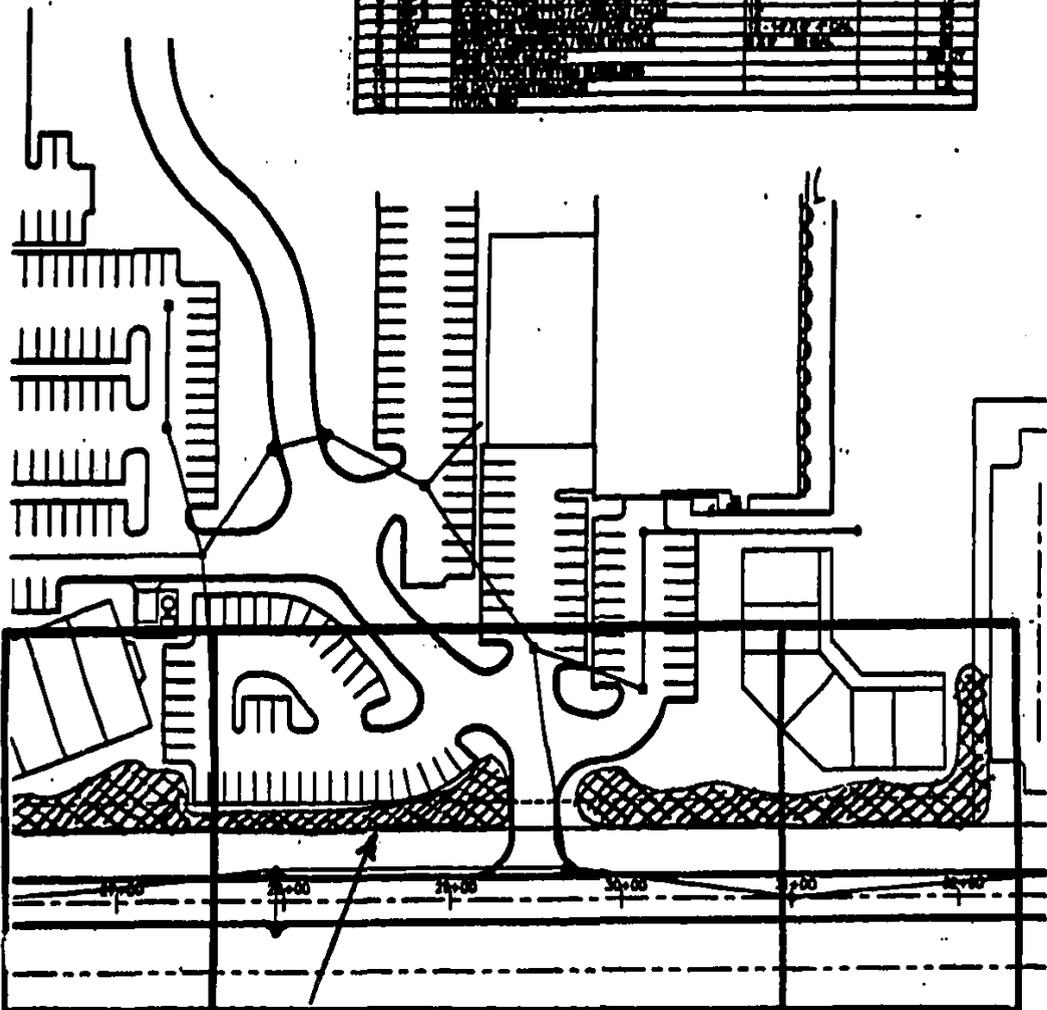


PLANT LIST FOR: NORTHSORE PLAT 5: 16TH ROAD BUFFER PLAN
NORTHSORE HAMMOCK L.P.

THE COMPLETE PROJECT REQUIREMENTS ARE ILLUSTRATED ON DESIGN PLANS AND SPECIFICATIONS SHEETS 1 THROUGH 11 BY CONSULTANTS FOR ENVIRONMENTAL DESIGN, INC. DATED JANUARY 26, 2001

OFF REC 0733 PAGE 0502

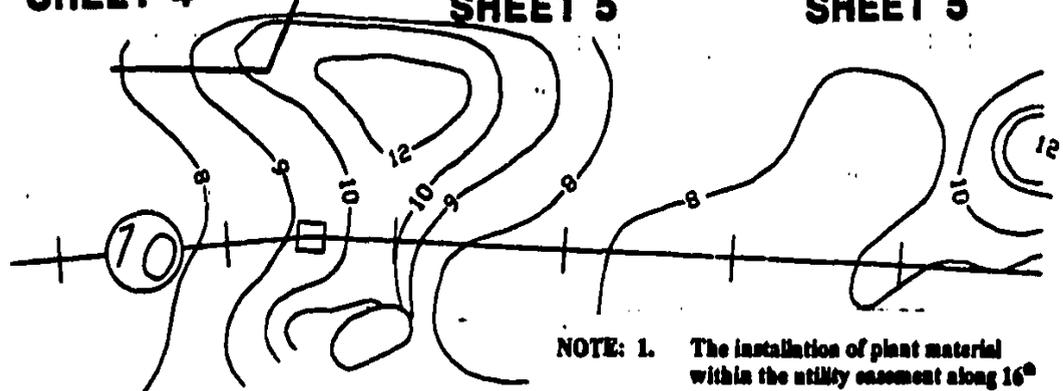
ITEM NO.	DESCRIPTION/COMMENTS	UNIT	QUANTITY	DATE
1
2
3
4
5
6
7
8
9
10
11



SHEET 4

SHEET 5

SHEET 5



NOTE: 1. The installation of plant material within the utility easement along 16th road shall not commence until completion but no later than issuance of first cert. Of occupancy for any building in Northshore Plat Five



CONSULTANTS FOR ENVIRONMENTAL DESIGN, INC.

1400 PALMWAY
LANTANA, FLORIDA 33405
TEL: 561-877-8888
FAX: 561-877-8884
EMAIL: CED@CEDINC.COM

NORTHSORE PLAT 5
16TH ROAD BUFFER PLAN
NORTHSORE HAMMOCK, L.P.
PALM COAST, FLORIDA

SCALE	1"=50'
DATE	
DRAWN BY	DEKILKON
REVISIONS	
ADD VALUEN HONEY	2-8-0
ADD 20' WIDE GRASS	2-8-0
ADD 20' WIDE TRAIL	2-8-0
REMOVE MATERIAL	2-8-0

DWG: PLAT5R05B01



EXHIBIT F

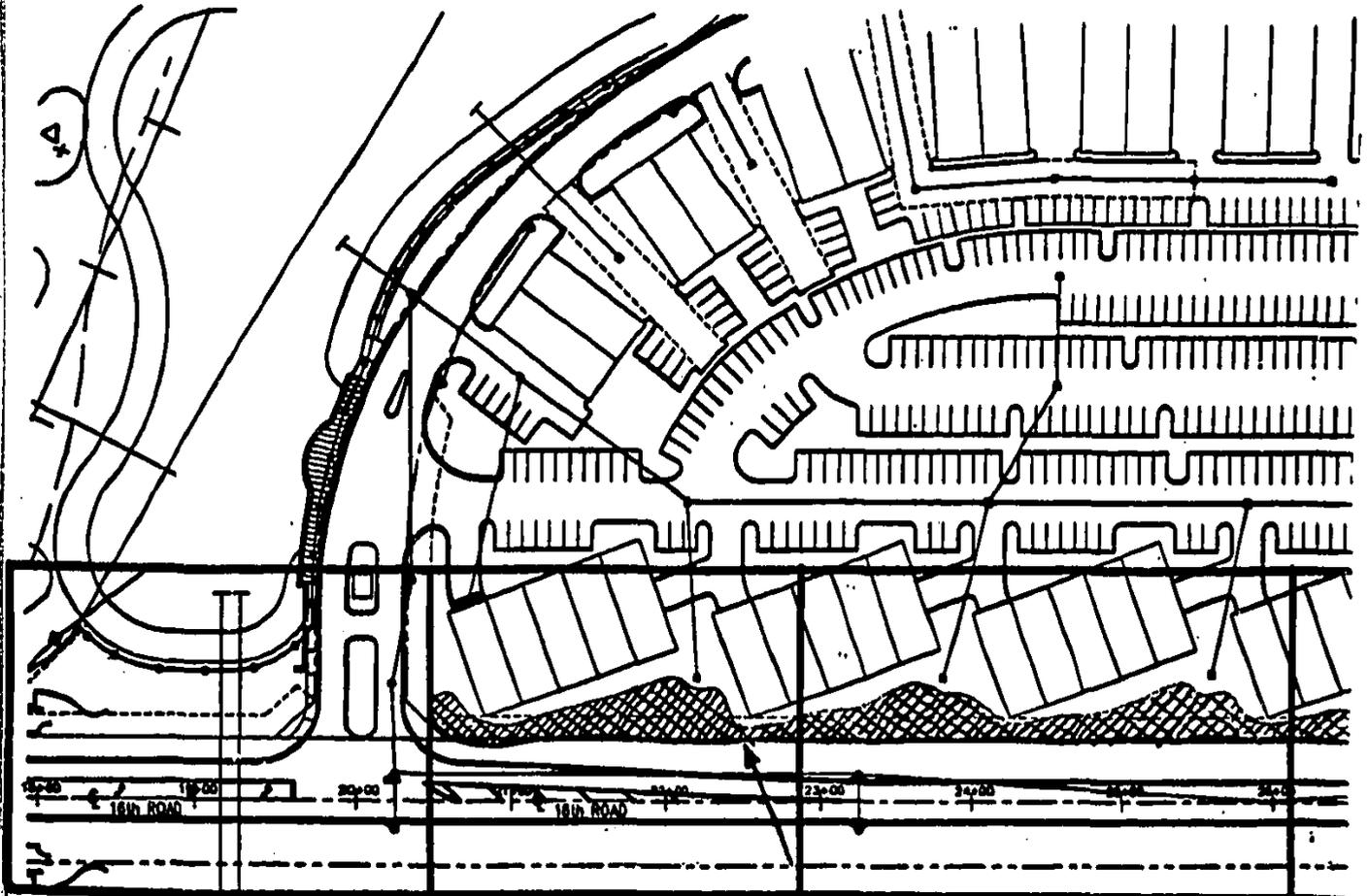
SHEET

1015

REVISION 2.8.01

OFF REC 0733 PAGE 0503

JANIERUS SILICICOLA / SUMMER RED CEDAR 6'-8" x 8' • 47 REQUIRED
ILIX VINCITORIA / YAPON HOLLY 4' x 2' • 28 REQUIRED

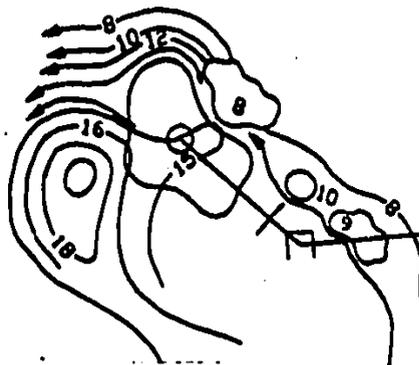


SHEET 3

SHEET 3

SHEET 4

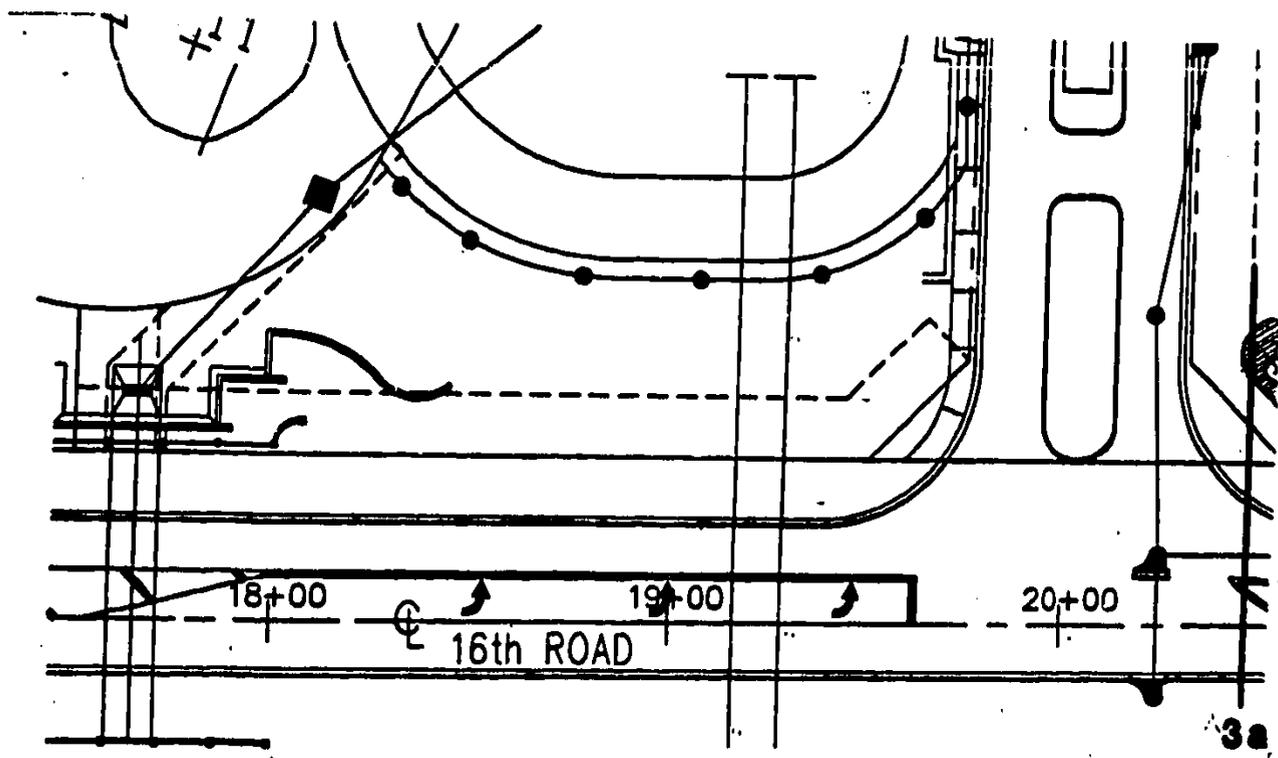
BUFFER PLANTING AREAS



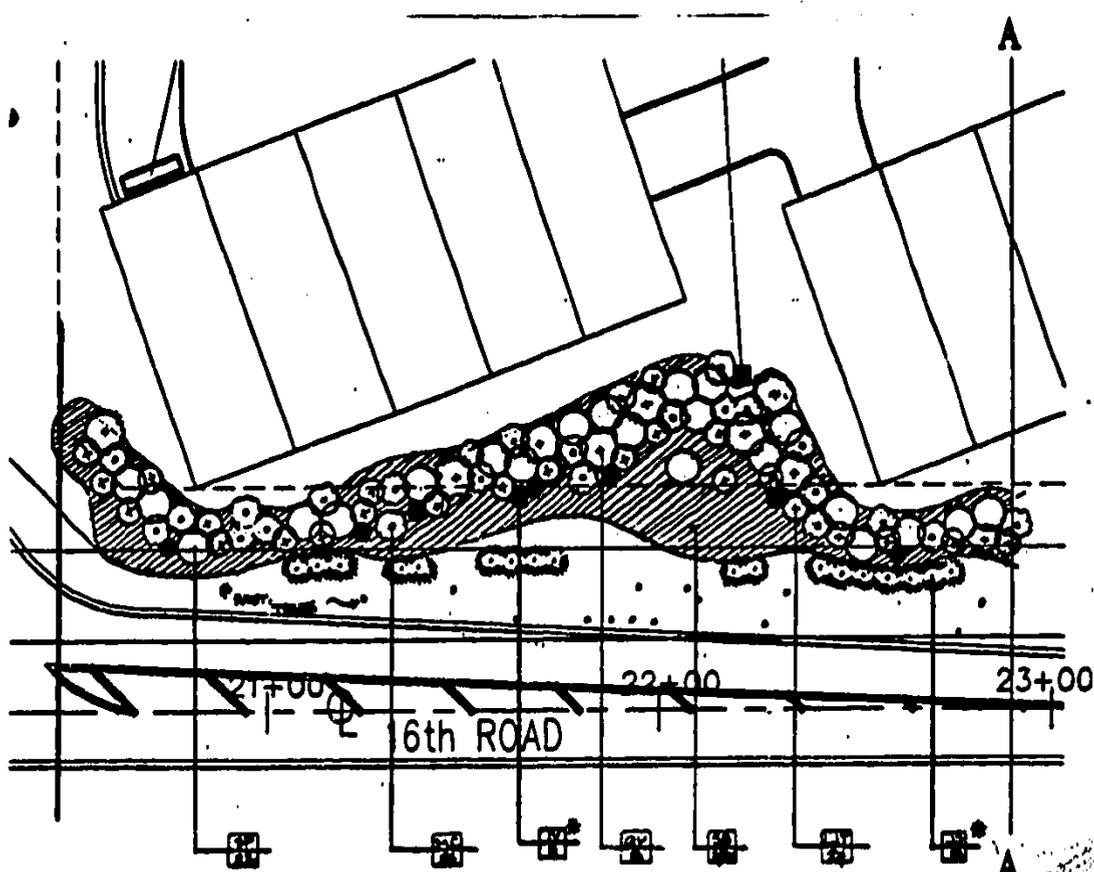
CEI
CONSULTANTS FOR
ENVIRONMENTAL
DESIGN, INC.

NORTHSHORE PLAT 5 16TH ROAD BUFFER PLAN	EXHIBIT F
NORTHSHORE HAMMOCK, L.P. PALM COAST, FLORIDA	2015





3a

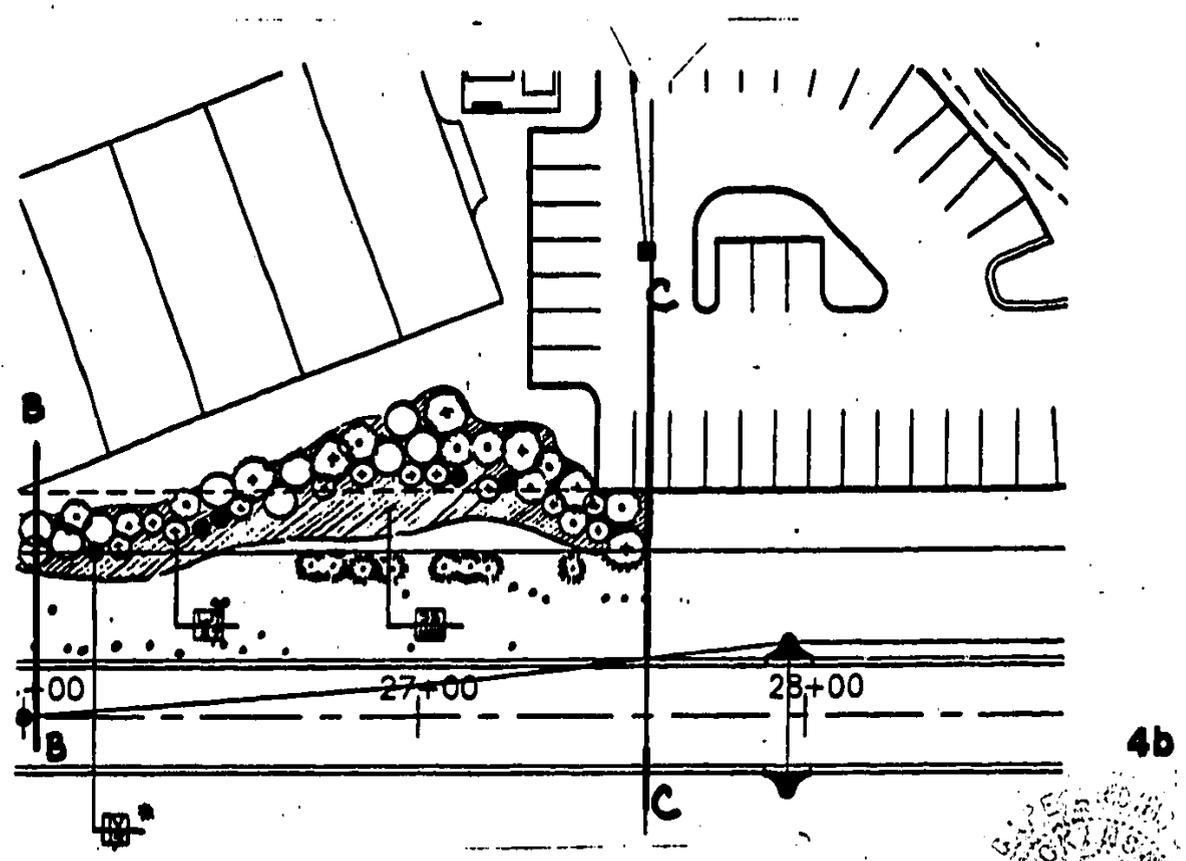
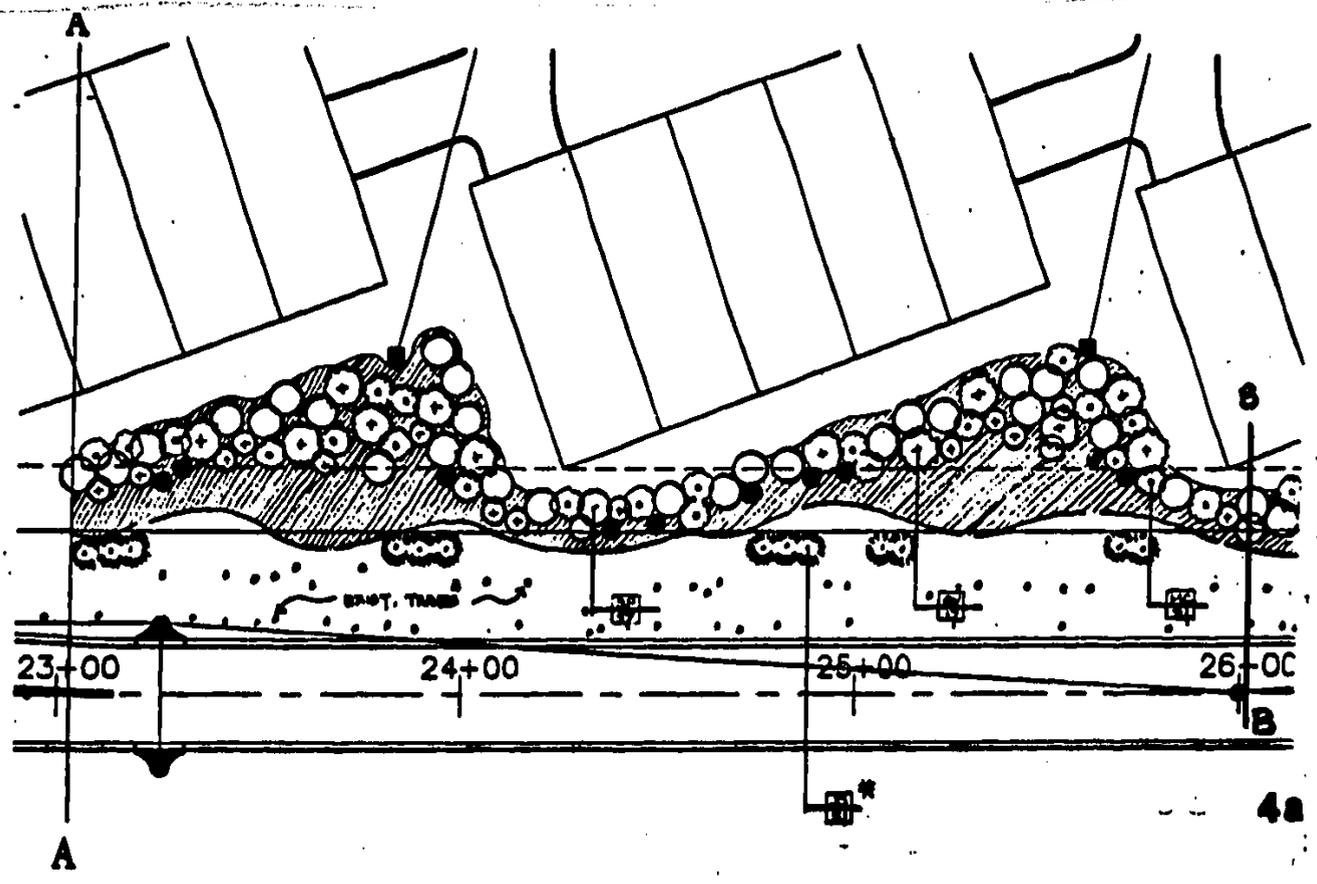


3b

CEC
 CONSULTANTS FOR
 ENVIRONMENTAL
 DESIGN, INC.

<p>NORTHSHORE PLAT 5 16th ROAD BUFFER PLAN</p>	<p>EXHIBIT F</p>
<p>NORTHSHORE HAMMOCK, L.P. PALM COAST, FLORIDA</p>	<p>3 of 5</p>

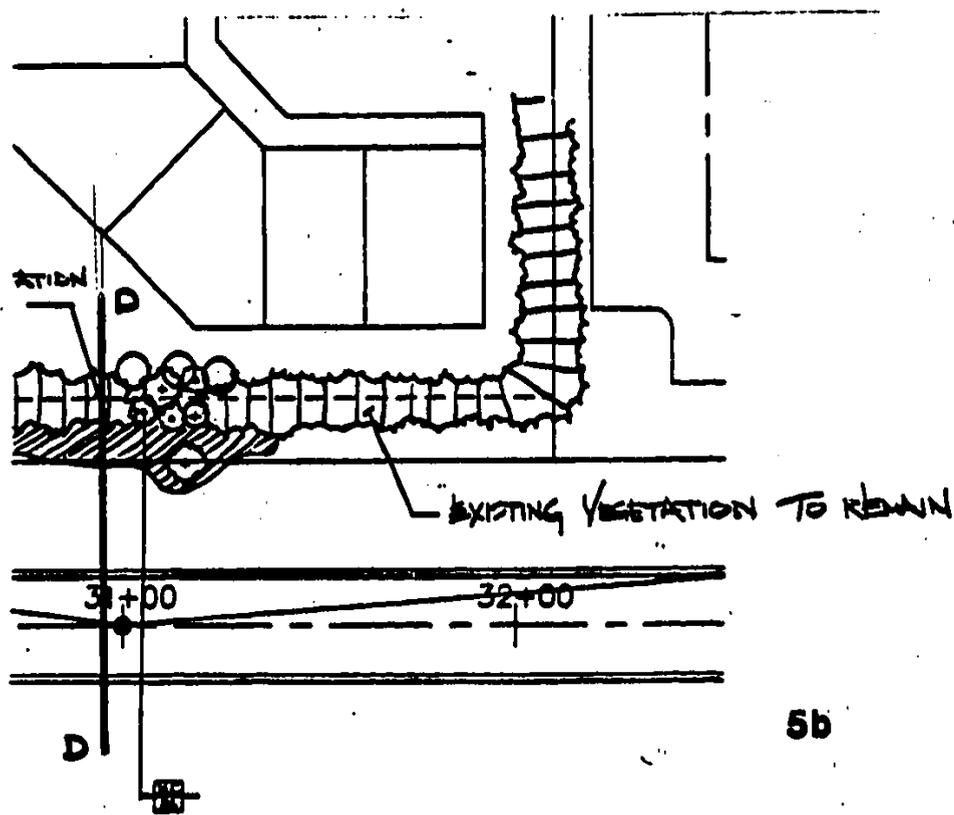
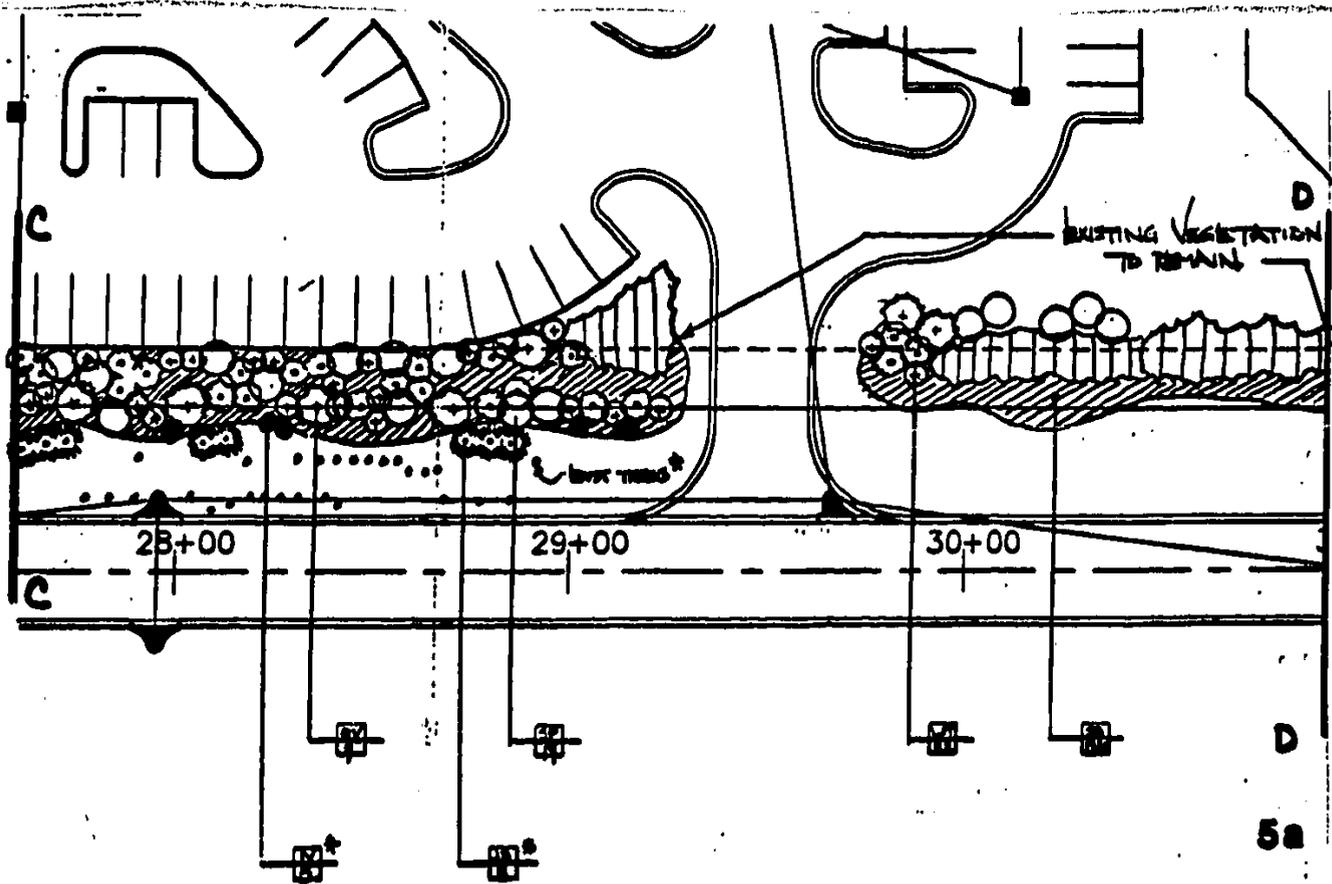




ced
 CONSULTANTS FOR
 ENVIRONMENTAL
 DESIGN, INC

NORTHSHORE PLAT 5 16TH ROAD BUFFER PLAN	EXHIBIT F
NORTHSHORE HAMMOCK, L.P. PALM COAST, FLORIDA	4015





CDI
 CONSULTANTS FOR
 ENVIRONMENTAL
 DESIGN, INC.

NORTHSHORE PLAT 5 16TH ROAD BUFFER PLAN	EXHIBIT F
NORTHSHORE HAMMOCK, L.P. PALM COAST, FLORIDA	5015

APR 18 2007
 10 08 AM
 [Signature]

Adam Mengel

From: Dennis Clark [denclark@cfl.rr.com]
Sent: Friday, September 05, 2014 11:45 AM
To: Andrew Johnson; Anne Wilson; Carole McCleery; Frank Meeker; Don Hoskins; Donna Drevniok; Frank Carelli; George Harnden; Judy Griswold; Marge Rooyakkers; Marianne McNeil; Mary Ann Ruzecki; Maryanne Taddeo; Sonja Zander
Cc: Daniel Baker; Digby, Tim; Adam Mengel; Alma Nemrava; Bonnie Simms; Dr. Lynne Rosewater; George Nelson; Jane Culpepper; Joyce Skaff
Subject: Hammock Beach Resort Plans on Sep 26
Importance: High

To Scenic A1A PRIDE Board Members (others copied):

We have a request from Daniel Baker to put the new lodge plans for Hammock Beach Resort on agenda for the Sep 26 Scenic A1A PRIDE agenda. However, they would like to start the presentation after noon (see below). I have been able to reserve the Hammock Community Center until 4pm. I need to know if we will be able to have a quorum in the morning and/or the afternoon.

Please reply to me only and answer both of the questions below:

- **Do you plan to attend the 9am meeting on Sep 26?**
- **If we have just the HBR plans in the afternoon (say 1:00 - 2:30 pm), will you be able to attend?**

If you would like to see the application submitted to the County Planning and Zoning Dept for their technical review, see the link below. Note that you will need to submit your name and email address.

I'll let you know the results as soon as I can.

Thanks,
Dennis

P.S. Note that board members may not discuss this topic outside of a public meeting. Also, this will be a presentation with questions afterwards, not a debate.

From: Daniel Baker [<mailto:dbaker@acpcommunities.com>]
Sent: Wednesday, September 03, 2014 3:12 PM
To: denrclark@gmail.com
Cc: Digby, Tim (tdigby@hammockbeach.com)
Subject: New Lodge Presentation - Scenic A1A Pride

Good afternoon Dennis,

Would you mind directing us to the right person(s) to request an opportunity for the Salamander team to present the New Lodge site development plan and concepts to Scenic A1A Pride? Adam Mengel advised us to reach out to you as a start, but said you may be the right person to facilitate this request.

It appears the next scheduled meeting is September 26th from 8 AM until noon, but not sure if the agenda would permit our presentation, or if the time is fixed. The presentation would likely require about one hour, including some time allocated for Q&A. One logistical challenge on our end is that the President of Salamander, Prem Devadas, is coming from Middleburg, VA, and would likely get to the Hammock around noon. Prem would like to personally address the group and lead the presentation of the plan, if possible.

Thanks in advance for your assistance.

Daniel Baker
VP Development & Operations



P 386.246.5845 | **M** 386.931.6462 | **F** 386.246.5855
200 Ocean Crest Drive, Suite 31, Palm Coast, FL 32137
E dbaker@acpcommunities.com

On Sep 2, 2014, at 2:45 PM, Daniel Baker <dbaker@acpcommunities.com> wrote:

Good afternoon Abby and Alma,

On behalf of Prem Devadas, please find below a link to an electronic version of the application submitted to Flagler County for the New Lodge and Conference Facilities. The link provides individual PDF files for each component of the application package submitted Wednesday, August 27, 2014.

<https://gdc.sharefile.com/d/sdaa12ddb32748099>

As communicated during the May 6, 2014 presentation to the Hammock Conservation Coalition, we respectfully request the opportunity to formally present the site development plans for the enhancement of the Resort. Since attendance at the May meeting, the Salamander team has been diligently working to progress the concepts and looks forward to reviewing the site development plans with the HCC.

It is our understanding that the New Lodge may be on the agenda for this evenings' meeting. If okay, Tim Digby and I would like to attend tonight to hear the report from Lynn Rosewater, but will not make any presentation regarding this topic; we will defer the formal presentation to a future meeting.

Daniel Baker
VP Development & Operations

P 386.246.5845 | **M** 386.931.6462 | **F** 386.246.5855
200 Ocean Crest Drive, Suite 31, Palm Coast, FL 32137
E dbaker@acpcommunities.com

Adam Mengel

From: Dennis Clark [denclark@cfl.rr.com]
Sent: Monday, September 08, 2014 11:36 AM
To: Andrew Johnson; Anne Wilson; Carole McCleery; Frank Meeker; Don Hoskins; Donna Drevniok; Frank Carelli; George Harnden; Judy Griswold; Marge Rooyakkers; Marianne McNeil; Mary Ann Ruzecki; Maryanne Taddeo; Sonja Zander
Cc: Daniel Baker; Digby, Tim; Adam Mengel; Alma Nemrava; Bonnie Simms; Dr. Lynne Rosewater; George Nelson; Jane Culpepper; Joyce Skaff
Subject: RE: Hammock Beach Resort Plans on Sep 26

With eleven of fifteen board members responding so far, it looks like we have a quorum (8+) in the morning. Daniel Baker is willing to present in the morning, so we'll make it the first agenda item at 9am. Also, we can trim the rest of the agenda to just the approval of August minutes (which I have yet to distribute). I have to send the announcement to the newspapers by Friday (two weeks in advance). After the presentation and a Q&A, board members may be asked to vote on a statement that will be sent to the planning board.

Dennis

Name	Avail. Morning	Avail. Afternoon	
Board of Directors 15 (remaining term length)	9	6	
Anne Wilson-Chair (1)	no	no	out of town
George Harnden-Treasurer (3)	?	?	
Dennis Clark- Recording Secretary (1)	Yes	Yes	
Donna Richardson-Drevniok-Correspondence Secretary (2)	Yes	Yes	
Maryanne Taddeo - Historian (3)	?	?	
Marge Rooyakkers -Vice Chair (3)	Yes	Yes	
Mary Ann Ruzecki - Ocean Shore CME Liaison (3)	Yes	no	
Frank Carelli-Code Enforcement (1)	Yes	maybe	
Don Hoskins (3)	no	no	personal leave
Marianne McNeil (2)	?	?	
Sonja Zander (3)	Yes	Yes	
Carole McCleery (2)	Yes	Yes	
Judy Griswold (3)	?	?	
Andrew Johnson - Marineland (also Flagler County projects liaison)	Yes	Yes	
Frank Meeker - Flagler County (appointed by Board of Commissioners)	Yes	no	
PRIDE Members/others			
Alma Nemrava - HCC	-	-	
Jane Culpepper	-	-	
Bonnie Simms	no	no	out of town
Lynne Bravo Rosewater	Yes	no	
Joyce Skaff	-	-	
George Nelson	-	-	
Richard Hamilton	-	-	

From: Dennis Clark [mailto:denclark@cfl.rr.com]

Sent: Friday, September 05, 2014 11:45 AM

To: Andrew Johnson (ajohnson@flaglercounty.org); Anne Wilson (annewilson@cfl.rr.com); Carole McCleery (quakermac@cfl.rr.com); Commissioner Meeker (fmeeker@flaglercounty.org); Don Hoskins (donaldhoskins@bellsouth.net); Donna Drevniok (donnadbeach@earthlink.net); Frank Carelli (Fcarelli@cfl.rr.com); George Harnden (jazzman481@gmail.com); Judy Griswold (judyct64@outlook.com); Marge Rooyackers (petmom07@cfl.rr.com); Marianne McNeil (jjmcneil@bellsouth.net); Mary Ann Ruzecki (mruzecki@aol.com); Maryanne Taddeo (taddeom@bellsouth.net); Sonja Zander (sunandmark@gmail.com)

Cc: Daniel Baker (dbaker@acpcommunities.com); Digby, Tim (tdigby@hammockbeach.com); Adam Mengel (amengel@flaglercounty.org); Alma Nemrava (anemrava@bellsouth.net); Bonnie Simms (simmsjen@aol.com); Dr. Lynne Rosewater (lynnrosewater@me.com); George Nelson (Biggeorgen2000@yahoo.com); Jane Culpepper (jbpepp@msn.com); Joyce Skaff (skaffjl@hotmail.com)

Subject: Hammock Beach Resort Plans on Sep 26

Importance: High

To Scenic A1A PRIDE Board Members (others copied):

We have a request from Daniel Baker to put the new lodge plans for Hammock Beach Resort on agenda for the Sep 26 Scenic A1A PRIDE agenda. However, they would like to start the presentation after noon (see below). I have been able to reserve the Hammock Community Center until 4pm. I need to know if we will be able to have a quorum in the morning and/or the afternoon.

Please reply to me only and answer both of the questions below:

- **Do you plan to attend the 9am meeting on Sep 26?**
- **If we have just the HBR plans in the afternoon (say 1:00 - 2:30 pm), will you be able to attend?**

If you would like to see the application submitted to the County Planning and Zoning Dept for their technical review, see the link below. Note that you will need to submit your name and email address.

I'll let you know the results as soon as I can.

Thanks,

Dennis

P.S. Note that board members may not discuss this topic outside of a public meeting. Also, this will be a presentation with questions afterwards, not a debate.

From: Daniel Baker [mailto:dbaker@acpcommunities.com]

Sent: Wednesday, September 03, 2014 3:12 PM

To: denrclark@gmail.com

Cc: Digby, Tim (tdigby@hammockbeach.com)

Subject: New Lodge Presentation - Scenic A1A Pride

Good afternoon Dennis,

Would you mind directing us to the right person(s) to request an opportunity for the Salamander team to present the New Lodge site development plan and concepts to Scenic A1A Pride? Adam Mengel advised us to reach out to you as a start, but said you may be the right person to facilitate this request.

It appears the next scheduled meeting is September 26th from 8 AM until noon, but not sure if the agenda would permit our presentation, or if the time is fixed. The presentation would likely require about one hour, including some time allocated for Q&A. One logistical challenge on our end is that the President of Salamander, Prem Devadas, is coming from Middleburg, VA, and would likely get to the Hammock around noon. Prem would like to personally address the group and lead the presentation of the plan, if possible.

Thanks in advance for your assistance.

Daniel Baker
VP Development & Operations



P 386.246.5845 | **M** 386.931.6462 | **F** 386.246.5855
200 Ocean Crest Drive, Suite 31, Palm Coast, FL 32137
E dbaker@acpcommunities.com

On Sep 2, 2014, at 2:45 PM, Daniel Baker <dbaker@acpcommunities.com> wrote:

Good afternoon Abby and Alma,

On behalf of Prem Devadas, please find below a link to an electronic version of the application submitted to Flagler County for the New Lodge and Conference Facilities. The link provides individual PDF files for each component of the application package submitted Wednesday, August 27, 2014.

<https://gdc.sharefile.com/d/sdaa12ddb32748099>

As communicated during the May 6, 2014 presentation to the Hammock Conservation Coalition, we respectfully request the opportunity to formally present the site development plans for the enhancement of the Resort. Since attendance at the May meeting, the Salamander team has been diligently working to progress the concepts and looks forward to reviewing the site development plans with the HCC.

It is our understanding that the New Lodge may be on the agenda for this evenings' meeting. If okay, Tim Digby and I would like to attend tonight to hear the report from Lynn Rosewater, but will not make any presentation regarding this topic; we will defer the formal presentation to a future meeting.

Daniel Baker
VP Development & Operations

P 386.246.5845 | **M** 386.931.6462 | **F** 386.246.5855
200 Ocean Crest Drive, Suite 31, Palm Coast, FL 32137
E dbaker@acpcommunities.com

Adam Mengel

From: JEFF SOUTHMAYD-PD [wnssfm@aol.com]
Sent: Wednesday, September 10, 2014 11:20 AM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

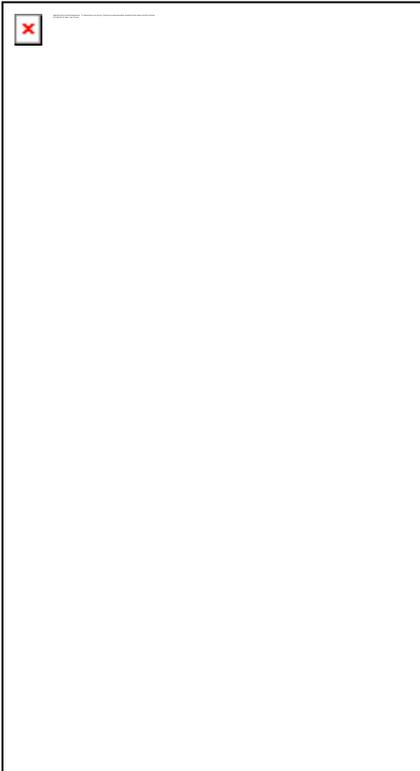
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



Adam Mengel

From: Adam Mengel
Sent: Friday, September 12, 2014 5:20 PM
To: 'JEFF SOUTHMAYD-PD'
Cc: Nate McLaughlin; 'fmeeker@bellsouth.net'; Albert J. Hadeed; Sally A. Sherman
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC
Attachments: Final Agency Order.pdf

Hi Mr. Southmayd:

The submittal may be viewed [here](#), which is also available from the County's homepage – www.flaglercounty.org – under the “Quick Links” heading.

The only meeting that has been scheduled to date is the Technical Review Committee (TRC) meeting on 9/17/2014 at 9 a.m.; the agenda for this meeting is also listed through the above link. As I mentioned to you in my 5/21/2014 email, the next step following the TRC meeting is Planning and Development Board and Board of County Commissioners public hearings; these hearings will not be scheduled and no public notice for these hearings will be provided until the request (just like all other application requests) is thoroughly reviewed by TRC and all comments are adequately addressed.

As for ex parte communication, this is a quasi-judicial action as an amendment to a Planned Unit Development (PUD) Site Development Plan. Individual communication with appointed (Planning and Development Board members) and elected (Board of County Commissioners) officials is discouraged, but not prohibited; however, all communications will require disclosure. We as staff to both groups will continue, as we have in the past, to provide public comments to decision-makers as part of their review materials.

Regarding the final order by the ALJ, I have attached the final version.

Please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 **Go Green:** Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]
Sent: Wednesday, September 10, 2014 11:20 AM
To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

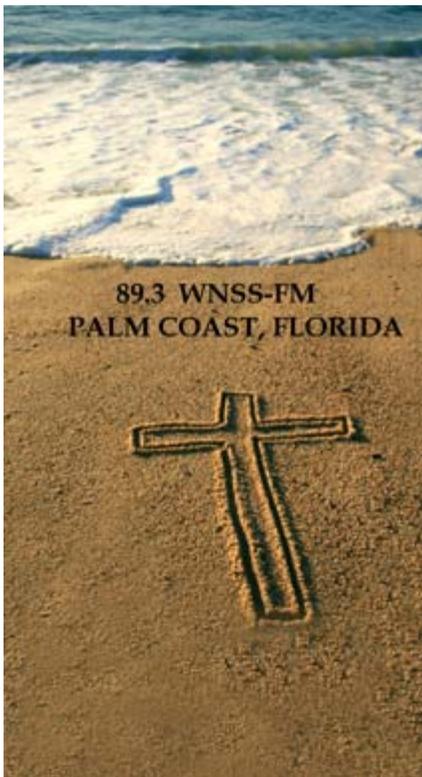
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



FILED
AUG -5 PM 1:27
DIVISION OF
ADMINISTRATIVE
HEARINGS

STATE OF FLORIDA
FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

GINN-LA MARINA, LLLP, LTD,
NORTHSHORE HAMMOCK LTD, LLLP,
and NORTHSHORE OCEAN HAMMOCK
INVESTMENT, LTD, LLLP.

Petitioners,

vs.

FLAGLER COUNTY,

FLWAC Case No.: APP-10-007

DOAH Case No.: 10-9137DRI

Respondent,

and

OCEAN HAMMOCK PROPERTY OWNERS
ASSOCIATION, INC., THE HAMMOCK
BEACH CLUB CONDOMINIUM
ASSOCIATION, INC., MICHAEL M.
HEWSON, and ADMIRAL CORPORATION,

Intervenors.

FINAL ORDER

This cause came before the Governor and Cabinet, sitting as the Florida Land and Water Adjudicatory Commission ("Commission") on August 2, 2011, pursuant to a Petition filed by GINN-LA MARINA, LLLP, LTD; NORTHSHORE HAMMOCK, LTD, LLLP; and NORTHSHORE OCEAN HAMMOCK, INVESTMENT, LTD, LLLP (collectively, "Petitioners"), challenging Flagler County's ("County") denial of certain amendments to the Hammock Dunes Development of Regional Impact Development Order ("Hammock Dunes DRI

DO” or “DO”) requested by Petitioners in a Notice of Proposed Change Application originally filed with the County on February 27, 2009, as amended on June 19, 2009 and on February 11, 2010 (“NOPC”). The NOPC was considered by the County at a hearing on April 5, 2010, and the County’s decision on the NOPC was memorialized via the adoption of County Resolution Number 2010-22 on April 5, 2010. The Commission is charged with adjudicating appeals in regard to any development of regional impact. See Section 380.07(2), Florida Stat. For the reasons stated below, and upon review of the record, the Commission adopts the findings of fact and conclusions of law set forth in the Recommended Order, which is incorporated and attached as Exhibit “A.”

BACKGROUND

In 2009, the Petitioners submitted a NOPC to the County, which was twice revised, seeking to amend their DO by extending for three (3) years the development of regional impact (“DRI”) build-out date authorized by Section 380.06(19), Florida Statutes; reducing the number of approved dwelling units in the DRI; creating a new residential Cluster 35 within the DRI boundaries and reallocating previously-approved, but un-built, dwelling units from other Clusters to the new Cluster 35; agreeing to a further PUD-like review process before development permits are issued; and realigning a roadway at its own expense.

After a public hearing, the County determined that the changes requested by the Petitioners in the NOPC (“Revisions”) did not constitute a substantial deviation of the DO; found that the Revisions were consistent with the County’s Comprehensive Plan (“Plan”); recognized the legislative extension of time that extended the expiration date of the DO to February 28, 2012; approved the request to reduce the total number of approved residential dwelling units from 4,400 to 3,800; and denied the request to create a new Cluster 35 with a transfer of 561

residential units to that Cluster on the ground that such transfer was inconsistent with certain provisions of the County's Land Development Code ("LDC").

On May 25, 2010, Petitioners timely filed a Notice of Appeal and Petition for Appeal with the Commission. The Commission referred the matter to the Division of Administrative Hearings ("DOAH") on September 21, 2010, requesting that an administrative law judge conduct a formal hearing. By Order dated October 1, 2010, Admiral Corporation ("Admiral"), Ocean Hammock Property Owners Association, Inc. ("Ocean Hammock"), The Hammock Beach Club Condominium Association, Inc. ("Hammock Beach"), and Michael M. Hewson ("Hewson") were authorized to intervene as parties.

On December 15-17, 2010, the Honorable D.R. Alexander, Administrative Law Judge ("ALJ"), presided over a formal hearing on this matter. The ALJ rendered a Recommended Order ("Recommended Order" or "RO") on April 6, 2011, in which he disposed of the following issues: 1) what are the correct procedures and substantive criteria to be applied in reviewing Petitioners' proposed "local" changes to the Hammock Dunes DRI DO; 2) does Petitioners' (NOPC) application satisfy the applicable criteria for approval; and 3) do Petitioners or Respondent, County, have the legal ability or obligation through the NOPC to the DO to change certain obligations of Intervenor, Admiral, contained in the DO and in separate agreements related to the performance of certain DO obligations. The ALJ, in the Recommended Order, found that: a simultaneous NOPC/PUD review is reasonable and the County is authorized to take into account the general issues of public health, safety, and welfare, as well as any other sections of Article 3 of the LDC that are applicable; the NOPC is not a substantial deviation, as defined by Section 380.06(19), Florida Statutes; the Revisions in the NOPC to create a new Cluster 35 and transfer 561 units to that Cluster are inconsistent with the Plan; the new Master

Development Plan, which creates a new Cluster 35 and transfers 561 units to that cluster, is inconsistent with the relevant portions of the LDC; the Petitioners have no vested right to place up to 561 dwelling units on the land now subject to restrictions that limit the usage of the property to golf courses and other uses associated with golf club facilities, open space, parks, or recreational facilities if approved by the Board of County Commissioners (“Board”) and Section 14.5 of the DO prohibits the proposed uses; the extension of the DO expiration date until February 28, 2012, is permissible and is the result of a legislative act; and whether Admiral’s obligations under the DO are extended to the new expiration date is a matter that should be resolved in the appropriate circuit court.

STANDARD OF REVIEW OF RECOMMENDED ORDER

The Administrative Procedure Act provides that the Commission will adopt the ALJ’s Recommended Order except under certain limited circumstances. The Commission has only limited authority to reject or modify the ALJ’s findings of fact:

The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law.

§120.57(1)(l), Fla. Stat.

“Matters susceptible of ordinary methods of proof...are factual matters to be determined by the hearing officer.” Gross v. Dept. of Health, 819 So. 2d 997 at 1002 (Fla. 5th DCA 2002). When fact-finding functions have been delegated to an ALJ, as is the case here, the Commission must rely upon the record developed before the ALJ. See Fox v. Treasure Coast Reg’l Planning Council, 442 So. 2d 221, 227 (Fla. 1st DCA 1983). As the ALJ in an administrative proceeding is the trier of fact, he or she is privileged to weigh and reject conflicting evidence. See Cenac v. Fla. State Bd. of Accountancy, 399 So. 2d 1013, 1016 (Fla. 1st DCA 1981). Therefore, “[i]t is

the hearing officer's function in an agency proceeding to consider all the evidence presented, resolve conflicts, judge credibility of witnesses, draw permissible inferences from the evidence, and reach ultimate findings of fact based on competent, substantial evidence." Bejarano v. State, 901 So. 2d 891, 892 (Fla. 4th DCA 2005) (quoting Heifetz v. Dep't of Bus. Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985) (citing State Beverage Dep't v. Eernal, Inc., 115 So. 2d 566 (Fla. 3rd DCA 1959)). The Commission cannot re-weigh evidence considered by the ALJ and cannot reject findings of fact made by the ALJ if those findings of fact are supported by competent substantial evidence in the record. Heifetz, 475 So. 2d 1277 (Fla. 1st DCA 1985). Competent substantial evidence means "such evidence as will establish a substantial basis of fact from which a fact at issue can be reasonably inferred", and evidence which "should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached." De Groot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957). Ultimate findings of fact are not conclusions of law, but are those findings of fact which "flow from preceding underlying facts." See Pillsbury v. State, Dep't. of Health and Rehab. Services, 744 So. 2d 1040 at 1042 (Fla. 2d DCA 1999).

The Commission may modify or reject conclusions of law in the Recommended Order over which it has substantive jurisdiction. See Section 120.57(1)(l), Fla. Stat. When rejecting or modifying a conclusion of law, the Commission must state with particularity its reasons for rejecting or modifying such conclusion of law. Id. Any substituted conclusion of law must be as or more reasonable than the conclusion of law provided by the ALJ in the recommended order.

Id.

RULINGS ON EXCEPTIONS

Petitioner's Exception 1: Finding of Fact 29

The Petitioners object to the following portions of Finding of Fact 29: 1) that the County was entitled to conduct a simultaneous NOPC/PUD review; 2) that the County was authorized to take into account the substantive criteria set forth in 3.04.02.F.1. and 2. of the LDC; and 3) that the County may unilaterally apply its normal procedure for NOPC/PUD review. The Petitioners also object to the findings of fact which they believe stem from unsupported conclusions and mischaracterized facts set forth in Finding of Fact 29, including Findings of Fact 30, 39, and 40-45, and Conclusions of Law 59, 60, 63, and 64.

The Petitioners' exception to Finding of Fact 29 is focused on the following language:

“While conflicting testimony was submitted on this issue, the more persuasive evidence supports a finding that these procedures and substantive criteria are the most logical and reasonable interpretation of the County's LDC and the DO, and they should be used in reviewing the NOPC.”

The Petitioners argue that the foregoing language is not a finding of fact, but is a conclusion of law. Finding of Fact 29 contains findings of fact which lead to the ultimate finding of fact quoted above. See Pillsbury , 744 So. 2d 1040 at 1042. The statements contained in Paragraph 29 are findings of fact as they are “matters susceptible to ordinary methods of proof.” See Gross, 819 So. 2d 997 at 1002. The Commission may not disturb a Finding of Fact supported by any competent substantial evidence from which the finding could be reasonably inferred. See Heifetz, 475 So. 2d 1277.

Section 17.6 of the DO provides that, “for purposes of compliance with the Flagler County Development and Subdivision Regulations and other development ordinances, this project for procedural purposes shall be treated as a ‘Planned Unit Development’ under article X of those regulations. This project shall be subject only to the following review provisions...” The

Petitioners claim that they have vested rights under Section 17.6 and that therefore provisions of the LDC adopted after the DO was issued are not applicable to the review of the NOPC. There is competent substantial evidence in the record to support the ALJ's finding of fact that the LDC provisions adopted after the DRI DO was issued are applicable to the review of the NOPC, because the constraints, processes and substantive criteria found in Sections 17.5 and 17.6 of the DO do not apply where the developer of the DRI proposes to create a new development cluster where none has previously existed. Therefore, Sections 17.5 and 17.6 do not limit the County's review of the NOPC. These sections would be applicable to constrain the review of what would be allowed on an existing cluster after a NOPC has been approved and the developer is seeking site plan approval. (T. 189, 212-214, 381, 396-398, 429-431). Additionally, there is competent substantial evidence in the record that, when reviewing the NOPC, the County may take into account considerations of public health, safety, and welfare, and any other sections of Article III of the LDC that are applicable. Section 1.02.02(2)(B) of the LDC provides that provisions of validly approved development orders "shall supersede and prevail over any conflicting provisions of this Code" but, "to the extent that a previously issued development order is not in conflict with this Code, then the provisions of this Code shall apply to all development undertaken subsequent to the enactment of this Code." (Jt. Ex. 11). The DO does not provide a process or criteria for review of a NOPC which proposes the creation of a new cluster of residential development where residential development has not been previously permitted. Therefore, the processes and criteria in the LDC, which were adopted after the DO was adopted, do not conflict with the DO, so such provisions of the LDC are applicable to the review of the NOPC. (Jt. Ex. 11, T. 382, 471, 472). The Commission has reviewed both the Petitioners' exception to Finding of Fact 29 and the Respondents' response to that exception, as well as

relevant parts of the record. The Commission finds that the Administrative Law Judge's findings of fact in Finding of Fact 29 are supported by competent substantial evidence in the record. Additionally, the Petitioners' objections to Findings of Fact 30, 39, 40-45 and Conclusions of Law 59, 60, 63, and 64, on the basis that they stem from "unsupported conclusions" and "mischaracterized facts" set forth in Finding of Fact 29, are denied as Finding of Fact 29 is supported by competent substantial evidence in the record.

Petitioners' Exception 1 is DENIED.

Petitioners' Exception 2: Finding of Fact 36

The Petitioners object to Finding of Fact 36 as they claim that the ALJ's findings are conclusions of law based on speculation, not findings of fact. The ALJ's findings in Finding of Fact 36 are findings of fact as they are matters susceptible to ordinary methods of proof. In Finding of Fact 36, the ALJ finds that the "mass and scale of development that is authorized under the NOPC will dwarf the 16th Road park and marginalize public beach access" and the "persons occupying the new dwelling units in Cluster 35 (up to 561 units) will be concentrated directly at the intersection of the beach and the park. These impacts...would change the pristine, rural character of the beachfront and park at 16th Road..." Therefore, the ALJ concluded that the NOPC revisions conflict with the corridor management plan¹, which applies to the Highway A1A scenic corridor, and are inconsistent with the requirement in Policy 3-3 of the Plan that the County support the corridor management plan. The corridor management plan requires that whatever is built around the corridor should fit in or blend with the location where it is proposed. Cluster 35 is proposed to be built around the corridor. The Commission has reviewed both

¹ Highway A1A is a north-south route that runs along the western boundary of the DRI and it is commonly known as the A1A Scenic Highway. It includes not only A1A, but also the public roads that run from A1A through the DRI to the beach, including 16th Road and the park at its terminus at the beach next to the proposed Cluster 35. (See R.O. , Finding of Fact 34)

Petitioners' exception to Finding of Fact 36 and the Respondent's response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge's findings of fact in Finding of Fact 36 are supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners' Exception to Finding of Fact 36.

Petitioners' Exception 2 is DENIED.

Petitioners' Exception 3: Finding of Fact 37

The Petitioners posit that Finding of Fact 37 is a conclusion of law, not a finding of fact. They object to the ALJ's finding that "the NOPC allows Petitioners to relocate 16th Road and the 16th Road park facilities further south" and that "the dune cut at 16th Road would have to be abandoned as an access point to the beach." Additionally, the Petitioners object to the ALJ's ultimate finding of fact which states that the NOPC's "impacts to natural resources and recreational facilities conflict with objective 3 of the Plan that requires the County to preserve the natural and recreational resources of the Scenic Highway" and that the NOPC "contravenes policy 3-6, which requires the County to improve recreational facilities without adversely affecting natural resources along the Scenic Corridor." The findings in Finding of Fact 37 are findings of fact, not conclusions of law, as they are matters susceptible to ordinary methods of proof. The Commission has reviewed both Petitioners' exception to Finding of Fact 37 and the Respondent's response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge's findings of fact in Finding of Fact 37 are supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners' Exception to Finding of Fact 37.

Petitioners' Exception 3 is DENIED.

Petitioner's Exception 4: Finding of Fact 38

The Petitioners object to Finding of Fact 38 which states “for the reasons stated above, the NOPC is inconsistent with objective 3 and policies 3-3 and 3-6 of the Recreation and Open Space Element of the Plan and in these respects is inconsistent with the County Plan.” Objective 3 of the Plan requires the County to preserve natural and recreational resources of the Scenic Highway, policy 3-3 requires the County to support the corridor management plan, and policy 3-6 requires the County to improve recreational facilities without adversely affecting natural resources along the Scenic Corridor. The Petitioners claim that Finding of Fact 38 is a conclusion of law. However, this finding of fact is an ultimate finding of fact which flows from the findings in Finding of Fact 37 and other findings of fact in the record. The Commission has reviewed both Petitioners’ exception to Finding of Fact 38 and the Respondent’s response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge’s finding of fact was supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners’ Exception to Finding of Fact 38.

Petitioners’ Exception 4 is DENIED.

Petitioners’ Exception 5: Finding of Fact 41

Petitioners object to the language of Finding of Fact 41 which provides that “at this stage of development in the DRI, the residents of the area and the County have the right to rely on the stability of the Master Development Plan. Substantial changes to the Master Development Plan such as those proposed here will likely cause adverse impacts to residents owning property in the DRI and to the community as a whole.” The Petitioners assert that Finding of Fact 41 is a conclusion of law. This language is properly classified as a finding of fact and an ultimate finding of fact as it is susceptible to ordinary methods of proof. The Commission has reviewed

both Petitioners' exception to Finding of Fact 41 and the Respondent's response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge's findings of fact in Finding of Fact 41 are supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners' Exception to Finding of Fact 41.

Petitioners' Exception 5 is DENIED.

Exception 6: Finding of Fact 42

Petitioners take exception to Finding of Fact 42 as they assert that it is not supported by competent substantial evidence in the record. Specifically, the Petitioners challenge the following language, "By contrast, the scale and intensity of development permitted by the NOPC will obstruct or eliminate ocean views of property owners, principally in Cluster 33, behind the golf course, where several condominium buildings are now located. The evidence shows that these unit owners with an obstructed view can also expect a substantial loss (around 45 percent) in value of their properties." The Commission has reviewed both Petitioners' exception to Finding of Fact 42 and the Respondent's response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge's findings of fact in Finding of Fact 42 are supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners' Exception to Finding of Fact 42.

Petitioners' Exception 6 is DENIED.

Petitioners' Exception 7: Finding of Fact 43

The Petitioners object to Finding of Fact 43 as they assert that it includes findings which are unsupported by competent substantial evidence. Finding of Fact 43 provides "Likewise, the relocation of the existing access to the public beach and relocation of the public park will

adversely impact the public since they will no longer have the ease of access to the beach and use of facilities the current park and beach access provide.” The Commission has reviewed both Petitioners’ exception to Finding of Fact 43 and the Respondent’s response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge’s finding of fact was supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners’ Exception to Finding of Fact 43.

Petitioners’ Exception 7 is DENIED.

Petitioners’ Exception 8: Finding of Fact 44

Petitioners’ take exception to Finding of Fact 44 which provides, in relevant part, that “given the mass and scale of development that can occur in the buffer area (golf course) between the ocean and the other DRI development, the new Cluster will have an adverse effect on adjacent Clusters. As such, the NOPC will not be compatible with adjacent land uses.” The Petitioners assert that the foregoing statements are conclusions of law. Finding of Fact 44 is an ultimate finding of fact, not a conclusion of law, as it involves matters susceptible to ordinary methods of proof and it flows from other findings of fact. The Commission has reviewed both Petitioners’ exception to Finding of Fact 44 and the Respondent’s response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge’s finding of fact was supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners’ Exception to Finding of Fact 44.

Petitioners’ Exception 8 is DENIED.

Petitioners' Exception 9: Finding of Fact 45

Petitioners object to Finding of Fact 45 and assert that such fact is a conclusion of law which is based on speculation and is unsupported by competent substantial evidence in the record. Finding of Fact 45 states "Collectively, these considerations support a finding that the proposed development will adversely affect the orderly development of the County, and it will be detrimental to the use of adjacent properties and the general neighborhood." Finding of Fact 45 is an ultimate finding of fact, not a conclusion of law, as it is susceptible to ordinary methods of proof and it flows from other findings of fact which are supported by competent, substantial evidence. The Commission has reviewed both Petitioners' exception to Finding of Fact 45 and the Respondent's response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge's finding of fact was supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners' Exception to Finding of Fact 45.

Petitioners' Exception 9 is DENIED.

Petitioners' Exception 10: Finding of Fact 50

Petitioners take exception to Finding of Fact 50 as they claim that it is a conclusion of law that is unsupported by competent evidence in the record. Finding of Fact 50 provides, in relevant part, "The most reasonable interpretation of those documents, as further explained by testimony at hearing, is that the Petitioners' proposal to reallocate up to 561 dwelling units to the proposed Cluster 35 within the golf course land and assign the 'Ocean Recreation Hotel' community type to that Cluster, is not a use permitted by section 14.5." Finding of Fact 50 is an ultimate finding of fact, not a conclusion of law, as it is an issue susceptible to ordinary methods of proof and it is based upon other findings of fact which are supported by competent substantial

evidence in the record. The Commission has reviewed both Petitioners' exception to Finding of Fact 50 and the Respondent's response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative Law Judge's Finding of Fact 50 was supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners' Exception to Finding of Fact 50.

Petitioners' Exception 10 is DENIED.

Petitioners' Exception 11: Finding of Fact 51

Petitioners object to Finding of Fact 51 as they posit that it is a conclusion of law which is unsupported by evidence in the record. Finding of Fact 51 provides, in relevant part, "However, the County has always interpreted section 14.5, the Plat, and the Plat Addendum to mean that the golf course land will remain a golf course in perpetuity and cannot be developed for residential purposes. Notwithstanding contrary evidence presented by Petitioners, the County's interpretation of those documents has been credited as being the most persuasive. Given these considerations, Petitioners have no vested right under the current DO to develop 12 acres for residential purposes and must request an amendment to section 14.5 in order to authorize another form of development. For this reason, the NOPC should be denied." Finding of Fact 51 is a finding of fact as it is a matter susceptible to ordinary methods of proof. The statement that Petitioners have no vested right under the current DO to develop the 12 acres for residential purposes and must request an amendment to Section 14.5 in order to authorize a change in the form of development is an ultimate fact which flows from previous findings of fact which are supported by competent substantial evidence in the record. The Commission has reviewed both Petitioners' exception to Finding of Fact 51 and the Respondent's response to that exception, as well as relevant parts of the record. The Commission finds that the Administrative

Law Judge's findings of fact in Finding of Fact 51 are supported by competent substantial evidence in the record. Therefore, the Commission must deny Petitioners' Exception to Finding of Fact 51.

Petitioners' Exception 11 is DENIED.

Petitioners' Exception 12: Conclusion of Law 60

Petitioners take exception to Conclusion of Law 60, which provides "For the reasons previously found, the process and criteria used by the County are reasonable and appropriate and should be used in reviewing the NOPC." The Petitioners assert that the terms "reasonable and appropriate" should be replaced with the term "correct" as the Recommended Order's Statement of Issues section provides that one of the issues to be determined in the proceeding is "what are the correct procedures and substantive criteria to be applied" in reviewing the NOPC. The Commission may only modify a conclusion of law over which it has substantive jurisdiction and its substituted or modified conclusion of law must be as or more reasonable than the ALJ's conclusion of law. See Section 120.57(1)(1), Florida Stat. The Commission has reviewed Petitioners' exception and Respondent's response to that exception. Although the Statement of Issues section utilizes the language "correct procedures" in regard to the procedures and substantive criteria utilized by the County, Finding of Fact 29 utilizes the terms "logical and reasonable" to apply to those procedures and criteria. The Commission finds that that the Petitioners' assertion is not as or more reasonable than the Administrative Law Judge's conclusion of law. Therefore, the Petitioners' exception to Conclusion of Law 60 is denied.

Petitioners' Exception 12 is DENIED.

Petitioners' Exception 13: Conclusion of Law 62

Petitioners object to Conclusion of Law 62 as being incorrect and unsupported by the evidence in the record. Conclusion of Law 62 states that "For the reasons previously found, the evidence supports a conclusion that the NOPC revisions are not consistent with objective 3 and policies 3-3 and 3-6 of the Recreation and Open Space Element of the Plan. Therefore, the NOPC does not satisfy the requirement in section 163.3194(1)(a) that the DO is consistent with the local comprehensive plan." The Commission has reviewed the Petitioners' exception and the Respondent's response to that exception. The Commission finds that the Petitioners' assertion is not as or more reasonable than the Administrative Law Judge's conclusion of law. Therefore, the Petitioners' exception to Conclusion of Law 62 is denied.

Petitioners' Exception 13 is DENIED.

Petitioners' Exception 14: Conclusion of Law 63

Petitioners object to Conclusion of Law 63 as being incorrect and unsupported by the evidence in the record. Conclusion of Law 63 provides "For the reasons previously found, the evidence supports a conclusion that the NOPC does not satisfy relevant portions of the LDC." The Commission has reviewed the Petitioners' exception and the Respondent's response to that exception. The Commission finds that the Petitioners' assertion is not as or more reasonable than the Administrative Law Judge's conclusion of law. Therefore, the Petitioners' exception to Conclusion of Law 63 is denied.

Petitioners' Exception 14 is DENIED.

Petitioners' Exception 15: Conclusion of Law 64

Petitioners take exception to Conclusion of Law 64 on the grounds that it is incorrect and unsupported by evidence in the record. In Conclusion of Law 64, the ALJ concludes that the Petitioners do not have a vested right to place up to 561 dwelling units at the location proposed in the NOPC, absent the amendment of Section 14.5 of the DO. The Commission has reviewed the Petitioners' exception and the Respondent's response to that exception. The Commission finds that the Petitioners' assertion is not as or more reasonable than the Administrative Law Judge's conclusion of law. Therefore, the Petitioners' exception to Conclusion of Law 64 is denied.

Petitioners' Exception 15 is DENIED.

ORDER

Upon review and consideration of the entire record in this proceeding, the Recommended Order, and the Petitioners' exceptions and the response to exceptions thereto, the Commission adopts all of the ALJ's findings of facts and conclusions of law in the Recommended Order.

Wherefore, the Commission concludes that the NOPC for the Hammock Dunes Development of Regional Impact, originally filed with the County on February 27, 2009, as amended on June 19, 2009 and on February 11, 2010, is not a substantial deviation; the expiration date of the Hammock Dunes DRI DO is extended to February 28, 2012, by virtue of legislative action in 2007; the reduction in residential units for the DO from 4,400 to 3,800 is approved; the proposed revisions in the NOPC to create a new Cluster 35 and transfer 561 dwelling units to that Cluster are inconsistent with the County's Comprehensive Plan and LDC, and therefore these changes to the DO are denied; and the Petitioners have no vested right to

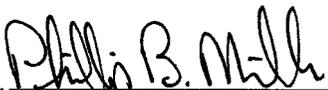
construct up to 561 dwelling units on 12 acres of land located in the Ocean Hammock Golf Course.

It is therefore ORDERED AND ADJUDGED that: Ginn-La Marina LLLP, LTD; Northshore Hammock LTD, LLLP, and Northshore Ocean Hammock Investment, LTD, LLLP's Notice of Proposed Change, originally filed with the County on March 2, 2009, as amended on June 19, 2009 and on February 11, 2010, is **DENIED** as to the portion of the NOPC which seeks to create a new Cluster 35 on 12 acres of land located in the Ocean Hammock Golf Course and transfer 561 dwelling units to that Cluster and **APPROVED** as to the remainder of the NOPC.

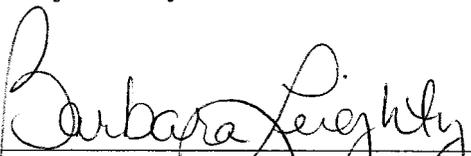
NOTICE OF RIGHTS

Any party to this Order has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001; and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. Notice of Appeal must be filed within thirty (30) days of the date this Order is filed with the Clerk of the Commission.

DONE AND ORDERED this 4th day of August, 2011.


For JERRY A. MCDANIEL, Secretary
Florida Land and Water
Adjudicatory Commission

4th FILED with the Clerk of the Florida Land and Water Adjudicatory Commission this
4 day of August, 2011.


Clerk, Florida Land and Water
Adjudicatory Commission

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered to the following persons by United States mail this 4 day of August, 2011.


Clerk, Florida Land and Water
Adjudicatory Commission

Honorable Rick Scott
Governor
The Capitol
Tallahassee, Florida 32399

Honorable Jeff Atwater
Chief Financial Officer
The Capitol
Tallahassee, Florida 32399

Honorable Pam Bondi
Attorney General
The Capitol
Tallahassee, Florida 32399

Honorable Adam Putnam
Commissioner of Agriculture
The Capitol
Tallahassee, Florida 32399

L. Mary Thomas, Esquire
Governor's Legal Office
Room 209, The Capitol
Tallahassee, Florida 32399-0001

Scott A. Glass, Esquire
James F. Johnston, Esquire
Shutts & Bowen LLP
Post Office Box 4956
Orlando, Florida 32802-4956

Wayne E. Flowers, Esquire
Lewis, Longman & Walker, P.A.
245 Riverside Avenue
Suite 150
Jacksonville, Florida 32202

Albert J. Hadeed, County Attorney
Flagler County
1769 E. Moody Boulevard
Suite 303
Bunnell, Florida 32110-5992

Michael D. Chiumento III, Esquire
Chiumento, Guntharp & Selis, PL
145 City Place
Suite 301
Palm Coast, Florida 32164

Ellen Avery-Smith, Esquire
Rogers Towers, PA
100 Whetstone Place
Suite 100
St. Augustine, Florida 32086-5775

Isabelle C. Lopez, Esquire
Quintairos, Prieto, Wood & Boyer, PA
One Independent Drive
Suite 1650
Jacksonville, Florida 32202-5019

Honorable D. R. Alexander
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Florida Administrative Law Reports
Post Office Box 385
Gainesville, Florida 32602

Adam Mengel

From: JEFF SOUTHMAYD-PD [wnssfm@aol.com]
Sent: Friday, September 12, 2014 5:57 PM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

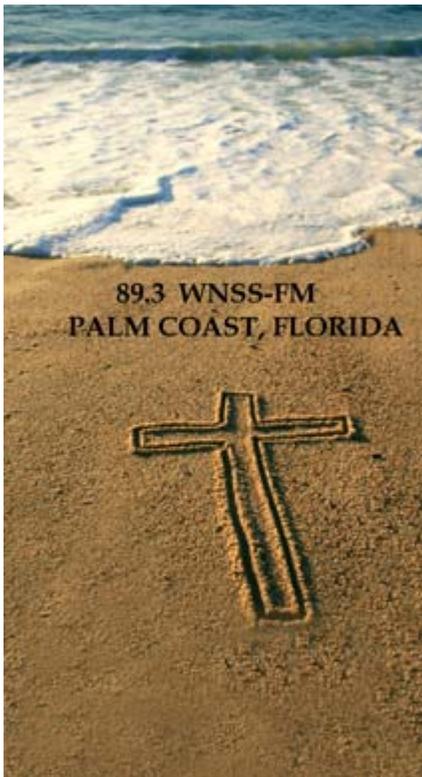
Adam;

May public comments be submitted at the TRC meeting ("...is thoroughly reviewed by TRC and all comments are adequately addressed")? Is the public allowed to attend the TRC meeting?

Thanks for following up on my email.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>
To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>
Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J. Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>
Sent: Fri, Sep 12, 2014 5:20 pm
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The submittal may be viewed [here](#), which is also available from the County's homepage – www.flaglercounty.org – under the "Quick Links" heading.

The only meeting that has been scheduled to date is the Technical Review Committee (TRC) meeting on 9/17/2014 at 9 a.m.; the agenda for this meeting is also listed through the above link. As I mentioned to you in my 5/21/2014 email, the next step following the TRC meeting is Planning and Development Board and Board of County Commissioners public hearings; these hearings will not be scheduled and no public notice for these hearings will be provided until the request (just like all other application requests) is thoroughly reviewed by TRC and all comments are adequately addressed.

As for ex parte communication, this is a quasi-judicial action as an amendment to a Planned Unit Development (PUD) Site Development Plan. Individual communication with appointed (Planning and Development Board members) and elected (Board of County Commissioners) officials is discouraged, but not prohibited; however, all communications will require disclosure. We as staff to both groups will continue, as we have in the past, to provide public comments to decision-makers as part of their review materials.

Regarding the final order by the ALJ, I have attached the final version.

Please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: JEFF SOUTHMAYD-PD [<mailto:wssfm@aol.com>]

Sent: Wednesday, September 10, 2014 11:20 AM

To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

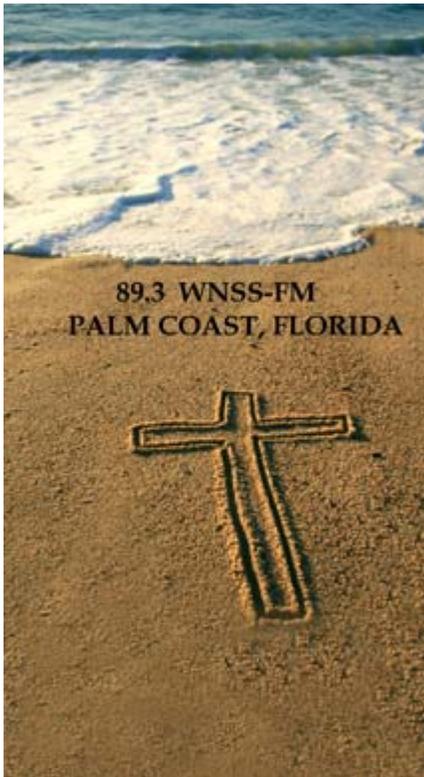
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: JEFF SOUTHMAYD-PD [wnssfm@aol.com]
Sent: Friday, September 12, 2014 9:34 PM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Adam;

Having reviewed the Flagler webiste for the TRC, I think there is a problem. What is proposed is a 198 room hotel. This fails to give the adequate notice of the proposal under Florida statutes and the APA:

SITE DEVELOPMENT PLAN REVIEW IN A PUD for the Lodge and conference facilities at Hammock Beach Resort; 105 16th Road East, Palm Coast; Parcel #04-11-31-3605-000C0-0000 and 04-11-31-2984-00GC0-0000; Project area is approximately 10.2 acres; Owners: LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC; Applicant: Salamander Hospitality, LLC.

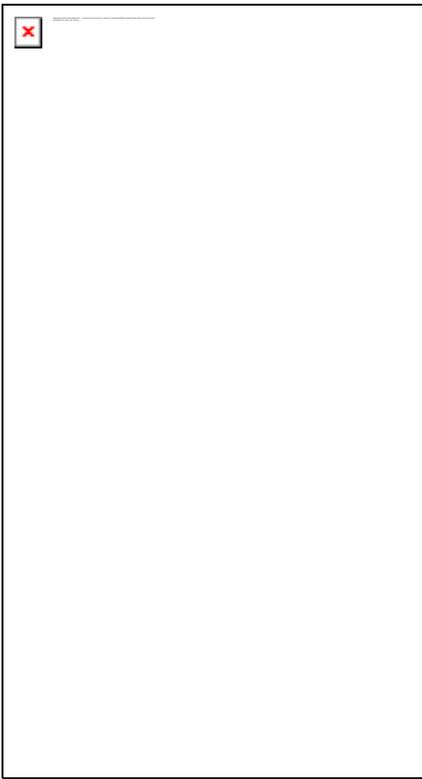
The "Lodge" replaces the Ocean Hammock golf course lodge with the **198 room hotel**. There is not notice that a 198 room hotel is proposed.

I respectfully note for the record that the county has failed to adequately provide notice that a 198 room hotel is proposed for #04-11-31-3605-000C0-0000 and 04-11-31-2984-00GC0-0000.

I suggest the notice be revised to accurately disclose the proposal and a revised date for initial TRC review be allocated.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>

To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>

Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J. Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Fri, Sep 12, 2014 5:20 pm

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The submittal may be viewed [here](#), which is also available from the County's homepage – www.flaglercounty.org – under the "Quick Links" heading.

The only meeting that has been scheduled to date is the Technical Review Committee (TRC) meeting on 9/17/2014 at 9 a.m.; the agenda for this meeting is also listed through the above link. As I mentioned to you in my 5/21/2014 email, the next step following the TRC meeting is Planning and Development Board and Board of County Commissioners public hearings; these hearings will not be scheduled and no public notice for these hearings will be provided until the request (just like all other application requests) is thoroughly reviewed by TRC and all comments are adequately addressed.

As for ex parte communication, this is a quasi-judicial action as an amendment to a Planned Unit Development (PUD) Site Development Plan. Individual communication with appointed (Planning and Development Board members) and elected (Board of County Commissioners) officials is discouraged, but not prohibited; however, all communications will require disclosure. We as staff to both groups will continue, as we have in the past, to provide public comments to decision-makers as part of their review materials.

Regarding the final order by the ALJ, I have attached the final version.

Please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105

Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: JEFF SOUTHMAYD-PD [<mailto:wsssfm@aol.com>]
Sent: Wednesday, September 10, 2014 11:20 AM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

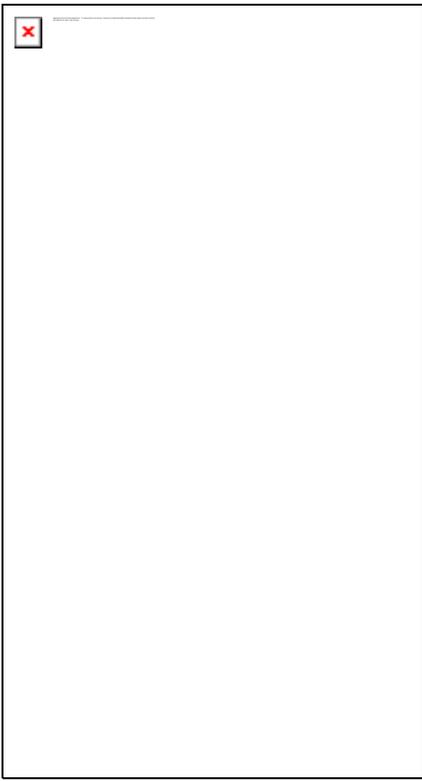
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Dennis Clark [denclark@cfl.rr.com]
Sent: Saturday, September 13, 2014 4:23 PM
To: Andrew Johnson; Anne Wilson; Carole McCleery; Frank Meeker; Don Hoskins; Donna Drevniok; Frank Carelli; George Harnden; Judy Griswold; Marge Rooyakkers; Marianne McNeil; Mary Ann Ruzecki; Maryanne Taddeo; Sonja Zander; Alma Nemrava; Bob Samuels; Bonnie Simms; Danielle Anderson; Dr. Lynne Rosewater; George Nelson; Jane Culpepper; Joyce Skaff
Cc: Adam Mengel; Daniel Baker
Subject: A1A site reviews and TRC documents
Attachments: 2014-09-17 TRC Agenda.pdf

Hammock Beach Resort is scheduled to present the new lodge and conference facilities plan to Scenic A1A PRIDE on Friday Sep 26 at 9am. The material below is available now for anyone who wants to review it ahead of the meeting.

The Flagler County Technical Review Committee (TRC) will meet at 9 AM on Sep 17 with two sites of interest to us (see agenda attached). I will plan to attend the TRC review.

2. *Application #2959* – **SPECIAL EXCEPTION IN THE R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT FOR COMMERCIAL USE**; 5070 N. Oceanshore Boulevard, Parcel # 40-10-31-5135-00020-0120, parcel size 39,371± sf; Owner: Select Realty of Flagler County, Inc. / Agent: Stephenson Wilcox & Associates, Inc. *Project #2014080016 (TRC, PB)*

4. *Application #2962* – **SITE DEVELOPMENT PLAN REVIEW IN A PUD for the Lodge and conference facilities** at Hammock Beach Resort; 105 16th Road East, Palm Coast; Parcel #04-11-31-3605-000C0-0000 and 04-11-31-2984-00GC0-0000; Project area is approximately 10.2 acres; Owners: LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC; Applicant: Salamander Hospitality, LLC. *Project #2014080029 (TRC, PB, BCC)*

The agenda and details may be found at www.flaglercounty.org/Calendar.aspx?EID=6723 but beware that the backup material is 490 pages and 80 MB. It was very slow to view with my computer.

For convenience, I put the following files on the HCC website at <http://www.thehammock.org/public-downloads/>

Select Realty 2014 folder: The TRC backup material (13 pages).

Hammock Beach Resort 2014 folder: Application files - You'll probably want to start with Tab 5 - Basis of Design, followed by Tab 4 - Conceptual Drawings, and then Tab 6 - Site Development Plans. Also the TRC backup material is there (295 pages).

Dennis

Adam Mengel

From: Adam Mengel
Sent: Monday, September 15, 2014 2:59 PM
To: 'JEFF SOUTHMAYD-PD'
Cc: Nate McLaughlin; 'fmeeker@bellsouth.net'; Albert J. Hadeed; Sally A. Sherman
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The public may attend the TRC meetings. As for public comments, the TRC meeting is not a public hearing and is not noticed as such; no decision is rendered as part of the proceedings and no minutes are kept. The TRC meeting provides an opportunity for staff and an applicant to review the staff comments.

We have in the past, however, allowed members of the public to ask questions or provide information to the staff as a courtesy. In these instances the questions and comments were few and did not affect the progress of the technical staff's work. Again, this is not a public hearing but we can accommodate some limited number of questions or comments. The staff will not be responding back unless it happens to be basic information, such as explanations about the process. Since we would not know the volume of any public input for this TRC application, we will approach public questions or information on this application based on how much time we have and/or its relevance to the staff's work.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

From: JEFF SOUTHMAYD-PD [mailto:wNSSFM@aol.com]
Sent: Friday, September 12, 2014 5:57 PM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

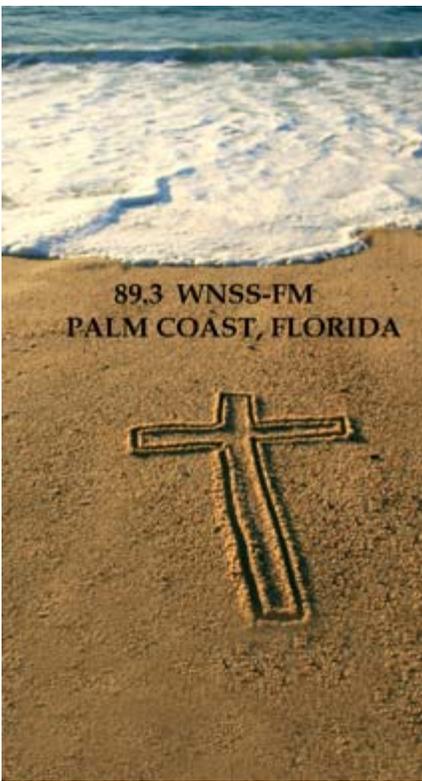
Adam;

May public comments be submitted at the TRC meeting ("...is thoroughly reviewed by TRC and all comments are adequately addressed")? Is the public allowed to attend the TRC meeting?

Thanks for following up on my email.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
[WEB: WWW.WNSSFM.COM](http://WWW.WNSSFM.COM)



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>

To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>

Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J. Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Fri, Sep 12, 2014 5:20 pm

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The submittal may be viewed [here](#), which is also available from the County's homepage – www.flaglercounty.org – under the "Quick Links" heading.

The only meeting that has been scheduled to date is the Technical Review Committee (TRC) meeting on 9/17/2014 at 9 a.m.; the agenda for this meeting is also listed through the above link. As I mentioned to you in my 5/21/2014 email, the next step following the TRC meeting is Planning and Development Board and Board of County Commissioners public hearings; these hearings will not be scheduled and no public notice for these hearings will be provided until the request (just like all other application requests) is thoroughly reviewed by TRC and all comments are adequately addressed.

As for ex parte communication, this is a quasi-judicial action as an amendment to a Planned Unit Development (PUD) Site Development Plan. Individual communication with appointed (Planning and Development Board members) and elected (Board of County Commissioners) officials is discouraged, but not prohibited; however, all communications will require disclosure. We as staff to both groups will continue, as we have in the past, to provide public comments to decision-makers as part of their review materials.

Regarding the final order by the ALJ, I have attached the final version.

Please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105

Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: JEFF SOUTHMAYD-PD [<mailto:wsssfm@aol.com>]
Sent: Wednesday, September 10, 2014 11:20 AM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

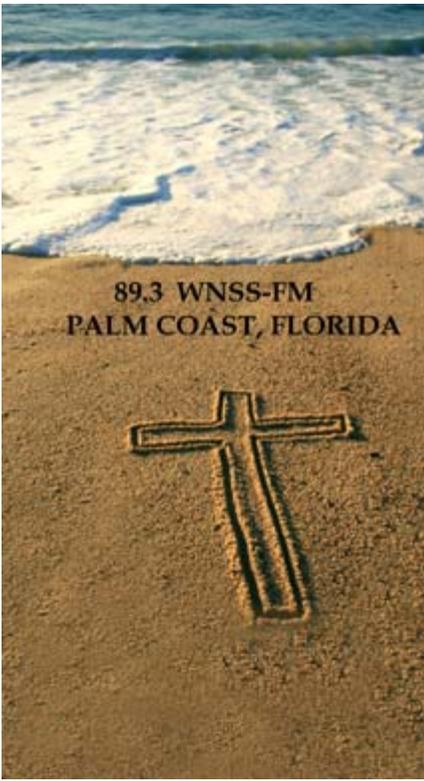
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: JEFF SOUTHMAYD-PD [wnssfm@aol.com]
Sent: Monday, September 15, 2014 3:45 PM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC
Attachments: Tab_1_-_Application.pdf

Adam;

Thanks for your reply.

I note that in the application the question "Subject to Scenic Corridor IDO" is not answered. Is this unnecessary or did the applicant fail to answer the question, and if so will it be required to do so and submit an appropriate showing in that regard?

At Tab 5, page 2 the applicant asserts with regard to the proposed 198 room hotel and conference center: [Note: The New Lodge uses are the same as, and are in keeping with, those uses originally approved in 2001 by the Flagler Board of County Commissioners as part of the Ocean Hammock Golf Clubhouse Site Plan approval and are consistent with the Ocean Hammock Golf Course Plat and Plat Addendum, including existing plat restrictions.]

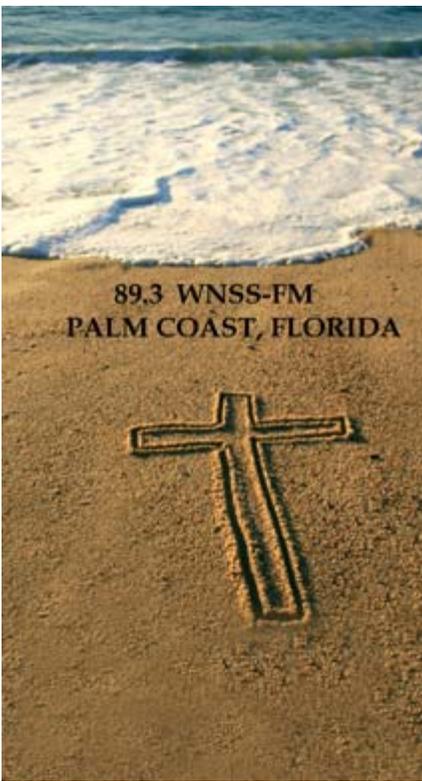
Will the applicant be asked at some point to explain this assertion in light of the contrary finding in ALJ Alexander's 2011 NOPC Order that "...section 14.5 strictly limits the uses allowable on the lands within the Ocean Hammock Golf Course Plat to a golf course, associated golf course facilities, open space, or upon approval by the Board, other appropriate recreational uses" inasmuch as a commercial 198 room hotel and conference center obviously fails to comply with these limitations?

With regard to parking requirements for the hotel, don't the parking spaces need to be contained on the plat being developed for the hotel versus parking spaces in unrelated adjoining properties that may or may not be actually available for hotel parking?

Thanks again.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>

To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>

Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J. Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Mon, Sep 15, 2014 2:59 pm

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The public may attend the TRC meetings. As for public comments, the TRC meeting is not a public hearing and is not noticed as such; no decision is rendered as part of the proceedings and no minutes are kept. The TRC meeting provides an opportunity for staff and an applicant to review the staff comments.

We have in the past, however, allowed members of the public to ask questions or provide information to the staff as a courtesy. In these instances the questions and comments were few and did not affect the progress of the technical staff's work. Again, this is not a public hearing but we can accommodate some limited number of questions or comments. The staff will not be responding back unless it happens to be basic information, such as explanations about the process. Since we would not know the volume of any public input for this TRC application, we will approach public questions or information on this application based on how much time we have and/or its relevance to the staff's work.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]

Sent: Friday, September 12, 2014 5:57 PM

To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

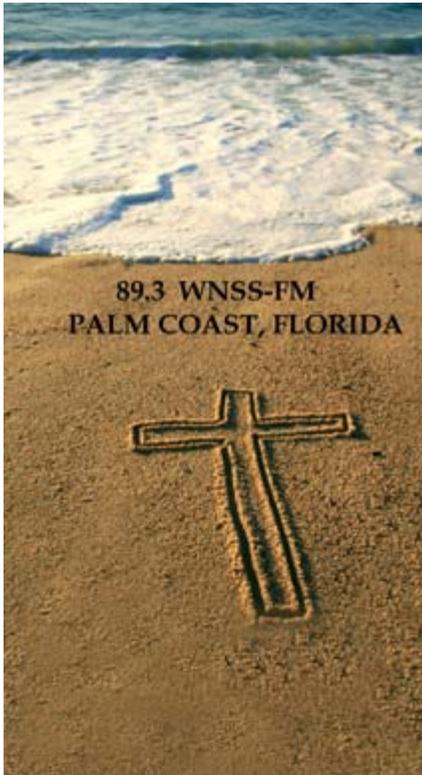
Adam;

May public comments be submitted at the TRC meeting ("...is thoroughly reviewed by TRC and all comments are adequately addressed")? Is the public allowed to attend the TRC meeting?

Thanks for following up on my email.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>

To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>

Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J.

Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Fri, Sep 12, 2014 5:20 pm

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The submittal may be viewed [here](#), which is also available from the County's homepage – www.flaglercounty.org – under the "Quick Links" heading.

The only meeting that has been scheduled to date is the Technical Review Committee (TRC) meeting on 9/17/2014 at 9 a.m.; the agenda for this meeting is also listed through the above link. As I mentioned to you in my 5/21/2014 email, the next step following the TRC meeting is Planning and Development Board and Board of County Commissioners public hearings; these hearings will not be scheduled and no public notice for these hearings will be provided until the request (just like all other application requests) is thoroughly reviewed by TRC and all comments are adequately addressed.

As for ex parte communication, this is a quasi-judicial action as an amendment to a Planned Unit Development (PUD) Site Development Plan. Individual communication with appointed (Planning and Development Board members) and elected (Board of County Commissioners) officials is discouraged, but not prohibited; however, all communications will require disclosure. We as staff to both groups will continue, as we have in the past, to provide public comments to decision-makers as part of their review materials.

Regarding the final order by the ALJ, I have attached the final version.

Please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org



Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: JEFF SOUTHMAYD-PD [<mailto:wsssfm@aol.com>]

Sent: Wednesday, September 10, 2014 11:20 AM

To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

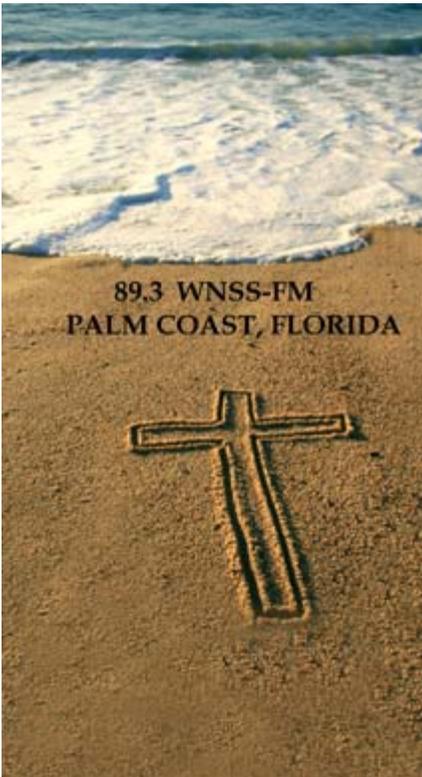
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.



APPLICATION FOR SITE DEVELOPMENT PLAN REVIEW IN A PUD

1769 E. Moody Blvd, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009 Fax: (386) 313-4109

Application/Project #: _____

PROPERTY OWNERS)	Name(s):	LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC		
	Mailing Address:	200 Ocean Crest Drive, Suite 31		
	City: Palm Coast	State: FL	Zip: 32137	
	Telephone Number	386.246.5500	Fax Number	386.246.5855

APPLICANT /AGENT	Name(s):	Salamander Hospitality, LLC		
	Mailing Address:	10 North Pendleton Street		
	City: Middleburg	State: VA	Zip: 20117	
	Telephone Number	540.687.3710	Fax Number	540.338.3117
	Email Address:	Prem Devadas <pdevadas@salamanderhotels.com>		

SUBJECT PROPERTY	SITE LOCATION (street address):	105 16th Road and 200 Ocean Crest Drive		
	LEGAL DESCRIPTION: <i>(briefly describe, do not use "see attached")</i>	See attached description.		
	Parcel # (tax ID #):	See attached description.		
	Parcel Size:	See attached description.		
	Current Zoning Classification:	Planned Unit Development		
	Current Future Land Use Designation:	Mixed Use: Low Intensity, Low/Medium Density		
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	

PURPOSE OF SUBMISSION / PROJECT DATA: Improvement and renovation of
areas of Hammock Beach Resort, including the Lodge and expanded conference facilities.

Signature of Owner(s) or Applicant/Agent
if Owner Authorization form attached

Date 8/27/14

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/ACTION:

APPROVED []
*APPROVED WITH CONDITIONS []
DENIED []

Signature of Chairman: _____

Date: _____ *approved with conditions, see attached.

BOARD OF COUNTY COMMISSIONERS ACTION:

APPROVED []
*APPROVED WITH CONDITIONS []
DENIED []

Signature of Chairman: _____

Date: _____ *approved with conditions, see attached.

NOTE: The applicant or a representative, must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application.

Adam Mengel

From: Adam Mengel
Sent: Monday, September 15, 2014 4:30 PM
To: 'JEFF SOUTHMAYD-PD'
Cc: Nate McLaughlin; 'fmeeker@bellsouth.net'; Albert J. Hadeed; Sally A. Sherman
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The listing on the agenda for the TRC is based on the applicant's description of the project from their application. In this instance, the applicant described the project as: "Improvement and renovation of areas of Hammock Beach Resort, including the Lodge and expanded conference facilities." However, please understand that the way the applicant describes their project is not binding on the County.

We are not in an administrative rulemaking process (note, for instance, the requirement at ss. 120.525(1), Florida Statutes (2014), requiring publication of meeting notice in the Florida Administrative Register; we do not do this for our TRC meetings) so I am unsure of the relevance of the Administrative Procedure Act to our TRC meetings. The Land Development Code (LDC) provides, at Sec. 2.07.00, for legal notice requirements based on application types as listed in the LDC.

We have provided adequate notice through our agenda of the upcoming TRC meeting. No reviewing department has asked for additional time to complete their comments; I see no reason to delay the TRC meeting.

Please contact me with any questions.

Thank you,

Adam

From: JEFF SOUTHMAYD-PD [mailto:wssfm@aol.com]
Sent: Friday, September 12, 2014 9:34 PM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Adam;

Having reviewed the Flagler webiste for the TRC, I think there is a problem. What is proposed is a 198 room hotel. This fails to give the adequate notice of the proposal under Florida statutes and the APA:

SITE DEVELOPMENT PLAN REVIEW IN A PUD for the Lodge and conference facilities at Hammock Beach Resort; 105 16th Road East, Palm Coast; Parcel #04-11-31-3605-000C0-0000 and 04-11-31-2984-00GC0-0000; Project area is approximately 10.2 acres; Owners: LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC; Applicant: Salamander Hospitality, LLC.

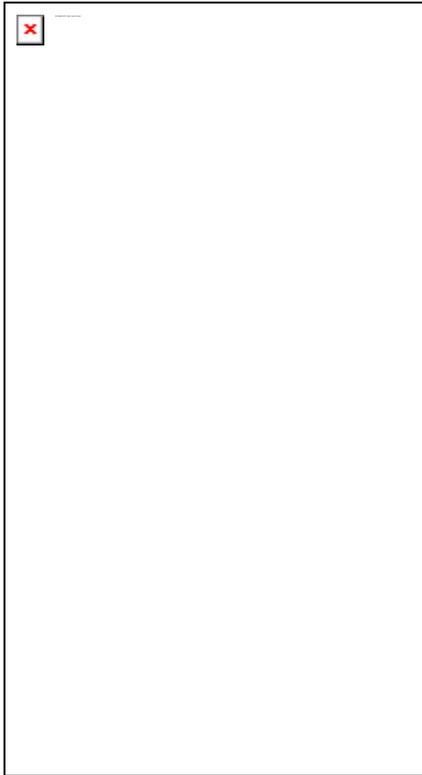
The "Lodge" replaces the Ocean Hammock golf course lodge with the **198 room hotel**. There is not notice that a 198 room hotel is proposed.

I respectfully note for the record that the county has failed to adequately provide notice that a 198 room hotel is proposed for #04-11-31-3605-000C0-0000 and 04-11-31-2984-00GC0-0000.

I suggest the notice be revised to accurately disclose the proposal and a revised date for initial TRC review be allocated.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>

To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>

Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J.

Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Fri, Sep 12, 2014 5:20 pm

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The submittal may be viewed [here](#), which is also available from the County's homepage – www.flaglercounty.org – under the "Quick Links" heading.

The only meeting that has been scheduled to date is the Technical Review Committee (TRC) meeting on 9/17/2014 at 9 a.m.; the agenda for this meeting is also listed through the above link. As I mentioned to you in my 5/21/2014 email, the next step following the TRC meeting is Planning and Development Board and Board of County Commissioners public hearings; these hearings will not be scheduled and no public notice for these hearings will be provided until the request (just like all other application requests) is thoroughly reviewed by TRC and all comments are adequately addressed.

As for ex parte communication, this is a quasi-judicial action as an amendment to a Planned Unit Development (PUD) Site Development Plan. Individual communication with appointed (Planning and Development Board members) and elected (Board of County Commissioners) officials is discouraged, but not prohibited; however, all communications will require disclosure. We as staff to both groups will continue, as we have in the past, to provide public comments to decision-makers as part of their review materials.

Regarding the final order by the ALJ, I have attached the final version.

Please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org



Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: JEFF SOUTHMAYD-PD [<mailto:wnessfm@aol.com>]

Sent: Wednesday, September 10, 2014 11:20 AM

To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

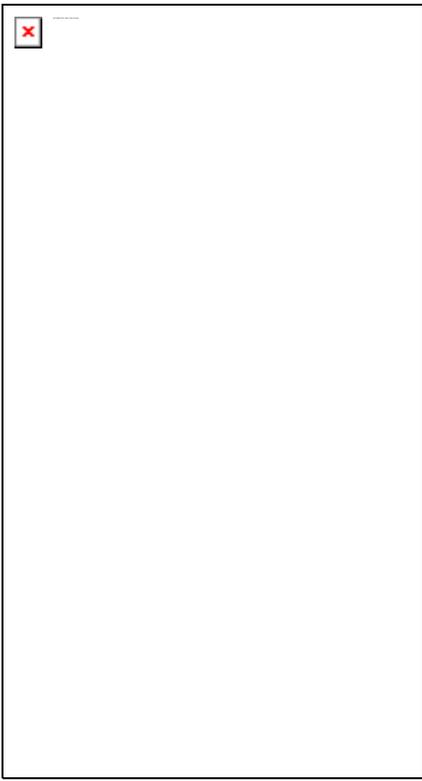
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: JEFF SOUTHMAYD-PD [wnssfm@aol.com]
Sent: Tuesday, September 16, 2014 9:09 AM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

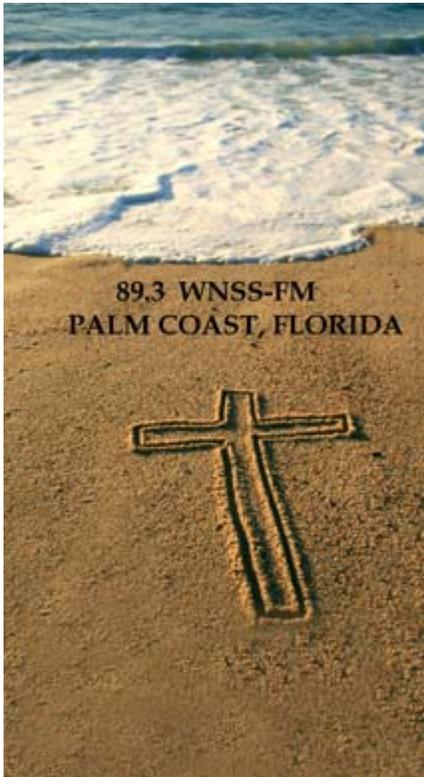
Adam;

Would it be possible for me to add a written statement to the record tomorrow?

Thanks.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>
To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>
Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J. Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>
Sent: Mon, Sep 15, 2014 2:59 pm
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The public may attend the TRC meetings. As for public comments, the TRC meeting is not a public hearing and is not noticed as such; no decision is rendered as part of the proceedings and no minutes are kept. The TRC meeting provides an opportunity for staff and an applicant to review the staff comments.

We have in the past, however, allowed members of the public to ask questions or provide information to the staff as a courtesy. In these instances the questions and comments were few and did not affect the progress of the technical staff's work. Again, this is not a public hearing but we can accommodate some limited number of questions or comments. The staff will not be responding back unless it happens to be basic information, such as explanations about the process. Since we would not know the volume of any public input for this TRC application, we will approach public questions or information on this application based on how much time we have and/or its relevance to the staff's work.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

From: JEFF SOUTHMAYD-PD [<mailto:wnssf@com>]

Sent: Friday, September 12, 2014 5:57 PM

To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Adam;

May public comments be submitted at the TRC meeting ("...is thoroughly reviewed by TRC and all comments are adequately addressed")? Is the public allowed to attend the TRC meeting?

Thanks for following up on my email.

Jeffrey D. Southmayd
President

WNSS-FM 89.3

The Christian Radio Voice

of Flagler County & Palm Coast

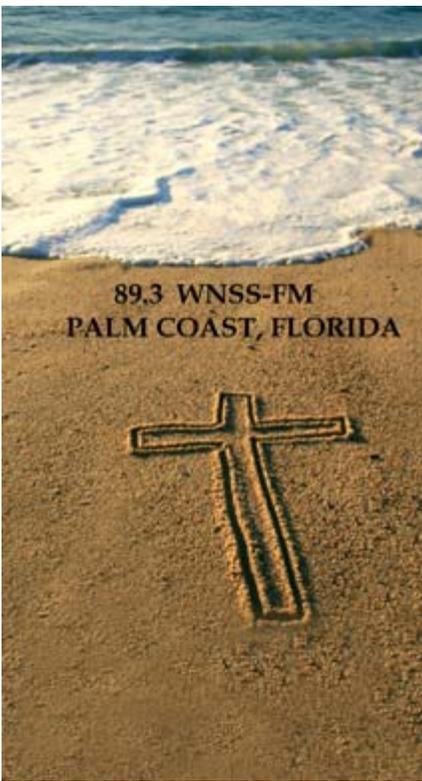
4 OCEAN RIDGE BOULEVARD SOUTH

PALM COAST, FLORIDA 32137

386.447-7108 FAX 888-557.3686

WNSSF@AOL.COM

[WEB: WWW.WNSSFM.COM](http://WWW.WNSSFM.COM)



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>

To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>

Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J.

Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Fri, Sep 12, 2014 5:20 pm

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The submittal may be viewed [here](#), which is also available from the County's homepage – www.flaglercounty.org – under the "Quick Links" heading.

The only meeting that has been scheduled to date is the Technical Review Committee (TRC) meeting on 9/17/2014 at 9 a.m.; the agenda for this meeting is also listed through the above link. As I mentioned to you in my 5/21/2014 email, the next step following the TRC meeting is Planning and Development Board and Board of County Commissioners public hearings; these hearings will not be scheduled and no public notice for these hearings will be provided until the request (just like all other application requests) is thoroughly reviewed by TRC and all comments are adequately addressed.

As for ex parte communication, this is a quasi-judicial action as an amendment to a Planned Unit Development (PUD) Site Development Plan. Individual communication with appointed (Planning and Development Board members) and elected (Board of County Commissioners) officials is discouraged, but not prohibited; however, all communications will require disclosure. We as staff to both groups will continue, as we have in the past, to provide public comments to decision-makers as part of their review materials.

Regarding the final order by the ALJ, I have attached the final version.

Please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105

Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org



Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: JEFF SOUTHMAYD-PD [<mailto:wssfm@aol.com>]

Sent: Wednesday, September 10, 2014 11:20 AM

To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

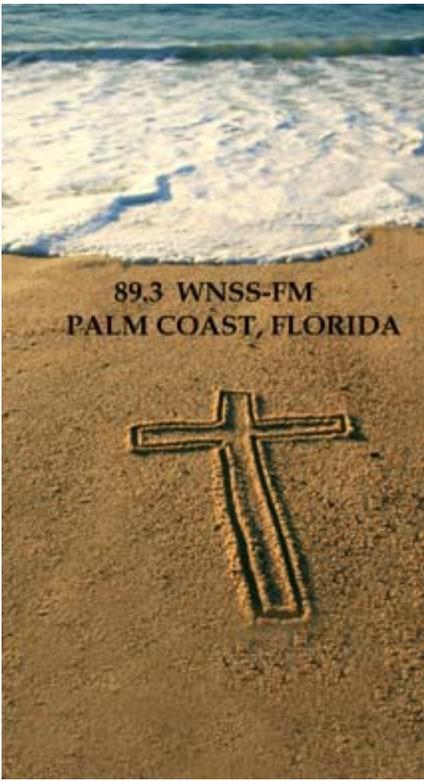
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Adam Mengel
Sent: Tuesday, September 16, 2014 9:43 AM
To: 'JEFF SOUTHMAYD-PD'
Cc: Nate McLaughlin; 'fmeeker@bellsouth.net'; Albert J. Hadeed; Sally A. Sherman
Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

Of course you can submit your comments, but please understand that your comments will not become part of staff's TRC work product.

Thank you,

Adam

From: JEFF SOUTHMAYD-PD [mailto:wnssfm@aol.com]
Sent: Tuesday, September 16, 2014 9:09 AM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman
Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

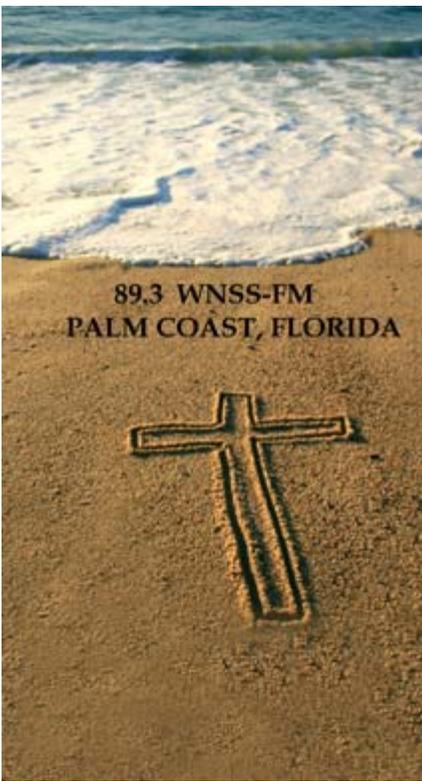
Adam;

Would it be possible for me to add a written statement to the record tomorrow?

Thanks.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>

To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>

Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J. Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Mon, Sep 15, 2014 2:59 pm

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The public may attend the TRC meetings. As for public comments, the TRC meeting is not a public hearing and is not noticed as such; no decision is rendered as part of the proceedings and no minutes are kept. The TRC meeting provides an opportunity for staff and an applicant to review the staff comments.

We have in the past, however, allowed members of the public to ask questions or provide information to the staff as a courtesy. In these instances the questions and comments were few and did not affect the progress of the technical staff's work. Again, this is not a public hearing but we can accommodate some limited number of questions or comments. The staff will not be responding back unless it happens to be basic information, such as explanations about the process. Since we would not know the volume of any public input for this TRC application, we will approach public questions or information on this application based on how much time we have and/or its relevance to the staff's work.

I hope this information is useful and please contact me with any questions.

Thank you,

Adam

From: JEFF SOUTHMAYD-PD [<mailto:wnssfm@aol.com>]

Sent: Friday, September 12, 2014 5:57 PM

To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

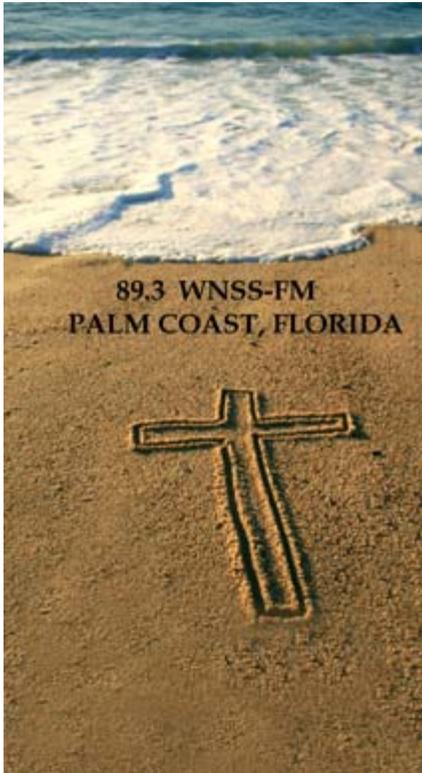
Adam;

May public comments be submitted at the TRC meeting ("...is thoroughly reviewed by TRC and all comments are adequately addressed")? Is the public allowed to attend the TRC meeting?

Thanks for following up on my email.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>

To: 'JEFF SOUTHMAYD-PD' <wnssfm@aol.com>

Cc: Nate McLaughlin <nmclaughlin@flaglercounty.org>; 'fmeeker@bellsouth.net' <fmeeker@bellsouth.net>; Albert J.

Hadeed <ahadeed@flaglercounty.org>; Sally A. Sherman <ssherman@flaglercounty.org>

Sent: Fri, Sep 12, 2014 5:20 pm

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Hi Mr. Southmayd:

The submittal may be viewed [here](#), which is also available from the County's homepage – www.flaglercounty.org – under the "Quick Links" heading.

The only meeting that has been scheduled to date is the Technical Review Committee (TRC) meeting on 9/17/2014 at 9 a.m.; the agenda for this meeting is also listed through the above link. As I mentioned to you in my 5/21/2014 email, the next step following the TRC meeting is Planning and Development Board and Board of County Commissioners public hearings; these hearings will not be scheduled and no public notice for these hearings will be provided until the request (just like all other application requests) is thoroughly reviewed by TRC and all comments are adequately addressed.

As for ex parte communication, this is a quasi-judicial action as an amendment to a Planned Unit Development (PUD) Site Development Plan. Individual communication with appointed (Planning and Development Board members) and elected (Board of County Commissioners) officials is discouraged, but not prohibited; however, all communications will require

disclosure. We as staff to both groups will continue, as we have in the past, to provide public comments to decision-makers as part of their review materials.

Regarding the final order by the ALJ, I have attached the final version.

Please contact me with any questions.

Thank you,

Adam

Adam Mengel, AICP, LEED AP BD+C, 
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org



Go Green: Please do not print this e-mail unless you really need to.

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

From: JEFF SOUTHMAYD-PD [<mailto:wNSSFM@aol.com>]

Sent: Wednesday, September 10, 2014 11:20 AM

To: Adam Mengel

Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman

Subject: RE: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC

Mr. Mengel;

I understand an application for a new 198 room hotel has been filed with the County through your office as referenced above. I represent a group of Flagler County residents who want to be included in all aspects of the decision making process on this proposed new hotel. Would you be kind enough to provide me with the schedule of all upcoming meetings on this application and any dates that are set for the filing of comments on any aspect of the application.

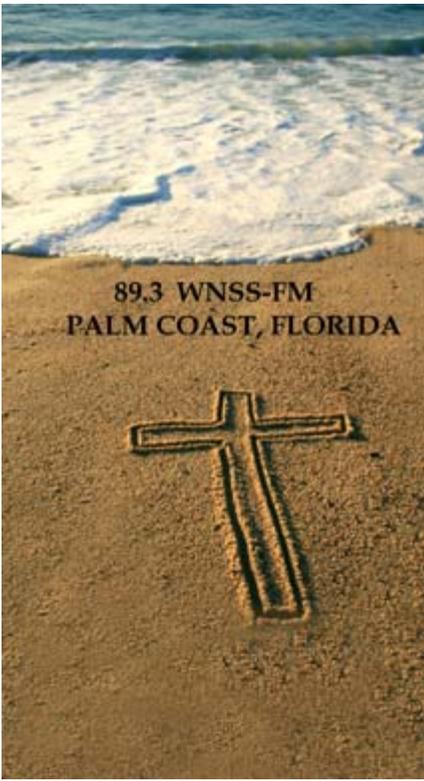
I also want to know if there are any *ex parte* communication rules that limit the contact of residents like myself in connection with this application with you or members of the county council.

I have a duplicated copy of the 2011 decision by Judge D.R. Alexander denying a previous application for, *inter alia*, a new hotel on the same site. I wondered if anyone has a pdf copy they would be kind enough to send to me, or could direct me to a location on the net where I could download the decision.

Thank you in advance for your kind consideration of this request.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
WEB: WWW.WNSSFM.COM



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: JEFF SOUTHMAYD-PD [wnssfm@aol.com]
Sent: Tuesday, September 16, 2014 7:40 PM
To: Adam Mengel
Cc: Nate McLaughlin; fmeeker@bellsouth.net; Albert J. Hadeed; Sally A. Sherman; Charles Ericksen Jr.; George Hanns; Barbara S. Revels
Subject: Re: Hammock Dunes Planned Unit Development LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC
Attachments: STATEMENT FOR THE RECORD.docx

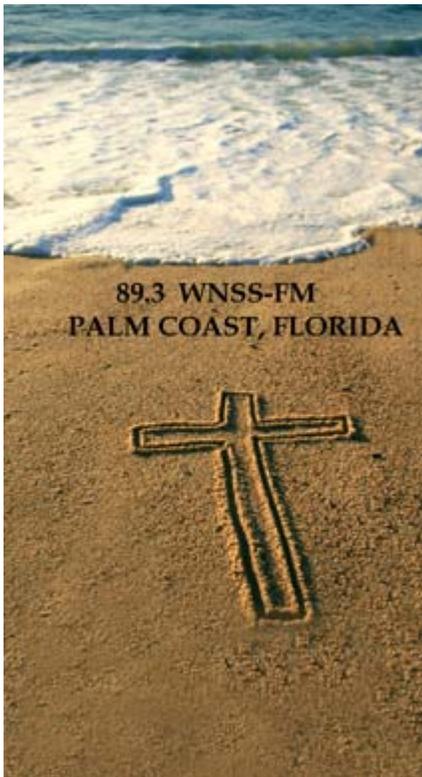
I would request that the attached Statement For The Record be included in the FLAGLER COUNTY TECHNICAL REVIEW COMMITTEE proceeding in Project #2014080029 In re Salamander Hospitality, LLC.

I will be at the meeting tomorrow.

Thank you.

Jeffrey D. Southmayd
President

WNSS-FM 89.3
The Christian Radio Voice
of Flagler County & Palm Coast
4 OCEAN RIDGE BOULEVARD SOUTH
PALM COAST, FLORIDA 32137
386.447-7108 FAX 888-557.3686
WNSSFM@AOL.COM
[WEB: WWW.WNSSFM.COM](http://WWW.WNSSFM.COM)



BEFORE THE
FLAGLER COUNTY TECHNICAL REVIEW COMMITTEE
Planning and Zoning

In re Application of)
)
Salamander Hospitality, LLC) Project #2014080029
)
Site Development Plan Review in a PUD for a)
New 198 Room Hotel and Conference Facilities at)
Hammock Beach Resort)
105 16th Road East, Palm Coast, FL)
Parcel #04-11-31-3605-000C0-0000 and)
04-11-31-2984-00GC0-0000;)
Project area is approximately 10.2 acres)
Owners: LRA Hammock Beach Ocean, LLC)
and LRA NOHI, LLC;)

To: The Flagler County Technical Review Committee

Statement For The Record

Jeffrey Duke Southmayd, individually and representing other concerned residents of the area in Flagler County generally known as The Hammock, hereby respectfully submits this Statement For The Record in connection with the above caption application by Salamander Hospitality LLC (hereafter "Salamander"), the agent of property owners LRA Hammock Beach Ocean, LLC and LRA NOHI, LLC (hereafter "LA"). I am a full time resident of Flagler County living in The Hammock at 4 Ocean Ridge Boulevard South in the Ocean Hammock neighborhood.

I. BACKGROUND

My wife and I came to The Hammock initially in 2000. We subsequently purchased a lot in Ocean Hammock, paid to become members of the private Ocean Hammock Golf Club, and built our home. At that time, the Ocean Hammock Golf Club was a private, members-only club operated out of a double wide trailer in the parking lot at the entrance to the golf course.

In 1998, Flagler County adopted an amendment to its Development Order (“DO”) containing the property in question and provided for the conveyance of 33 acres of beachfront land at the intersection of 16th Road and the beach, previously intended to be a County park, from the County to the developer to enable the developer to construct part of a Jack Nicklaus signature golf course. The golf course was intended to be a buffer between development in the Hammock Dunes Development of Regional Impact (“DRI”) and the beach.

Section 14.5 of the DO provides that: “Land identified for golf course usage on the Master Development Plan map . . . shall be deed and plat restricted to ensure that the usage of this land is limited to golf courses (including associated or appropriate golf club facilities), open space, parks or, if approved by the County Commission, other appropriate recreational usages.” This provision in the DO was the result of an agreement between the developer at that time, the property owners in The Hammock, and the County. It was agreed that this restriction would exist “in perpetuity” and as a result it has never been amended to allow the parcel to be used for a commercial hotel and conference resort, as proposed by Salamander herein.

In 2001, Flagler County did allow the construction of the Ocean Hammock “Lodge” on Cluster 35 as a clubhouse within the golf course property for the private, members-only golf club, inasmuch as that use was ancillary and supplemental to the recreational use of the golf course, and in strict compliance with the limitations in Section 14.5 of the DO. The Lodge

included 20 guest rooms. However, only members of the Ocean Hammock Golf Club and their guests could use any of the facilities in the Lodge, including the guest rooms. The Lodge was not open to members of the general public and was not a commercial “hotel.”

In 2009, an affiliate of LA filed a Notice of Proposed Change (NOPC) to the DO, twice amended, that included, *inter alia*, an a new Ocean Recreation Hotel with a maximum building height of 77 feet in Cluster 35 to replace the Lodge. This proposal was denied by the Board of County Commissioners in Resolution No. 2010-22. LA would not take no for an answer and the matter went through the full panoply of Florida state administrative regulatory actions culminating in a RECOMMENDED ORDER¹ by the Division of Administrative Hearings (DOAH) by its assigned Administrative Law Judge, D. R. Alexander, in 2011, affirming, *inter alia*, a finding that the proposed commercial hotel in Cluster 35 would violate Section 14.5 of the DO. The RECOMMENDED ORDER was affirmed by the Governor and Cabinet acting as the Florida Land and Water Adjudicatory Commission in 2011. LA had the opportunity to appeal the denial of its application in the Federal courts, but failed to do so and the action by the State of Florida denying a hotel on Cluster 35 as contrary to the use restrictions in Section 14.5 of the DO is now a final and non-appealable order. The desire of LA to build a commercial hotel on Cluster 35 was summarily rejected in 2011 through the appropriate state administrative process and that action is *res judicata*, or a matter that may not be proposed once again by LA since it has been fully judged on the merits. LA cannot be allowed a second “bite” at the hotel apple.

However, of greater concern is the human factor brought to bear in connection with the LA application in 2009. Private citizens in The Hammock, individually, through homeowner associations, and community groups, were forced to defend their right to the quiet enjoyment of

¹ Case No. 10-9137DRI

their homes against the attempted intrusion of commercial hotel development. It is estimated that funds in excess of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) were expended for legal fees and expenses by the various individuals, homeowner associations, and groups in The Hammock to preserve the sanctity of their homes and neighborhoods. The application process in 2009-2011 was contentious and caused great personal fear and concern on the part of the residents in The Hammock forced to defend their quiet way of life. In addition, Flagler County was forced to expend considerable valuable resources in defending the DO from the proposed violation thereof by LA and its proposed commercial hotel.

The residents of The Hammock should not be subjected to this process once again, nor should the limited resources of Flagler County be wasted on a second attempt by LA to build a 198 room hotel and conference center on Cluster 35 in violation of the deed restrictions thereon. This matter was settled by appropriate judicial process in 2011. The application by Salamander should be summarily dismissed and denied by the Flagler County Technical Review Committee based on the findings in the 2011 RECOMMENDED ORDER, and so that the residents of The Hammock aren't continually hounded and harassed in the future by developer attempts to subvert the DO restrictions in our community and change our way of life.

Respectfully submitted,

<signed>
Jeffrey Duke Southmayd

4 Ocean Ridge Boulevard South
Palm Coast, Florida 32137
jdsouthmayd@msn.com

September 17, 2014

Adam Mengel

From: Anne Wilson [annewilson@cfl.rr.com]
Sent: Wednesday, September 17, 2014 1:57 PM
To: Adam Mengel
Subject: AIA & 16th Rd landscaping

Adam, the applicant's promise this morning to take over the landscaping on 16th Rd has reminded me that we are no longer getting the "enhanced" landscaping at the intersection of AIA and 16th Rd promised some years ago by Lowes (I think?) as part of their application to build the golf course and golf cart tunnel. We had very attractive flower beds for many years and now (in recent years) they have reverted to very ordinary junipers. This is potentially a code enforcement issue but certainly something to keep in mind when promises are being bandied about. The promissors tend to depend on short memories.

Anne Wilson
Scenic AIA