1. Roll Call.

2. Pledge to the Flag.

3. Approval of June 12, 2018 regular meeting minutes.

**Quasi-Judicial Process:** The audience should refrain from clapping, booing or shouts of approval or disagreement. To avoid potential legal ramifications and possible overturning of a decision by the Courts, a public hearing must be fair in three respects: form, substance and appearance.

*Time limits will be observed:*

- **Staff** – 10 minute presentation.
- **Applicant** – 15 minute presentation (unless time extended by consensus of Board).
- **Public Comment** – 3 minutes per speaker, 5 minutes if speaking on behalf of a group.
- **Applicant Rebuttal and Closing Staff Comments** – 10 minutes each.

4. Quasi-judicial requiring disclosure of ex parte communication: Application #3138 – **APPLICATION FOR A VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for an 8-inch setback variance for the subdivision sign for Seaside Landings Subdivision; Parcel Number: 38-12-31-5445-00000-00A0; Owner: Seaside Landings Homeowners Association, Inc./Applicant: Rabbit & Sons Construction Co., Inc.

5. Quasi-judicial requiring disclosure of ex parte communication: Application #3140 – **APPLICATION FOR A SPECIAL USE** – request for a Special Use for a Public Safety Emergency Telecommunication Tower at 1250 South Old
Dixie Highway within the R-1 (Rural Residential) and PUD (Planned Unit Development) District; Parcel #04-13-31-0650-000D0-0040; 19.69+/- acres. Owner/Applicant: Board of County Commissioners of Flagler County; Agent: Jarrod Shupe, Innovation Technology Director.

6. Staff Comments.

7. Board Comments.

8. Public Comments – Each speaker will be allowed up to three minutes to address the Planning and Development Board on any item or topic not on the agenda.

9. Adjournment

PLEASE TAKE NOTICE THAT INDIVIDUAL COMMISSIONERS OF THE BOARD OF COUNTY COMMISSIONERS MAY ATTEND THIS EVENT. THE COMMISSIONERS WHO ATTEND WILL NOT TAKE ANY ACTION OR TAKE ANY VOTE AT THIS MEETING. THIS IS NOT AN OFFICIAL MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY. THIS NOTICE IS BEING PROVIDED TO MEET THE SPIRIT OF THE SUNSHINE LAW TO INFORM THE PUBLIC THAT COMMISSIONERS MAY BE PRESENT AT THESE DISCUSSIONS.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES STATES THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY A BOARD AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE PLANNING & ZONING DEPARTMENT AT (386) 313-4009 AT LEAST 48 HOURS PRIOR TO THE MEETING.
MEMBERS PRESENT: Chairman Mark Langello, Timothy Conner, Laureen Kornel, Anthony Lombardo

MEMBERS ABSENT: Michael Boyd excused

STAFF PRESENT: Adam Mengel, Planning Director; Wendy Hickey, Planner; Gina Lemon, Development Review Planner III

BOARD COUNSEL: Kate Stangle, of Broad and Cassel

Chairman Langello called the meeting to order

1. Roll Call.
   Attendance was confirmed by Ms. Lemon and a quorum was present.

2. Pledge of Allegiance.
   Chairman Langello led the Pledge of Allegiance to the Flag.

3. Approval of the May 8, 2018 regular meeting minutes.
   Motion to approve the May 8, 2018 minutes by Ms. Kornel and seconded by Mr. Lombardo.
   Approved unanimously.

4. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3137 – APPLICATION FOR REZONING – request for rezoning from AC (Agriculture) to PUD (Planned Unit Development); Parcel Numbers: 21-12-29-5550-00090-0010, 21-12-29-5550-00090-0030, 21-12-29-5550-00090-0031, and 21-12-29-5550-00090-0032; 20 +/- acres. Owner: Ralph Santore and Sons, Inc.; Applicant: Ralph John Santore III.
   Chairman Langello asked for ex-parte disclosures; no disclosures were made.

   Mr. Adam Mengel, Planning Director, presented the staff report and staff recommendation:

   Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3137, amending the zoning classification of 20 acres, more or less, identified as Parcel Numbers 21-12-29-5550-00090-0010, 21-12-29-5550-00090-0030,21-12-29-5550-00090-0031 and 21-12-29-5550-00090-0032, from AC (Agriculture) to PUD (Planned Unit Development) District, and approval of the Santore and Sons Planned Unit
Draft

Development, finding that the PUD is consistent with the Comprehensive Plan and the Land Development Code.

Mr. R.J. Santore, Vice President, Ralph Santore and Sons, Inc. 2546 County Road 305, applicant, gave a brief history of the company and its future plans in Flagler County.

Chairman Langello, opened the Public Hearing. Seeing none he closed the Public Hearing.

Chairman Langello, asked if the Board had any questions.

Mr. Conner, asked why are we not taking it to IPUD

Mr. Mengel, stated that though that designation is within our Land Development Code we rarely have used it, our focus is to get away from that and just use the PUD designation.

Mr. Connor, so there will no longer be any Residential or Commercial PUD just a PUD.

Mr. Mengel, responded yes.

Chairman Langello, asked since this PUD is named Santore and Sons this would not only be tied to the Santore Company it would run with the land.

Mr. Mengel, responded yes it runs with the land.

Chairman Langello, asked what setback regulations would they follow?

Mr. Mengel they would follow the setbacks of the Industrial District.

Chairman Langello asked for a motion.

Motion to approve staff recommendation made by Ms. Kornel, seconded by Mr. Connor.

Motion carried unanimously
5. Staff Comments
None

6. Board Comments
None

7. Public Comments - Each speaker will be allowed up to three minutes to address the Planning and Development Board on any item or topic not on the agenda.

8. Adjournment
Motion made by Ms. Kornel at 6:21 p.m.

Prepared by: Wendy Hickey
Reviewed by: Adam Mengel

DATE OF MEETING: July 10, 2018

OVERVIEW/SUMMARY: This request is quasi-judicial and requires disclosure of ex parte communication. The request is for approval of an 8-inch sign setback variance in the PUD (Planned Unit Development) District for relief from the 20 foot minimum setback. This parcel is 6.79+/- acres in size, identified as parcel # 38-12-31-5445-00000-00A0 and is located on the East side of John Anderson Highway at the entrance to The Seaside Landings PUD (Planned Unit Development).

On May 21, 2018, Mr. Rabitalle with Rabbit & Sons Construction Company, Inc., the contractor for the entrance sign, submitted an application for a sign setback variance. The request is for an 8-inch variance from the minimum 20 foot sign setback requirement for the Seaside Landings PUD. According to Mr. Rabitalle, the proposed sign location was initially flagged incorrectly by the surveyor in the field, resulting in the sign being constructed within the required 20-foot minimum sign setback, as measured from the nearest parcel line for a sign located within 50 feet of a driveway. The plans submitted for this permit demonstrated that the 20-foot minimum setback would be met, but the as-built survey submitted for the final inspection showed a setback of 19.4 feet. Staff discussed remedies with Mr. Rabitalle including removal of 8 inches off of the West edge of the sign, or demo and reconstruction of the sign in whole or in part, but these options...
were determined not to be feasible when all administrative remedies – including the variance – had not yet been exhausted.

This application was discussed by the Technical Review Committee on June 20, 2018. This an after-the-fact variance, with construction of the entrance sign now completed, but the permit final inspection has not been approved due to the setback encroachment. All TRC staff comments have been reviewed by the applicant in advance of the Planning and Development Board meeting.

Public notice has been provided for this application according to LDC Section 2.07.00.

This agenda item is:

- X - quasi-judicial, requiring disclosure of ex-parte communication; or
- ______ legislative, not requiring formal disclosure of ex-parte communication.

DEPT./CONTACT/PHONE #: Planning & Zoning / Adam Mengel / 386-313-4065

RECOMMENDATION: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E – specifically criteria 1 and 2 – have not been met and therefore denies the 8-inch sign setback variance from the minimum 20 foot sign setback (Parcel #38-12-31-5445-00000-00A0).

Alternate Approval Language: Following evidence and testimony presented at the Planning and Development Board meeting, and through the Board’s deliberations and consideration of the request, the Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met, specifically finding that owing to the location of the sign as constructed that the location does not pose a substantial detriment to the public health, welfare, and safety, and owing to the limited relief sought the Board therefore approves the 8-inch sign setback variance from the minimum 20 foot sign setback (Parcel #38-12-31-5445-00000-00A0).

ATTACHMENTS:
1. Technical Staff Report
2. Application and supporting documents
3. Public notice
Application/Project #: 3138/2018050034

Address: Seaside Landings PUD Subdivision Entrance on John Anderson Highway

Owner/Applicant: Seaside Landings Homeowners Association, Inc.

Parcel #: 38-18-31-5445-00000-00A0

Parcel Size: 6.79+/- acres

Legal Description
Tract A, Seaside Landings according to the plat thereof as recorded in Map Book 38, Pages 40 through 44, Public Records of Flagler County, Florida.

Existing Zoning and Land Use Classification:
Zoning: PUD (Planned Unit Development) District
Land Use: A&T (Agriculture & Timberlands)

Future Land Use Map Classification/Zoning of Surrounding Land:
North: A&T (Agriculture and Timberlands)/PUD (Planned Unit Development) District
East: Intracoastal Waterway
South: A&T (Agriculture and Timberlands)/PUD (Planned Unit Development) District
West: A&T (Agriculture and Timberlands)/PUD (Planned Unit Development) District

Land Development Code Sections Affected: Land Development Code (LDC) Section 3.07.03, Procedure for variances and special exceptions, Section 3.07.03.E, Variance guidelines, Section 7.03.06.1(c), Minimum setback from property line for Residential uses, and Section 7.09.01, Sign ordinance board of adjustment.

Summary of Request: On March 13, 2017, building permit application #2017030101 was submitted by the applicant for hardscape improvements to the Seaside Landings subdivision. After revisions – including a reference to the minimum 20-foot setback – were made to the application submittal the permit was issued on July 11, 2017. The sign and its location was part of the approved improvements for the Seaside Landings subdivision and the permit application was consistent with the approved subdivision plans.

The applicant is seeking this variance for the Seaside Landings subdivision entrance sign that was constructed with a setback of 19.4 feet (as depicted on the as-built survey received May 21, 2018) instead of meeting the minimum 20-foot sign setback. This is an after-the-fact variance. The minimum setback for subdivision entrance signs is listed in Section 7.03.06 (Residential uses) of the Land Development Code:
“1. Single or multi-family residential complex. One (1) ground or wall sign shall be permitted for each main entrance on a public right-of-way as follows.

   (a) Maximum sign area — Twenty four (24) square feet. The wall sign maximum area of twenty-four (24) square feet may be divided into two (2) equal graphic statements of twelve (12) square feet.

   (b) Maximum sign height — Six (6) feet high.

   (c) Minimum setback from property line — Ten (10) feet except signs located within 50 feet of a driveway or right-of-way street intersection, then the setback shall be twenty (20) feet.”

When the County’s sign regulations cannot be met or a variance is needed, the Land Development Code calls on the Planning and Development Board to serve as the Sign Ordinance Board of Adjustment:

“7.09.01. - Sign ordinance board of adjustment.

The planning and development board is hereby designated as the sign ordinance board of adjustment, and is authorized to:

1. Hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by any county official in the enforcement of this article in the interpretations of this article as regards permitting.

2. Consider variances of this article in specific cases where such variances will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this article would result in unnecessary hardship.

   All requirements, procedures, findings and appeals of sign code variances shall follow those provisions for zoning variances, as outlined in Article III, Zoning District Regulations.”

Mr. Rabitaille, representing Rabbit & Sons Construction Co., Inc., met with the Technical Review Committee on June 20, 2018 and provided a response to the Committee’s comments. Staff has discussed this variance application request and the TRC comments with the applicant prior to the Planning and Development Board meeting.

Variance Guideline Analysis
LDC Section 3.07.03.E, Variance Guidelines, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed
below followed by the applicant’s statements from the application submittal (included below and attached in their entirety) and staff’s analysis:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and

   Applicant’s response: “The front entrance monument sign encroaches 8” into the minimum 20’ setback from the right of way at the front entrance of the subdivision.”

   Staff analysis: The property is a newly-platted subdivision. The location of the sign was included in the subdivision development plan. The parcel is not particularly unique. There are no extraordinary or exceptional conditions affecting this property.

2. Such conditions were not created by the affirmative actions of the applicant and the applicant has acted at all times in good faith; and

   Applicant’s response: “As the General Contractor for the monument sign, we followed direction and constructed the sign on a location stake provided by the Developer’s surveyor. The only change on the approved plan was a 20’ dimension line to the sign by the Developer. We didn’t realize it was encroaching until the Developer received his as-built survey after the project was completed.”

   Staff analysis: The original building permit was issued to the applicant after a correction was made to the site plan to show that the minimum 20-foot sign setback would be met as required. Following construction and completion of the as-built survey, it was discovered that the sign encroached into the 20-foot setback. The encroachment could have been avoided by the contractor checking the measurement at any time during construction, but this did not occur. While, according to the contractor, they acted at all times in good faith, the contractor is ultimately responsible for project completion according to approved plans consistent with the scope of work as permitted. The need for the variance – the sign encroaches into the 20-foot minimum setback – is a result of the affirmative actions of the applicant – the contractor building the sign in the wrong location.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

   Applicant’s response: “Will not affect the view, safety of traffic, or any utility easement in any way.”

   Staff analysis: Staff concurs with the applicant in their response to this criterion: arguably, granting the variance would not cause substantial detriment or harm if granted.
4. **No variance may be granted for a use of land or building that is not permitted by this article.**

**Staff analysis:** The Seaside Landings subdivision is zoned PUD (Planned Unit Development) and, as a residential subdivision, an entrance sign is permitted within this district.

A variance, if granted, shall be the minimum variance necessary to alleviate the hardship. For purposes of this section, an unnecessary hardship shall mean that without the granting of the variances the owner will be deprived of all reasonable use of the property as allowed in the zoning district.

**Staff analysis:** The applicant’s request for relief of 8 inches is the minimum relief needed to alleviate the existing encroachment.

At the June 20, 2018 Technical Review Committee meeting, Mr. Rabitaille presented additional information to support his initial variance application (this response to TRC comments is attached in its entirety, along with several photographs depicting the sign as installed):

“Rabbit & Sons Construction Co., Inc. is contracted to build the front monument sign and associated gate posts at the entrance to Seaside Landings subdivision in Flagler Beach, Florida, under the direction, plans and specifications, and location of the Owner.

A survey was performed as to the front location of the monument sign by the Owner’s representative, and a locate marker was installed where we were to start the front of the sign so as to conform to the setbacks required from the right of way. We followed direction of the Owner and set the front of the sign on the designated mark. We didn’t feel it was necessary to resurvey to prove conformance.

I am the applicant because I pulled the permit for the project but did not set the locate marker or perform the setback survey but was merely following guidelines by the Owner.

Although the front of the sign encroaches into the setback of the utility Right of Way, is still over 19’ from the Right of Way, almost 10’ inside the curb of the landscape, and does not in any way affect safety, traffic, sight, or any other condition that may be averse to the subdivision.

The remedy to revise the monument sign would pose a huge hardship. The structure is constructed with block masonry, vertical rebar at each corner, and filled solid with concrete to a bond beam above, as the plan dictated and to suffice hurricane requirements. The sign has a wood frame and metal roof that is symmetrical, includes
hurricane straps, and if one side is altered, the rear side of the structure would have to be altered to keep in the same similarity as the front."
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I hereby affirm mailed notice to each owner on June 22, 2018 for the Planning & Development Board Meeting on July 10, 2018 at 6:00 pm

Wendy Hickey, Planner
June 22, 2018

SEASIDE LANDINGS LLC
1100 5TH AVENUE S, STE 404
NAPLES, FL 34102

RE: Application #3138 - Variance Request in the PUD (Planned Unit Development) Zoning District.

Dear Property Owner:

As an owner of property within 300' of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request has been made by Rabbit & Sons Construction Co., Inc representing property owner Seaside Landings Homeowners Association, Inc. for a 8" inch sign setback reduction from the minimum 20' foot sign setback requirement for the Seaside Landings Subdivision Sign on 6.79 +/- acres identified as Parcel # 38-12-31-5445-00000-00AO

You are hereby notified that a public hearing before the Flagler County Planning and Development Board, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, on July 10, 2018, beginning at 6:00 p.m. or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

Wendy Hickey
Planner

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS ADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.
NOTICE OF PUBLIC HEARING

THE FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD WILL HOLD A
PUBLIC HEARING AT:

FLAGLER COUNTY GOVERNMENT SERVICES BUILDING
BOARD CHAMBERS
1769 E. MOODY BOULEVARD, BLDG 2;
RUNNELL, FL 32110

JULY 16, 2013 - 6:00 P.M.

REQUEST: REQUEST VARIANCE
APPLICANT: RAY & RMB CONSTRUCTION, INC.
Parcels:

The public hearing is being held for the purpose of hearing an oral presentation by the applicant. Any person desiring to be heard on said matter may be heard at the hearing.

This notice is posted in accordance with the provisions of s. 197.363, Florida Statutes.
**APPLICATION FOR VARIANCE**

FLAGLER COUNTY, FLORIDA
1769 E. Moody Blvd, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009  Fax: (386) 313-4109

Application/Project #: 3138/2018050034

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<td>Mailing Address:</td>
<td>C/O MAY MANAGEMENT 1 HAMMOCK WAY</td>
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<tr>
<td>City:</td>
<td>PALM COAST</td>
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<tr>
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<td>Name(s):</td>
<td><strong>GREG RABITAHLLE RABIT#5UNS CONS'T. CO., INC</strong></td>
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<tr>
<td>Mailing Address:</td>
<td>22 LA PINAN TRAIL</td>
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<tr>
<td>E-Mail Address:</td>
<td><a href="mailto:GREG.RAB@GMAIL.COM">GREG.RAB@GMAIL.COM</a></td>
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Relief Requested: **REDUCE MINIMUM SETBACK FROM 20' TO 19.4'**

Signature of Owner(s) or Applicant/Agent:

If Owner Authorization form attached:

**OFFICIAL USE ONLY**

PLANNING BOARD RECOMMENDATION/ACTION:

<p>| |</p>
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Signature of Chairman:

Date: 5/21/18  *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.  
Rev. 09/16
APPLICATION FOR VARIANCE

FLAGLER COUNTY, FLORIDA
1769 E. Moody Blvd., Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009  Fax: (386) 313-4109

Subject Property: SEASIDE LANDINGS HOA 239 SEASIDE LANDINGS DR. S

E. Variance guidelines. A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

   THE FRONT ENTRANCE MONUMENT SIGN ENCROACHES 8" INTO THE MINIMUM 20' SETBACK FROM THE RIGHT OF WAY AT THE FRONT ENTRANCE OF THE SUBDIVISION.

2. Such conditions were not created by the affirmative actions of the applicant and the applicant has acted at all times in good faith; and

   AS THE GENERAL CONTRACTOR FOR THE MONUMENT SIGN, WE FOLLOWED DIRECTION AND CONSTRUCTED THE SIGN ON A LOCATION STAKE PROVIDED BY THE DEVELOPER'S SURVEYOR. THE ONLY CHANGE ON THE APPROVED PLAN WAS A 20' DIMENSION LINE TO THE SIGN BY THE DEVELOPER. WE DID NOT MEASURE IT WAS ENCROACHING UNTIL THE DEVELOPER RECEIVED HIS AS BUILT SURVEY AFTER THE PROJECT WAS COMPLETED.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

   WILL NOT AFFECT THE VIEW, SAFETY OF TRAFFIC, OR ANY UTILITY EASEMENT IN ANY WAY

4. No variance may be granted for a use of land or building that is not permitted by this article.

A variance, if granted, shall be the minimum variance necessary to alleviate the hardship. For purposes of this section, an unnecessary hardship shall mean that without the granting of the variance the owner will be deprived of all reasonable use of the property as allowed in the zoning district.

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. Rev. 09/16
SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the 24th day of December, 2014 by LRA Bulow Shores, LLC, a Georgia limited liability company ("Grantee"), to Seaside Landings, LLC, a Delaware limited liability company, whose address is 200 Ocean Crest Drive, Suite 31, Palm Coast, Florida 32137 (hereinafter referred to as "Grantee"), to Seaside Landings, LLC, a Delaware limited liability company, whose address is 1100 S. Avenue, S., Suite 404, Naples, FL 34102 (hereinafter referred to as "Grantee").

WITNESSETH:

THAT, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations, the receipt and sufficiency of which are acknowledged by Grantee, Grantee hereby grants, bargains, sells, conveys and confirms unto Grantee all of the real property in Flagler County, Florida, described on Exhibit A, and incorporated herein ("Property").

TOGETHER WITH all privileges, tenements, hereditaments and appurtenances belonging or appertaining to the Property.

TO HAVE AND TO HOLD the Property with and singular rights, members and appurtenances thereof to the same being, belonging, or in any wise appertaining to the only property use, benefit and behalf of Grantee, subject only to those matters, set forth on Exhibit B, and incorporated herein by this reference (the "Permitted Exceptions") forever in Fee Simple.

And said Grantee does hereby warrant that Grantee is lawfully seized of the Property in fee simple; that Grantee has good right and lawful authority to sell and convey the Property; and that Grantee hereby fully warrants the title to the Property and will defend the same against the lawful claims of all persons claiming by, through and under Grantee but against none other.
THIS SPECIAL WARRANTY DEED, made and entered into as of the ___ day of December, 2014 by LRA Bulow Shores, LLC, a Georgia limited liability company (f/k/a Ginn Bulow Shores, a Georgia limited liability company), whose address is 200 Ocean Crest Drive, Suite 31, Palm Coast, Florida 32137 (hereinafter referred to as “Grantor”), to Seaside Landings, LLC, a Delaware limited liability company, whose address is 1100 5th Ave., S., Suite 404, Naples, FL 34102 (hereinafter referred to as “Grantee”).

THAT, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations, the receipt and sufficiency of which are acknowledged by Grantor, Grantor hereby grants, bargains, sells, conveys and confirms unto Grantee all of the real property in Flagler County, Florida, described on Exhibit A, attached hereto and incorporated herein (“Property”).

TOGETHER WITH all privileges, tenements, hereditaments and appurtenances belonging or appertaining to the Property.

TO HAVE AND TO HOLD the Property with all and singular rights, members and appurtenances thereof to the same being, belonging, or in any wise appertaining to the only property use, benefit and behoof of Grantee, subject only to those matters, set forth on Exhibit B, attached hereto and incorporated herein by this reference (the “Permitted Exceptions”) forever in Fee Simple.

And said Grantor does hereby warrant that Grantor is lawfully seized of the Property in fee simple; that Grantor has good right and lawful authority to sell and convey the Property; and that Grantor hereby fully warrants the title to the Property and will defend the same against the lawful claims of all persons claiming by, through and under Grantor but against none other.
Wherever used herein, the terms "Grantor" and "Grantee" shall be deemed to include the parties to this Special Warranty Deed and the successors and assigns of each. The singular shall be deemed to include the plural, and vice versa, where the context so permits.

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed as of the day and year first above written.

Signed, sealed and delivered in the presence of:

Mary Kay Hayward
Print Name: Virginia Tee

GRANTOR:

LRA Bulow Shores, LLC,
a Georgia limited liability company

By: LRA Hammock Beach Ocean, LLC, a
Georgia limited liability company, its
Member-Manager

By: ACP-Communities, LLC,
a Delaware limited liability company,
its authorized representative

By: [Signature]
Name: Amy Wilde
Title: Manager

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 9th day of December, 2014, by Amy Wilde, manager of ACP-Communities, LLC as authorized representative of LRA Hammock Beach Ocean, LLC, a Georgia limited liability company, the member-manager of LRA Bulow Shores, LLC, a Georgia limited liability company, who is personally known to me.

Signature of Notary Public
(Print Notary Name) Virginia Tee
My Commission Expires: March 3, 2017
Commission No.: EE 850919

AFFIX NOTARY STAMP

[Notary Stamp Image]
EXHIBIT A

PROPERTY DESCRIPTION

A portion of Sections 19, and 37, Township 12 South, Range 32 East, a portion of Section 38, Township 12 South, Range 31 East, Flagler County, Florida; and also being a portion of Bulow Grant Lot 4 lying Easterly of the Westerly mean high water line of Bulow Creek, all in Flagler County, Florida and being more particularly described as follows:

Commence at the Northeast corner of said Bulow Grant Lot 6, said point also being the Southwest corner of Government Lot 3 of Section 30, Township 12 South, Range 32 East; thence North 24° 48' 05" West, 1306.04 feet to the Southwest corner of aforesaid Section 19; thence continuing along West line of said Section 19, North 03° 56' 05" East, 969.58 feet to an intersection with the Southerly line of Bulow Grant Lot 4 for the Point of Beginning; thence run South 68° 05' 38" West, along the said South line of Bulow Grant Lot 4, 4,518 feet, more or less, to the Westerly mean high water line of Bulow Creek; thence Northwesterly and meandering along the said Westerly mean high water line of Bulow Creek to an intersection with the North line of said Bulow Grant Lot 4; thence North 67° 59' 19" East, along said North line of Bulow Grant Lot 4, 4,696 feet, more or less, to the East line of the said Bulow Grant and to the Northeast corner of said Bulow Grant Lot 4; thence South 35° 51' 25" East, along the said East line of the Bulow Grant Lot 4, 316.17 feet to an intersection with the Westerly line of the Florida East Coast Canal Intracoastal Waterway (Haulover Creek), a 500 foot right-of-way as recorded in Deed Book 19, Page 50, public records of Flagler County, Florida; thence South 49° 29' 14" East, Easterly along said West line of the Florida East Coast Canal, 1491.61 feet; thence South 35° 46' 14" East, along the said Westerly right-of-way line of the Florida East Coast Canal, 571.75 feet to the aforesaid Southerly line of Bulow Grant Lot 4; thence South 88° 31' 49" West, a distance of 905.32 feet; thence South 03° 56' 05" West, a distance of 351.20 feet to the Point of Beginning.

LESS AND EXCEPT that portion thereof lying within John Anderson Highway.

Further LESS AND EXCEPT a portion of Section 38, Township 12 South, Range 31 East, Flagler County, Florida; and also being a portion of Bulow Grant Lot 4 being more particularly described as follows:

From a point of reference commence at the Northeast corner of Bulow Grant Lot 6, said point being the Southwest corner of government Lot 3 of Section 30 Township 12 South, Range 32 East, thence North 24° 52' 38" West, a distance of 1306.04 feet to the Southwest corner of Section 19, Township 12 South, Range 32 East; thence continuing along the West line of said Section 19, North 03° 51' 32" East, a distance of 969.58 feet to an intersection with the Southerly line of Bulow Grant Lot 4; thence South 68° 01' 05" West, along the said South line of Bulow Grant Lot 4, a distance of 2315.88 feet to the Easterly right of way of John Anderson Highway (a 100 foot right of way); thence North 16° 40' 17" West, along the said Easterly right of way of John Anderson Highway a distance of 711.44 feet to the Point of Beginning; thence North 67° 45' 46" East, leaving said Easterly right of way of John Anderson a distance of 374.87 feet; thence North 08° 46' 18" West, a distance of 51.41 feet; thence South 67° 45' 46" West, a distance of 93.23 feet; thence North 20° 50' 40" West, a distance of 225.98 feet; thence South 68° 38' 22" West, a distance of 271.81 feet to the aforesaid Easterly right of way of John Anderson Highway; thence South 16° 40' 17" East, along said Easterly right of way of John Anderson Highway a distance of 281.40 feet to the Point of Beginning.
EXHIBIT B

PERMITTED EXCEPTIONS

1. Taxes for the year 2014, and all subsequent years, which are not yet due and payable.
2. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of the Property.
3. Riparian and littoral rights.
4. Matters as shown on the Plat as recorded in Plat Book 1, Page 157, of the Public Records of Flagler County, Florida.
7. Bulow Preserve NRC-PUD Development Agreement Exhibit “B” to Flagler County Ordinance Number 2002-23, as recorded in Official Records Book 851, Page 364, of the Public Records of Flagler County, Florida.
8. Mediated Settlement Agreement, as recorded in Official Records Book 1241, Page 680, of the Public Records of Flagler County, Florida.
Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. Any questions regarding any of the comments should be addressed to the department providing the comment.

Flagler County Building Department  386-313-4002
Flagler County Planning Department  386-313-4009
Flagler County Development Engineering  386-313-4082
Flagler County General Services (Utilities)  386-313-4184
County Attorney  386-313-4005
Flagler County Fire Services  386-313-4258
E-911 GIS Specialist  386-313-4274
Environmental Health Department  386-437-7358
Flagler County School Board  386-586-2386
REVIEWING DEPARTMENT: FIRE INSPECTOR

No Comments at this time

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

No comments at this time

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

This office has no objection to this variance.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

This request does not meet the minimum Variance Guidelines criteria as the condition was created by the applicant.
June 18, 2018

Flagler County Technical Review Committee

Project #: 2018050034

Application #: 3138

This response is to the Flagler County Planning Department comments during Technical Review

Rabbit & Sons Construction Co., Inc. is contracted to build the front monument sign and associated gate posts at the entrance to Seaside Landings subdivision in Flagler Beach, Florida, under the direction, plans and specifications, and location of the Owner.

A survey was performed as to the front location of the monument sign by the Owner’s representative, and a locate marker was installed where we were to start the front of the sign so as to conform to the setbacks required from the right of way. We followed direction of the Owner and set the front of the sign on the designated mark. We didn’t feel it was necessary to resurvey to prove conformance.

I am the applicant because I pulled the permit for the project but did not set the locate marker or perform the setback survey but was merely following guidelines by the Owner.

Although the front of the sign encroaches into the setback of the utility Right of Way, it is still over 19’ from the Right of Way, almost 10’ inside the curb of the landscape, and does not in any way affect safety, traffic, sight, or any other condition that may be averse to the subdivision.

The remedy to revise the monument sign would pose a huge hardship. The structure is constructed with block masonry, vertical rebar at each corner, and filled solid with concrete to a bond beam above, as the plan dictated and to suffice hurricane requirements. The sign has a wood frame and metal roof that is symmetrical, includes hurricane straps, and if one side is altered, the rear side of the structure would have to be altered to keep in the same similarity as the front.

Thank you for your consideration in this matter.

[Signature]

Greig Rabitaille
President
SUBJECT: QUASI-JUDICIAL – Application #3140 – Special Use for a Public Safety Emergency Telecommunication Tower at 1250 South Old Dixie Highway within the R-1 (Rural Residential) and PUD (Planned Unit Development) District; Parcel #04-13-31-0650-000D0-0040; 19.69+/- acres. Owner/Applicant: Board of County Commissioners of Flagler County; Agent: Jarrod Shupe, Innovation Technology Director.

DATE OF MEETING: July 10, 2018

OVERVIEW/SUMMARY: This request is quasi-judicial and requires disclosure of ex parte communication. This request is for a Special Use approval for a telecommunication tower not to exceed 199 feet in height. This tower is an alternative site to the Board’s approval of Application #3105 for a tower at 1600 South Old Dixie Highway. The subject parcel is located:

This tower is part of the County’s efforts to locate a network of self-supporting telecommunication towers that will principally accommodate the County’s emergency communications system. This
network of tower sites is critical to the County's current and future emergency digital communications network by providing not only for geographic coverage, but for signal penetration and optimal signal strength. Up to this point, there are areas of the County where public safety first responders have their signal dropped or the signal is weak, leaving both the public and our first responders at risk. Each of these tower sites are advantageous to the County because each parcel location is owned by the County, removing the need for continual lease negotiations. For this tower site (like its previously-approved County towers), the County proposes to develop a self-supporting tower within a 70 foot by 70 foot area enclosed by an 8-foot high fence and landscaping within the subject property, which will accommodate the compound area. The characteristics of this specific parcel is described in greater detail within the attached Technical Staff Report.

No existing towers are proximate to this location that would provide the signal coverage required by the County. As for the previously-approved location to the East at 1600 South Old Dixie Highway, the determination was recently made that the tower could not be located on this site because of future utility conflicts resulting from water and sewer plant expansions. While the proposed site had not been considered optimal because of public park access, the County has no other option other than to locate the tower on this parcel. The FAA Determination of No Hazard to air navigation is pending for this tower location. Consistent with the County’s special siting criteria, this tower’s design will incorporate a break point that will cause the tower to fall within a specified radius. This radius is depicted in the graphic in the attached Technical Staff Report.

The Technical Review Committee (TRC) did not review this request. The Planning and Development Board’s recommendation will be provided to the Board of County Commissioners as part of staff’s presentation at the Board’s July 16th regular meeting. If the Special Use is approved, a variance will be needed – to be considered separately by the Planning and Development Board – to allow the tower height to exceed 150 feet in a residential zoning district.

This agenda item is:

_X_ quasi-judicial, requiring disclosure of ex-parte communication; or

____ legislative, not requiring formal disclosure of ex-parte communication.

DEPT./CONTACT/PHONE #: Planning & Zoning / Adam Mengel / 386-313-4065

RECOMMENDATION: Request the Planning and Development Board recommend to the Board of County Commissioners that the special siting criteria have been met and recommend approval of a Special Use for a Public Safety Telecommunication Tower at 1250 South Old Dixie Highway subject to the following conditions: 1) tower to accommodate up to six (6) wireless service or communication providers/users; 2) issuance of FAA Determination of No Hazard to air navigation; 3) contractor to attempt to preserve index trees on site throughout site development; 4) elimination of the perimeter landscape buffer surrounding the fenced compound; 5) authorization to paint the lower 50 feet of the tower as either forest green or brown (“Java”), as previously approved by the Board of County Commissioners, with the remaining tower height to be painted with a non-contrasting blue or gray finish or galvanized finish; and 6) a variance will be needed to allow the tower height to exceed 150 feet in the R-1 (Rural residential) zoning district.

ATTACHMENTS:  
1. Technical Staff Report (TSR)  
2. Applications and Supplemental Materials, including Statement of Need  
3. Public Notice
Location and Legal Description
1250 South Old Dixie Highway; subject parcel lying South of Old Dixie Highway and described as Tract 4 of Block D of the Bunnell Development Company subdivision (recorded at Map Book 1, Page 1, Public Records of Flagler County, Florida) in Section 4, Township 13 South, Range 31 East, Flagler County, Florida; within Parcel #04-13-31-0650-000D0-0040.

Aerial Photo (from site plan)

Fall Zone Radius
This self-supporting tower will not exceed 199 feet in overall height above grade. The Federal Aviation Administration (FAA) Determination of No Hazard to air navigation is pending. The tower’s design will incorporate a break point that will cause the tower to fall within a specified radius completely within the subject park parcel. This tower height (less than 200 feet above grade) does not require lighting or additional review by FAA.

Existing Zoning and Land Use Classification
Zoning: R-1 (Rural Residential) and PUD (Planned Unit Development) District
Land Use: RLDRE (Residential Low Density: Rural Estate) and A&T (Agriculture & Timberlands)

Future Land Use Map Classification/Zoning of Surrounding Land
North: Old Dixie Highway; RLDRE (Residential Low Density: Rural Estate), CN (Conservation), and A&T (Agriculture & Timberlands)/R-1 (Rural Residential) and AC (Agriculture) District
South: MUL (Mixed Use: Low Intensity)/PUD (Planned Unit Development) District
East: RLDRE (Residential Low Density: Rural Estate) and MUL (Mixed Use: Low Intensity)/R-1 (Rural Residential) and AC (Agriculture) District
West: RLDRE (Residential Low Density: Rural Estate) and A&T (Agriculture & Timberlands)/R-1 (Rural Residential) and AC (Agriculture) District

Standards for Review
LDC Section 3.06.05 Public, Semi-Public and Special Uses and specifically Subsection 3.06.05(F) “Special siting criteria for telecommunication towers”.

Special uses may be permitted as follows:

3.06.05(C)2: Major utility installations, including telephone and telegraph buildings over 1,000 square feet, electric transmission lines exceeding 115KV, natural and artificial gas production plants, radio and television stations and towers, water and sewer treatment plants, rapid infiltration basins, off-site potable water storage tanks, sewage and sludge disposal sites, electronic transmissions towers, wellfield installations and such similar major utility installations, may be permitted in any district, provided that application is made to the planning and development board for its review and recommendations to the county commission.

Section 3.06.05(F): “Special siting criteria for telecommunication towers”, identifies eight (8) compatibility factors to be considered in granting special use permits for telecommunication towers. In making its determination, the board shall be guided by the following land use compatibility factors to be considered in granting special use permits for telecommunication towers:

From LDC Section 3.06.05(F)(9)(a): Telecommunication towers shall be located and buffered to ensure compatibility with surrounding land uses. To help ensure such compatibility, the following will be considered:

The governing authority shall consider the following factors in determining whether to issue a special use permit, although the governing authority may waive or reduce the burden on the applicant of one (1) or more of these criteria if the governing authority concludes that the goals of this ordinance [subsection] are better served thereby:
1. Height of the proposed tower as measured according to subsection (8)(g);

*Analysis:* Section 3.06.05.F(8)(g) of the Flagler County Land Development Code limits the maximum height of telecommunication towers in residential zoning districts to no more than 150 feet in height if constructed for two (2) or more users. The Code states that the applicant must meet a two-part test to be considered to be constructed for more than one user: first, the applicant must demonstrate that the tower will be constructed to provide sufficient excess capacity for an additional user; and, secondly, the applicant must consent in writing to the County that one or more additional ‘comparable’ users will be allowed to use the tower where feasible.

The application submittal package demonstrates that the proposed tower will be constructed to provide capacity for a maximum of five users in addition to the County’s facilities, with an overall tower height not to exceed 199 feet. A variance will be needed – and will be considered separately by the Planning and Development Board – to allow the proposed tower to exceed the 150 foot maximum tower height in residential districts.

2. Proximity of the tower to residential structures and residential district boundaries;

*Analysis:* This tower is located within a residential district boundary, and adjoins the residential zoning district boundary that runs along both side of Old Dixie Highway. The proposed tower would be located approximately 110 feet East of the nearest parcel developed with a residential use at 1060 South Old Dixie Highway (Parcel#04-13-31-0650-000D0-0050), with the home on this parcel located approximately 900 feet southwest of the proposed tower. The nearest home is located North of Old Dixie at 100 Bay Berry Village Road Parcel #04-13-31-0650-000A0-0080), approximately 680 feet northerly of the proposed tower, with the parcel line approximately 200 feet North of the proposed tower.

Environmental and health effects related to telecommunication tower siting are not to be considered by a local government in making a determination on a tower location. Specifically, 47 U.S. Code § 332 provides, at subpart (c)(7), that it is assumed that if a tower otherwise complies with Federal Communication Commission requirements regarding radiofrequency emissions, then a local government may not otherwise “regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radiofrequency emissions”.

3. Nature of uses on adjacent and nearby properties;
Analysis: The subject parcel is the County’s Old Dixie Park, with facilities for basketball, horseshoes, pickleball, tennis, and volleyball, along with a playground and a picnic pavilion. Predominantly, surrounding uses are either rural homesteads, undeveloped or utilized for agriculture purposes as pasture or silviculture.

4. Surrounding topography;

Analysis: The subject parcel is relatively flat, and is surrounded by parcels that are relatively flat.

5. Surrounding tree coverage and foliage;

Analysis: The park parcel is bordered by trees and vegetation to act as a natural buffer to adjacent properties, with the proposed tower site located within an area of dense mature tree growth. Due to the siting of the tower within this area of existing foliage, staff is recommending that the perimeter landscaping of the base of the tower not be required as a condition of approval of the Special Use.

6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

Analysis: This tower, like the others previously approved by the Board, is described as self-supporting with a three-sided tripod configuration, but is not a lattice tower. The tripod configuration assumes that should a catastrophic failure occur that the tower will collapse by folding along the face opposite the failed leg of the tripod; structurally, this is the minimally intrusive, yet strongest tower design option. As designed, this tower will not be guyed, and camouflaging this tower is not feasible. Specific FAA lighting requirements have not been determined at this time, although lighting is not anticipated to be required since the tower does not exceed 199 feet in height. The LDC at subsection (8)(i) requires the first fifty (50) feet of tower height above ground level to be painted forest green with the remaining tower height either left with a galvanized finish or painted with a non-contrasting blue or gray finish. Staff has recommended, consistent with previous County Commission tower approvals, that an applicant (in this case the County) may opt to instead paint the first 50 feet a brown (“Java”) color at their option.

7. Proposed ingress and egress; and

Analysis: The park’s existing access driveway connection will be utilized, with a driveway leading to the fenced tower yard turning to the West from the park driveway. No modification or new driveway connection is anticipated to be needed.
8. Availability of suitable existing towers and other structures as discussed in subsection (8)(p)2. of this ordinance [subsection].

*Analysis:* This provision of the LDC encourages co-location with an emphasis on cell towers. The County as the owner of this parcels and the intended first user of the tower is seeking Special Use approval to ensure optimal coverage for emergency communications. Even if an existing tower had been located proximate to this site, the County Commission has opted through the approval of the previous Special Use requests that a hardened, County-owned tower is preferable to an option of siting County emergency services communications facilities on an older, leased tower where the County’s antenna is third- or fourth-tier in the hierarchy and the tower design may not meet current hurricane wind-load requirements.

Federal Aviation Administration (FAA) regulations: FAA provides (through 14 CFR Part 77.9) minimum thresholds for notification and review of vertical obstructions to regulated airspace. The proximity of the proposed telecommunications tower to the nearest point of the nearest runway was calculated for both the Flagler Executive Airport (FIN) in Bunnell and the Ormond Beach Municipal Airport (OMN) in Ormond Beach, with the proposed tower 4.48 miles (23,654.4 feet) from FIN and 7.70 miles (40,656 feet) from OMN:
FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
TECHNICAL STAFF REPORT
APPLICATION #3140
PUBLIC USE – 1250 SOUTH OLD DIXIE HIGHWAY

Future Land Use Map
AFFIDAVIT OF LEGAL NOTICE

I, the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury, that the following facts are true:

1. I am over the age of 18 and I am a resident of the State of Florida. I have personal knowledge of the facts herein and, if called as a witness, could testify competently thereto.

2. I either completed the legal notice described herein or it was completed under my responsible direction.

3. The facts herein relate specifically to Application #3140 (Project #2018-06-0006).

4. Notice for this Application has been provided as stated herein for the (select as applicable):
   □ Planning and Development Board meeting on July 10, 2018 [date]; and/or
   □ Board of County Commissioners meeting on July 16, 2018 [date].

5. □ Newspaper publication (select one, proof of publication attached):
   □ legal advertisement (Publication date: June 9, 2018)
   □ 2 x 10 with map (Publication date: ______________________)
   □ 2 x 10 without map (Publication date: ______________________)

6. □ Mailed notice: 7 [number] letters were mailed out on June 6, 2018 [date] to parcel owners as listed within Property Appraiser records within 300 feet of the subject parcel(s)(copy of parcel list and sample notice letter attached).

7. □ Posted notice: 2 [number] signs were posted on the subject parcel(s) on June 7, 2018 [date](photographs of posted signs attached).

By: __________________________
Name: Wendy A. Hickey

Sworn and subscribed before me on 6/29/18 [date] by Wendy A. Hickey [name] who (select one): X is personally known to me or ______ produced __________________________ [document] as identification and who took an oath.

[Seal]

Notary Public State of Florida
Melanie Fitzgerald
My Commission GQ 202551
Expires 04/02/2022

NOTARY PUBLIC – STATE OF FLORIDA
Name: Melanie Fitzgerald
Commission No.: GQ 202551
My Commission Expires: 4/2/2022
NOTICE OF PUBLIC HEARING FOR SPECIAL USE APPLICATION #3140

A request has been made by Flagler County for a Special Use approval for one 250 foot high Telecommunications Tower on property owned by the Board of County Commissioners of Flagler County, Florida, containing approximately 19.69 +/- acres located at 1250 South Old Dixie Highway; within Section 04, Township 13, Range 31 East, Flagler County, Florida; being on a portion of parcel #04-13-31-0650-000D0-0040.

The subject property lies in the PUD (Planned Unit Development) and R-1 (Rural Residential) District. Special Uses may be permitted in any zoning district provided application is made to the Planning and Development Board for its review and recommendation to the County Commission for final decision.

Public hearings on the above-captioned matter will be held as follows:

PLANNING AND DEVELOPMENT BOARD – July 10, 2018 at 6:00 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Bunnell, Florida 32110 for recommendation to the Board of County Commissioners.

BOARD OF COUNTY COMMISSIONERS – July 16, 2018 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Bunnell, Florida 32110 for final decision.

All interested persons are urged to attend the public hearing and be heard.

Anyone wishing to express their opinion may attend, telephone 386-313-4067 or write to Flagler County Planning Department, 1769 E. Moody Blvd., Ste. 105, Bunnell, FL 32110 or email glemon@flaglercounty.org. Please reference Application #3140. Copies of the application, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Ste 105, Bunnell, Florida 32110 (386) 313-4009.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.

L2292570 June 9, 2018
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<td>CLARA S TOWNSEND ET AL</td>
<td>ATTN:TAX DEPT 100 PROFESSIONAL CENTER DR</td>
<td>BRUNSWICK, GA 31525</td>
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<td>04-13-31-0650-000D0-0040</td>
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<td>BUNNELL, FL 32110</td>
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<td>BUNNELL, FL 32110</td>
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<td>04-13-31-0650-000D0-0050</td>
<td>CARL J MORRIS &amp; HELEN J SLOVAK</td>
<td>200 W CR 330</td>
<td>BUNNELL, FL 32110</td>
</tr>
<tr>
<td>04-13-31-0650-000A0-0080</td>
<td>STACEY &amp; JOANN PETERS</td>
<td>100 BAY BERRY VILLAGE ROAD</td>
<td>BUNNELL, FL 32110</td>
</tr>
<tr>
<td>04-13-31-0650-000A0-0010</td>
<td>CLARA S TOWNSEND ET AL</td>
<td>ATTN:TAX DEPT 100 PROFESSIONAL CENTER DR</td>
<td>BRUNSWICK, GA 31525</td>
</tr>
<tr>
<td>03-13-31-0000-0101-0020</td>
<td>WL RESIDENTIAL LAND LLC</td>
<td>2379 BEVILLE ROAD</td>
<td>DAYTONA BEACH, FL 32119</td>
</tr>
</tbody>
</table>

I hereby affirm mailed notice to each owner on June 6, 2018 for the Planning and Development Board Meeting on July 10, 2018 at 6:00 pm and the Board of County Commissioners Meeting on July 16, 2018 at 5:30 pm.

Wendy Hickey, Planner
June 6, 2018

CLARA S TOWNSEND ET AL
ATTN:TAX DEPT 100 PROFESSIONAL CENTER DR
BRUNSWICK, GA 31525

Re: Application #3140 – Special Use in the PUD (Planned Unit Development) and R-1 (Rural Residential) District

Dear Property Owner:

As an owner of property within 300’ of the property referenced herein, Flagler County hereby gives notice to two public hearings to consider approval of a request by Flagler County for a Special Use in the PUD (Planned Unit Development) and R-1 (Rural Residential District) for a proposed telecommunication tower on property owned by Flagler County at 1250 S. Old Dixie Hwy. being identified by parcel number 04-13-31-0650-000D0-00040.

The public hearings for the application will be held in the Flagler County Government Services Building, Board Chambers, at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, and are scheduled as follows:

Planning and Development Board public hearing on Tuesday, July 10, 2018 at 6:00 p.m.
Board of County Commissioners public hearing on Monday, July 16, 2018 at 5:30 p.m.

Flagler County Land Development Code provides that a Special Use is permitted in any zoning district provided application is made to the Planning Board for its review and recommendation. The Planning and Development Board recommendation will be forwarded to the County Commission for final decision.

You are welcome to attend and express your opinion.

Sincerely,

Wendy Hickey
Planner

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.
**APPLICATION FOR SPECIAL USE**

**FLAGLER COUNTY, FLORIDA**

1769 E. Moody Blvd, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009  Fax: (386) 313-4109

Application/Project #: 3140/2018060006

<table>
<thead>
<tr>
<th>PROPERTY OWNER(S)</th>
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<tr>
<td>Name(s): Flagler County</td>
<td></td>
</tr>
<tr>
<td>Mailing Address: 1769 E. Moody Blvd, Bldg #2</td>
<td></td>
</tr>
<tr>
<td>City: Bunnell</td>
<td>State: Florida</td>
</tr>
<tr>
<td>Telephone Number: 386-313-4009</td>
<td>Fax Number: 386-313-4109</td>
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<thead>
<tr>
<th>APPLICANT/AGENT</th>
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<tr>
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<table>
<thead>
<tr>
<th>SUBJECT PROPERTY</th>
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<tbody>
<tr>
<td>SITE LOCATION (street address): 1250 S OLD DIXIE HWY</td>
<td></td>
</tr>
<tr>
<td>LEGAL DESCRIPTION: 19.69 ACRES BLOCK D TRACT 4 OR 277 PG 854</td>
<td></td>
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<tr>
<td>Parcel #: 04-13-31-0650-000D0-0040</td>
<td></td>
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<tr>
<td>Parcel Size: 19.69AC</td>
<td></td>
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<tr>
<td>Current Zoning Classification: COUNTY (008600)</td>
<td></td>
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<tr>
<td>Current Future Land Use Designation:</td>
<td></td>
</tr>
<tr>
<td>Subject to A1A Scenic Corridor IDO? YES NO</td>
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</tr>
</tbody>
</table>

**Description of Use:** Communications Tower Facility

---

Signature of Owner(s) or Applicant/Agent
if Owner Authorization form attached

**OFFICIAL USE ONLY**

**PLANNING BOARD RECOMMENDATION/ACTION:**

APPROVED [ ] *APPROVED WITH CONDITIONS [ ]

DENIED [ ]

Signature of Chairman: __________________________
Date: 6/6/18 *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.  Rev. 05/06
This Warranty Deed Made and executed the 4th day of April A.D. 1986 by ECOCEN CORP., a Florida corporation a corporation existing under the laws of Florida and having its principal place of business at 190 Plantation Drive, Ormond Beach, Florida 32074 hereinafter called the grantor and BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA whose post office address is Post Office Drawer 787, Bunnell, Fl 32101 hereinafter called the grantee.

The consideration and mutual covenants and agreements for and in consideration of the sum of $10,000 and other valuable considerations, receipt whereof is hereby acknowledged by the present deed grantor, grantee, all of which is hereinafter referred to as the "consideration.

This is to certify that the consideration has been paid to the grantor in full and that the grantee has received the same.

As described in Exhibit A, attached hereto.

SUBJECT to taxes for 1986 and subsequent years.

SUBJECT to restrictions and easements of record, if any; this reference shall not serve to re-impose the same.

Together with all the appurtenances, improvements and appurtenances thereto belonging or in any way appurtenant.

To Have and to Hold, the same in fee simple forever.

And the grantee hereby covenants with said grantor that it is lawfully entitled to said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whoever; and that said land is free of all encumbrances.

In Witness Whereof the grantee has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST:

ECOCEN CORP., a Florida corporation

By: FRANCOIS LAZARE

STATE OF FLORIDA

COUNTY OF VOLUSIA

I hereby certify this 3rd day of April 1986, before me, an officer duly authorized in the State and County aforesaid to take such oaths, personally appeared FRANCOIS LAZARE

This instrument prepared by: William C. Robinson, Jr.

Address:

P.O. Box 131
Daytona Beach, FL 32115

Notary Public State of Florida

By: WILSON, JR.

Date: 3-3-1986

Certified true and correct in all respects.

WITNESS my hand and official seal in the County and State has been hereon this 3rd day of April 1986.
EXHIBIT "A"

DESCRIPTION

A PORTION OF SECTION 3 AND 13; TOWNSHIP 13 SOUTH; RANGE 31 EAST; FLAGLER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF SAID SECTION 3; RUN NORTH 01 DEGREES 46 MINUTES 30 SECONDS WEST ALONG THE WEST LINE OF SAID SECTION 3 A DISTANCE OF 451.12 FEET; THEREFROM, SIGHTING SAID LINE, RUN NORTH 01 DEGREES 46 MINUTES 13 SECONDS EAST A DISTANCE OF 1212.70 FEET TO THE WEST LINE OF A FLORIDA POWER & LIGHT COMPANY EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 34, PAGE 124, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THEREFROM, SIGHTING SAID LINE, SOUTHWEST 01 DEGREES 46 MINUTES 15 SECONDS EAST ALONG SAID WEST LINE A DISTANCE OF 601.89 FEET TO THE NORTH LINE OF SAID SECTION 10; THEREFROM, CONTINUE SOUTH 01 DEGREES 46 MINUTES 15 SECONDS EAST ALONG SAID WEST LINE AND THE SOUTHERLY PROJECTION THEREOF A DISTANCE OF 919.99 FEET; THEREFROM, SOUTHWEST 01 DEGREES 46 MINUTES 38 SECONDS WEST A DISTANCE OF 1201.23 FEET TO THE WEST LINE OF SAID SECTION 10; THEREFROM, NORTHEAST 01 DEGREES 08 MINUTES 04 SECONDS WEST ALONG SAID WEST LINE A DISTANCE OF 920.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 40.00 ACRES.
EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF SECTIONS 9 AND 16, TOWNSHIP 13 SOUTH, RANGE 3 EAST,
CLACK COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: FROM THE NORTHWEST
CORNER OF SHO SECTIONS 16, RUN SOUTH 89 DEGREES 11 MINUTES 28
SECONDS WEST ALONG THE NORTH LINE OF SHO SECTION 16, A DISTANCE
OF 4911.16 FEET TO THE EAST INTER-OF-WAY LINE OF R.I. 1, A 100
FOOT RIGHT-OF-WAY; THERE SOUTH 29 DEGREES 24 MINUTES 08
SECONDS EAST, ALONG SHO RIGHT-OF-WAY LINE A DISTANCE OF 1305.00
FEET TO THE POINT OF A CURVE, CONCIME NORTHEASTLY, HAVING A RADIUS
OF 234.60 FEET AND A CENTRAL ANGLE OF 60 DEGREES 00
MINUTES 00
SECONDS; THERE FROM A CURVE A DISTANCE OF 285.37 FEET, THENCE
NORTH 89 DEGREES 11 MINUTES 28 SECONDS WEST, A DISTANCE OF 235.93
FEET TO THE P.O.C. OF A CURVE, CONCIME SOUTHWESTLY, HAVING A RADIUS
OF 485.24 FEET, CENTRAL ANGLE OF 60 DEGREES 24 MINUTES 29
SECONDS, AND A CHORD BEARING OF NORTH 88 DEGREES 24 MINUTES 29
SECONDS WEST; THERE NORTHEASTLY ALONG THE ARC OF A CURVE A
DISTANCE OF 285.73 FEET TO THE P.O.C. OF A CURVE, CONCIME
NORTHWESTLY, HAVING A RADIUS OF 390.87 FEET AND A CENTRAL
ANGLE OF 60 DEGREES 14 MINUTES 23 SECONDS; THERE ALONG THE ARC
OF A CURVE A DISTANCE OF 384.89 FEET TO THE P.O.C. OF A CURVE, CONCIME
NORTHEASTLY, HAVING A RADIUS OF 281.68 FEET, CENTRAL ANGLE
OF 2 DEGREES 24 MINUTES 08 SECONDS, AND A CHORD BEARING OF NORTH 33 DEGREES 04 MINUTES 51
SECONDS EAST; THERE
EASTLY ALONG THE ARC OF A CURVE A DISTANCE OF 135.90
FEET, THENCE SOUTH 49 DEGREES 19 MINUTES 25 SECONDS EAST A DISTANCE
OF 145.40 FEET TO THE P.O.C. OF A CURVE, CONCIME NORTHEASTLY,
HAVING A RADIUS OF 25.00 FEET, CENTRAL ANGLE OF 60 DEGREES 21
MINUTES 25 SECONDS, AND A CHORD BEARING OF NORTH 48 DEGREES 00
MINUTES 29 SECONDS WEST; THERE RUN NORTHEASTLY ALONG THE ARC
OF A CURVE A DISTANCE OF 344.64 FEET TO THE P.O.C. OF A CURVE, CONCIME
NORTHWESTLY, HAVING A RADIUS OF 329.85 FEET, CENTRAL ANGLE
OF 6 DEGREES 19 MINUTES 25 SECONDS, AND A CHORD BEARING OF NORTH
32 DEGREES 05 MINUTES 23 SECONDS EAST; THERE RUN NORTHEASTLY
ALONG THE ARC OF A CURVE A DISTANCE OF 138.91 FEET, THENCE SOUTH
23 DEGREES 30 MINUTES 31 SECONDS WEST A DISTANCE OF 129.00
FEET, TO THE POINT OF BEGINNING. THENCE NORTH 79 DEGREES 00
MINUTES 00 SECONDS WEST A DISTANCE OF 483.68
FEET TO THE NORTH LINE OF SHO SECTION 16; THENCE CONCIME NORTH 79 DEGREES
91 MINUTES 04 SECONDS WEST A DISTANCE OF 218.44
FEET; THENCE SOUTH 48 DEGREES 20 MINUTES 21 SECONDS WEST A DISTANCE
OF 173.24
FEET, THENCE SOUTH 44 DEGREES 13 MINUTES 28 SECONDS WEST A DISTANCE
OF 459.34
FEET, THENCE NORTH 89 DEGREES 11 MINUTES 28 SECONDS WEST A DISTANCE
OF 395.78
FEET, THENCE NORTH 49 DEGREES 19 MINUTES 25 SECONDS WEST A DISTANCE
OF 442.90
FEET, THENCE SOUTH 64 MINUTES 47 SECONDS WEST A DISTANCE
OF 476.34
FEET, THENCE NORTH 88 DEGREES 29 MINUTES 00 SECONDS WEST A DISTANCE
OF 490.10
FEET TO THE POINT OF BEGINNING, COMPLIANCE 20.00 ACRES.
EXHIBIT "A"

PLANTATION BY

A PORTION OF LOT 4, BLOCK D, SECTION 4, TOWNSHIP 13 SOUTH, RANGE 21 EAST, BUNNELL DEVELOPMENT COMPANY SUBDIVISION, AS RECORDED IN MAP BOOK 1, PAGE 1, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF SAID SECTION 4, RUN SOUTH 89 DEGREES 12 MINUTES 37 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 4 A DISTANCE OF 1324.71 FEET;

THENCE DEPARTING SAID LINE, RUN NORTH 02 DEGREES 06 MINUTES 36 SECONDS WEST ALONG THE EAST LINE OF LOT 5, BLOCK D

A DISTANCE OF 994.15 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 02 DEGREES 06 MINUTES 36 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 4, BLOCK D, A DISTANCE OF 624.03 FEET;

THENCE DEPARTING SAID LINE, RUN SOUTH 89 DEGREES 30 MINUTES 43 SECONDS WEST A DISTANCE OF 664.58 FEET TO THE WEST LINE OF SAID LOT 4, BLOCK D;

THENCE SOUTH 02 DEGREES 15 MINUTES 17 SECONDS EAST ALONG SAID LINE A DISTANCE OF 633.99 FEET;

THENCE DEPARTING SAID LINE, RUN NORTH 69 DEGREES 31 MINUTES 09 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 4, BLOCK D A DISTANCE OF 664.96 FEET TO THE POINT OF BEGINNING.

CONTAINING 9.69 ACRES.
EXHIBIT "A"

PLANTATION BAY
PARK AND PLAYGROUND AREA

A PORTION OF LOT 4, BLOCK D, SECTION 4, TOWNSHIP 13 SOUTH, RANGE
31 EAST, BURLELL DEVELOPMENT COMPANY SUBDIVISION, AS RECORDED IN
MAP BOOK 1, PAGE 1, OF THE PUBLIC RECORDS OF FLAGLER COUNTY,
FLORIDA, DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF SAID
SECTION 4, RUN SOUTH 89 DEGREES 12 MINUTES 37 SECONDS WEST ALONG
THE SOUTH LINE OF SAID SECTION 4 A DISTANCE OF 1324.71 FEET;
THENCE DEPARTING SAID LINE, RUN NORTH 02 DEGREES 06 MINUTES 36
SECONDS WEST ALONG THE EAST LINE OF LOT 9, BLOCK D AND LOT 4,
BLACK D A DISTANCE OF 1928.22 FEET TO THE POINT OF BEGINNING;
THENCE DEPARTING SAID LINE, RUN SOUTH 89 DEGREES 50 MINUTES 43
SECONDS WEST A DISTANCE OF 668.36 FEET; THENCE NORTH 02 DEGREES
18 MINUTES 17 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 4,
BLOCK D, A DISTANCE OF 653.01 FEET TO THE SOUTH RIGHT-OF-WAY LINE
OF OLD DIXIE HIGHWAY, A 66 FOOT RIGHT-OF-WAY: THENCE NORTH 89
DEGREES 39 MINUTES 43 SECONDS EAST ALONG SAID RIGHT-OF-WAY LINE A
DISTANCE OF 668.21 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE,
RUN SOUTH 02 DEGREES 06 MINUTES 36 SECONDS EAST ALONG THE EAST
LINE OF SAID LOT 4, BLOCK D A DISTANCE OF 652.96 FEET TO THE
POINT OF BEGINNING.

CONTAINING 10.00 ACRES.
Flagler County Statement of Need

Flagler County has an immediate requirement to replace its Public Safety Communication Network system. The Flagler County Public Safety Communication Network provides the sole radio communications capability for all law enforcement, fire services and emergency services officials in the County and city jurisdictions, in addition to the administrative uses such as public works, code enforcement, transportation, and road and bridge. As such, reliable and effective operation of this system is critical during both normal and emergency situations in support of the community.

In the spring of 2017, Flagler County contracted with an outside consultant, OmniCom Consulting Group, to design, plan, and implement a replacement of the County’s 11 year old Harris EDACS system with a new APCO P25 Phase 2 system. As part of this process radio coverage was analyzed. From that analysis a system design was created to provide the best radio coverage possible in the County, using the fewest amount of radio towers at the lowest height possible. From those requirements came a need to construct 5-6 new towers at County-owned property at 2355 Matanzas Woods Parkway, 1001 Justice Lane, 7570 County Road 304, 245 County Road 305, 1600 South Old Dixie Highway, and 1769 East Moody Boulevard. In June of 2018, Flagler County contacted with Motorola Solutions to install the new radio system.

Each of these proposed towers will host 800 MHz and microwave antennas in support of Flagler County’s Public Safety Communication System and will be installed in approximately the next year. Due to the Public Safety nature of this system, concerns regarding reliability and performance of the system and their life-safety implications are paramount to the County.

Recent hurricanes, maintenance, and repair efforts have caused significant concern with respect to the integrity of the existing towers. The new towers proposed will be self-supporting, therefore not requiring any guy wires/lines, as well as they will be built to withstand wind loads in excess of 140MPH. Self-supporting towers also have a smaller fall zone sometimes as small as a 50’ radius.

Radio coverage expansion is needed in order to provide both an enlarged coverage footprint and additional signal into area that are poorly services due to the existing antenna height and locations. The submittal provides for the County to install antennas higher than existing towers – thereby providing significantly better signal in area currently experiencing poor coverage. The submittal also provides for the County to antennas in new locations – thereby also providing significantly better signal in area currently experiencing poor coverage.

Finally, the County is faced with the requirement to provide additional radio capability for inter-operability with area, regional and statewide resources, during times of emergency such as the 2011 wildfires, Hurricanes Matthew and Irma and plane crashes. Currently the County is paying approximately $170,000 for tower rent annually with annual increase. By building County-owned towers, we save those annual rent fees, as well as it allows us to rent out additional space on our towers for the use of other wireless providers or communications companies. This represents a significant cost savings to the County, in addition to the flexibility that the owned space allows for future needs.

Flagler County Innovation Technology, OmniCom Consulting Group, and Motorola Solutions have worked diligently to locate suitable infrastructure on existing towers, but none of the other alternatives
meet all of the above requirements. The submittal was designed primarily for the County’s Public Safety requirements. Both geographic requirements and antenna coverage were the prime considerations in siting and height of the towers.

As part of the award of the RFP for the Public Safety Communications Network, all necessary requirements will be met and documented upon application for a permit by the selected vendor.

It is therefore our recommendation and request that the zoning variances are approved expeditiously, in support of the County’s Public Safety Communication network project.

Respectfully submitted,

Jarrod M. Shupe
Innovation Technology Director
Flagler County Board of County Commissioners