1. Roll Call.

2. Pledge to the Flag.

3. Approval of October 10, 2017 meeting minutes.

4. Legislative not requiring disclosure of ex parte communication:
   Application #3097 – APPLICATION FOR FUTURE LAND USE MAP AMENDMENT GREATER THAN TEN ACRES – request for a Future Land Use Map Amendment for greater than ten acres from A&T (Agriculture & Timberlands) to RLDSF (Residential Low Density/Single Family). Parcel Number 22-12-31-0000-01010-0011; 202.2+/- acres. Owner: Venture 8, LLC/Applicant: Michael D. Chiumento III, Esq.
   Project #2017090007 (TRC, PDB, BCC, DEO)

5. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3098 – APPLICATION FOR REZONING – request for Rezoning from AC (Agriculture) to PUD (Planned Unit Development). Parcel Number 22-12-31-0000-01010-0011; 202.2+-/- acres. Owner: Venture 8, LLC/Applicant: Michael D. Chiumento III, Esq.
   Project #2017090008 (TRC, PDB, BCC)

6. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3102 – APPLICATION FOR SPECIAL USE – request for a special use for a telecommunication tower facility within the Palm Coast PSP (Public/Semipublic) District, located at 2355 Matanzas Woods Parkway; Parcel Number 26-10-30-0000-01020-0010; 41.58 +/- acres. Owner/Applicant: Flagler County
   Project #2017110009 (PDB, BCC)

7. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3114 – VARIANCE IN THE PALM COAST PSP (PUBLIC/SEMIPUBLIC) DISTRICT – request for a variance of 4,700 feet from the required 5,000 foot minimum separation from another telecommunications tower, located at 2355 Matanzas Woods Parkway; Parcel Number 26-10-30-0000-01020-0010; 41.58+/- acres. Owner/Applicant: Flagler County Board of County Commissioners.
   Project #2017110014 (PDB)
8. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3103 – APPLICATION FOR SPECIAL USE – request for a special use for a
telecommunication tower facility within the AC (Agriculture) District; located at 7570 County Road
304, Parcel Number 30-13-30-0000-02040-0040; 5.00+/- acres. Owner/Applicant: Flagler County.
   Project #2017110010 (PDB, BCC)

9. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3115 – VARIANCES IN THE AC (AGRICULTURE) DISTRICT – request for variances
as follows:
   a. 4,150 feet from the required minimum 5,000 foot separation from another
   telecommunications tower;
   b. 550 feet from the required minimum 700 foot separation from a residentially zoned property;
   and
   c. 75 foot increase from the maximum tower height of 300 feet.
   Located at 7570 County Road 304; Parcel Number 30-13-30-0000-02040-0040; 5.00+/- acres. Owner/Applicant: Flagler County.
   Project #2017110015 (PDB)

10. Quasi-judicial requiring disclosure of ex parte communication:
    Application #3104 – APPLICATION FOR SPECIAL USE – request for a special use for a
telecommunication tower facility within the Bunnell P (Public) District; located at 655 Justice Lane;
Parcel Number 15-12-30-0650-000D-0060; 61.83+/- acres. Owner/Applicant: Flagler County Board of County Commissioners.
    Project #2017110011 (PDB, BCC)

11. Quasi-judicial requiring disclosure of ex parte communication:
    Application #3105 – APPLICATION FOR SPECIAL USE – request for a special use for a
telecommunication tower facility within the R-1 (Rural Residential) and PUD (Planned Unit Development) District; located at 1600 South Old Dixie Highway; Parcel Number 03-13-31-0650-
000C0-0050; 24.11+/- acres. Owner/Applicant: Flagler County, Florida.
    Project #2017110012 (PDB, BCC)

12. Quasi-judicial requiring disclosure of ex parte communication:
    Application #3106 – APPLICATION FOR SPECIAL USE – request for a special use for a
telecommunication tower facility within the AC (Agriculture) District; located at 245 County Road 305;
Parcel Number 10-12-29-0000-01040-0021; 25.48+/- acres. Owner/Applicant: Flagler County.
    Project #2017110013 (PDB, BCC)

13. Quasi-judicial requiring disclosure of ex parte communication:
    Application #3116 – VARIANCES IN THE AC (AGRICULTURE) DISTRICT – request for variances
as follows:
   a. 2,600 feet from the required minimum 5,000 foot separation from another
   telecommunications tower;
   b. 500 feet from the required minimum 700 separation from a residentially zoned property; and
   c. 75 foot increase from the maximum tower height of 300 feet.
   Located at 245 County Road 305; Parcel Number 10-12-29-0000-01040-0021; 25.48+/- acres. Owner/Applicant: Flagler County.
    Project #2017110016 (PDB)
14. Staff Comments.

15. Board Comments.

16. 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.

17. Adjournment
MEMBERS PRESENT: Chairman Robert Dickinson, Arthur Barr, Troy Dubose, Laureen Kornel and Mark Langello

MEMBERS ABSENT: Michael Boyd, excused  Michael Duggins excused

STAFF PRESENT: Sally Sherman, Deputy County Administrator, Growth Management Director; Adam Mengel, Planning Director; Wendy Hickey, Planner; and Gina Lemon, Development Review Planner III

BOARD COUNSEL: Kate Stangle, with Broad and Cassel, Albert Hadeed, Flagler County Attorney

Chairman Dickinson called the meeting to order at 6:04 p.m.

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

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

3. Approval of Minutes.
   Minutes of the August 8, 2017 regular meeting

   Motion to approve made by Ms. Kornel and seconded by Mr. Langello.
   Motion approved unanimously.

   Chairman Dickinson made an announcement that Mr. Mengel requested of the Board a change of the order of the agenda. The change would be Items 17 & 18 would be heard first and second1 & 2, items 4-6 would be next, followed by items 14-16 then items 7-13.

   Motion to approve made by Mr. Langello and seconded by Ms. Kornel
   Motion approved unanimously

4. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3087 – APPLICATION FOR REPLACEMENT OF A NON-CONFORMING USE IN THE R-1 (RURAL RESIDENTIAL) DISTRICT – request for a replacement of an existing mobile home. 63 Malacompra Road; Parcel Number: 20-10-31-3050-00030-0190; 0.189 acres. Owner/Applicant: Grace L. Lee and Debra Anne Lee, Joint Trust with Right of Survivorship.
Chairman Dickinson called for disclosure of exparte communications, none reported.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Ann Griffiths, 21 Hernandez Ave., was under the impression that no mobile homes would be allowed in the Hammock and would like some clarification.

Mr. Mengel responded that there are areas that are zoned Mobile Home MH-1 within the Hammock.

Chairman Dickinson closed the public hearing and asked for Board comments

Mr. Langello asked about the elevation of the property and if it as in a flood zone.

Chairman Dickinson asked would a building permit be required.

Mr. Mengel yes to both questions and that building and flood requirements would have to be met.

Chairman Dickinson asked for a motion.

Motion to approve made by Mr. Langello, seconded by Mr. DuBose.
Motion approved unanimously.

5. Legislative not requiring disclosure of ex parte communication:
Application #3090 – APPLICATION FOR FUTURE LAND USE MAP AMENDMENT LESS THAN TEN ACRES – request for a Future Land Use Map Amendment for less than ten acres from MUH (Mixed Use High Intensity) to RMD (Residential Medium Density) at 2942 North Oceanshore Boulevard and 4 Westmayer Place. Parcel Numbers 26-11-31-5450-00000-0080 and 26-11-315450-00000-0090; 0.47 +/- acres. Owners: Thomas W. and Sandra E. Kluba/Applicant: Dennis K. Bayer, Esq.

Mr. Langello stated for the record that he did not have exparte communication, but earlier this year he did have an option to purchase the property and the option has since expired.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Dennis Clark, 5784 N Oceanshore Blvd., Chair of Scenic A1A Pride Committee, stated that the Board supports the down zoning of this property.
Chairman Dickinson closed the public hearing and asked for Board comments.

Motion to approve made by Ms. Kornel, seconded by Mr. DuBose.
Motion approved unanimously.

6. Quasi-judicial requiring disclosure of ex parte communication:

Application #3086 – APPLICATION FOR REZONING – request for Rezoning from C-2 (General Commercial and Shopping Center) to R-1C (Urban Single-family Residential) at 2942 North Oceanshore Boulevard and 4 Westmayer Place. Parcel Numbers 26-11-31-5450-00000-0080 and 26-11-31-5450-00000-0090; 0.47+/- acres. Owners: Thomas W. and Sandra E. Kluba/Applicant: Dennis K. Bayer, Esq.

Chairman Dickinson called for disclosure of exparte communications.

Mr. Langello stated again for the record that he did not have exparte communication, but earlier this year he did have an option to purchase the property and the option has since expired.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Carol Ann Hoepner, 2943 N Oceanshore Blvd., asked if this will be developers as one or two lots.

Mr. Mengel stated that it will be two single family lots.

Chairman Dickinson closed the public hearing, and asked for Board comments.

Motion made to recommend to approval to the BOCC by Ms. Kornel, seconded by Mr. DuBose.
Motion approved unanimously.

7. Quasi-judicial requiring disclosure of ex parte communication:

Application #3088 – APPLICATION FOR SITE DEVELOPMENT PLAN REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for review of a Site Development Plan in the PUD District for Surfview. Parcel Number 37-10-31-1550-0000-0153; 1.01 acres. Owners: Robert J. Falconetti and Diane D. Falconetti, husband and wife, and John J. Falconetti and Robert John Falconetti/Applicant: Matthew Lahti, P.E., with Gulfstream Design Group, LLC.

Chairman Dickinson called for disclosure of exparte communications.

Chairman Dickinson stated that he had done some work on this parcel in the past nothing to do with the current development before the Board.
Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Sidney Ansbacher Esq., Upchurch Bailey & Upchurch Attorneys, 780 N Ponce De Leon Blvd. St. Augustine, representing the applicant. Agrees with staffs report and will respond to comments if needed

Chairman Dickinson opened the public hearing.

Dennis Clark, 5784 N Oceanshore Blvd., Chair of Scenic A1A Pride Committee, The Committee did see and did send a letter for the change of use, with the request for a vegetative buffer along A1A. Otherwise is in full support of the project.

Richard Kirtley, 60 Surfview Drive Unit 217, asked about the entrance/exit to this parcel and would there be access to A1A.

Mr. Mengel responded no to A1A

Carolyn McCormack, 80 Surfview Drive Unit 422, questioned the height of the development and how that may influence flooding and run off and other sorts of things for the developments that are already there.

Mr. Ansbacher, responded that the applicant has agreed a 5 foot vegetative screen. Clarifying Mr. Mengel’s statement that He and the County Attorney had a concern which touches on the second question of the access on A1A. We constructed a 5 foot spike strip non access easement along A1A so there would be no northern access. The Staff response is only 1 foot is necessary. We commit to the 5 foot opaque landscape buffer. The height of the development it is a minimum 10 foot finished floor elevation with a maximum of 35 feet in height for the development. Though we do not have our final Saint John’s Water Management Permit but we understand they will review pre and post and that would be addressed by the Water management District.

Chairman Dickinson closed the public hearing, and asked for Board comments.

Mr. Langello asked if there would be signage, and where would it be placed.

Mr. Mengel stated that signage is addressed at time of platting.

Mr. Barr asked if the stormwater was master planned

Mr. Mengel responded was yes it was.

Mr. Langello asked is this a reduction of the impervious that was planned for at time of master plan.

Mr. Mengel responded that at that time the assumption was 80% impervious for this parcel. so the new developments impact on the system should be less on the system as a whole.
Motion to approve made by Mr. Dubose, seconded by Ms. Kornel.
Motion approved unanimously

8. Quasi-judicial requiring disclosure of ex parte communication:

Application #3085 – APPLICATION FOR PRELIMINARY PLAT IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for review of a Preliminary Plat in the PUD for Surfview. Parcel Number 37-10-31-1550-0000-0153; 1.01 acres. Owners: Robert J. Falconetti and Diane D. Falconetti, husband and wife, and John J. Falconetti and Robert John Falconetti/Applicant: Matthew Lahti, P.E., with Gulfstream Design Group, LLC.

Chairman Dickinson called for disclosure of exparte communications.

Chairman Dickinson stated that he had done some work on this parcel in the past nothing to do with the current development before the Board.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Elisabeth Holman 5 Elizabeth Drive spoke of the drainage for the property going to the intracoastal and wants to know what is being put in the intracoastal? It is coming in from the ocean and into her neighborhood and it is not draining properly.

Mr. Mengel responded as the County Flood Plain Manager, he does not know was is being done on a temporary recovery basis. There are implications that the fresh water is coming from all kinds of places because we have had a lot of rain. I was aware we were pumping into the Atlantic Ocean from those areas that had been inundated we did do it with Matthew and Irma. That would not be something through the Water management District or what you will hear several times tonight 25 year frequency 24 hour duration storm. That is the Water Management Districts thresholds for their permitting of stormwater systems. When you have a storm that exceeds that then at that time is when you pull out the pumps which is not a good situation for any of us.

Carolyn McCormack, 80 Surfview Drive Unit 42, asked about the retention pond for the development, and its flow under A1A.

Richard Kirtley, 60 Surfview Drive Unit 217, stated that the does drain under A1A but is unclear about its efficiency and maintenance.

Charles Beeman, 6525 Old A1A, stated that he has been pumping water for 7 days and the water is coming from the existing Matanzas Shores as well as the retention pond that is leaking to the west onto my property and that property that we will be discussing later has 2-3 feet of water and it has been there for the last 8 months.
Chairman Dickinson closed the public hearing, and asked for Board comments.

Chairman Dickinson asked Mr. Ansbacher to answer some of the questions.

Sidney Ansbacher, Upchurch Bailey & Upchurch Attorneys, 780 N Ponce Deleon Blvd. St. Augustine, stated that they are expecting our SJWM permit and they will meet the minimum requirements of the district.

Mr. Langello, spoke of the project being less intensive than the existing entitlements and would have less of an impact on the master stormwater system.

Motion made to recommend approval to BOCC by Ms. Kornel, seconded by Mr. DuBose. Motion approved unanimously.

9. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3082 – APPLICATION FOR SITE DEVELOPMENT PLAN REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for review of a Site Development Plan in the PUD District for Los Lagos, Parcel Numbers: 37-10-31-1550-00000-0151 and 37-10-31-155000000-0155; 23.3 acres. Owner: LR5A-JV, LP/Applicant: Duval Realty Trust, LLC.

Chairman Dickinson called for disclosure of exparte communications.

Planning Director Adam Mengel spoke of the role of the Planning Board in the review and recommendations tonight. He noted that the following 5 items are in many ways overlapping and much of this presentation would be for all of them with the understanding that there may be somethings specific for each project which will be addressed at that time. He also recognized the audience that have comments and requested that if their comments were for the entire group of projects he would request they make their comments during this first presentation. He then presented the item and staff’s recommendation for approval specific to application #3082.

Sidney Ansbacher Esq., Upchurch Bailey & Upchurch Attorneys, 780 N Ponce Deleon Blvd. St. Augustine, representing the applicant will respond as rebuttal to any comments. He will not bring up anything that has to do with the DRI. Concessions and clarifications no rentals less than 6 months at a time and maximum 5 bedrooms, 3 stories maximum, there will be an opaque buffer along the length of A1A. Construction traffic will not be going through the subdivision.

Chairman Dickinson opened the public hearing.
Glenn Greenwald, 8 San Pablo Court, spoke against the project and presented a Power Point which is Attachment “A” to these minutes.

Robert Klenk, 19 San Jose Drive, asked about the ponds and if they were going to be changed.

Richard Tursi, 7 San Pablo Court, spoke in objection to the proposal.

William Clay, 5 San Diego Lane, Current Lakeside by the Sea HOA President, spoke in opposition to the project.

Ron Wilson, 15 San Jose Drive, Lakeside by the Sea HOA Secretary, and Licensed Georgia Attorney spoke in objection to the project specifically agreements between the applicant and the MSOA.

Megan Tobin, 34 San Jose Drive, spoke against the development.

Frank Wiener, 33 San Carlos Drive, spoke in opposition to the development.

Karen Rodgers, 16 San Carlos Drive, spoke in opposition to the development.

Martha Mockler, 22 San Carlos Drive, spoke in opposition to the development.

Carol Scott, 38 San Carlos Drive, spoke in opposition to the development.

Barbara Dubin, 37 San Jose Drive, spoke in opposition to the development.

Peter Duhart, 5 San Jose Drive, spoke in opposition to the development.

Richard Kirtley, 60 Surfview Drive Unit 217, representing the Koch family sharing their concerns that had been conveyed to the Planning Department through an email that has been provided to the board.

Diane Beeman, 6525 Old A1A, spoke in opposition to the development.

David Sowers, 80 Surfview Drive Unit 313, spoke in opposition to the development.

Dennis Clark, 5784 N Oceanshore Blvd. clarified open space for the audience.

Diana Baer, 36 San Jose Drive, spoke in opposition to the development.

Gail Spence, 25 San Rafael Court, spoke in opposition to the development.
Carolyn McCormack, 80 Surfview Drive Unit 42, asked the board to table these items until new FEMA maps are adopted.

Charles De Martin manager of the commercial property adjacent to Las Casitas, asked that was has previously been approved for this commercial piece of the property retain it entitlements.

Christene Ertl, Esq., Ansbacher Law, 1100 S. Ponce De Leon Blvd Suite 3a St. Augustine, representing Lakeside by the Sea Homeowners Association, asked if she could cross examine the engineer for the development, with questions directly relating to pre and post development storm water calculations and run off.

Mr. Ansbacher, stated that the law firm representing the HOA is his cousin Barry’s firm for the record. He then reiterated that a quasi-judicial hearing is governed by the language in the code and then responded to the citizens’ concerns.

Brett Witte, Singhofen and Associates 11723 Orpington St. Orlando, engineer of record.
Stated that the project was designed using the criteria required by the district and the permit has been received.

Cross examination of the engineer as requested by Ms. Ertl

Ms. Ertl, asked if there was a change of flow that would be an increased burden to the adjacent properties?

Mr. Witte, responded, no it is not

Ms. Ertl, asked do you know what the downstream effect will be to the Lakeside HOA and the other adjacent properties?

Mr. Witte, responded all run off for Los Lagos and Las Casitas is maintained within their ponds.

Ms. Ertl, stated so it’s maintained solely within their ponds.

Mr. Witte, Their runoff drains to their respective ponds, all are equalized so that peek stages are maintained throughout.

Ms. Ertl, Will there be any increased water flow to any of the lower elevation land owners?

Mr. Witte, responded no.

Ms. Ertl, concluded her questioning
Mr. Ansbacher, asked Mr. Witte to state his credentials.

Mr. Witte, I am a registered Engineer in the State of Florida

Mr. Ansbacher, asked was this project under your direction and control.

Mr. Witte, responded yes.

End of cross examination.

Mr. Ansbacher concluded by summarizing the project, comments, concerns and conclusions.

Mr. Mengel, discussed building in flood plain and wind velocity areas and proposed FEMA map changes. He also encouraged the purchase of flood insurance.

Albert Hadeed, Flagler County Attorney, discussed that the private agreements between the developer and the HOA and that they are not for Board consideration when making approval determination. He then read into the record the findings provided in the staff report asking Mr. Mengel to affirm his findings and determination outlined in the staff report.

Mr. Mengel, affirmed his findings.

Mr. Hadeed, went on to add and to state for the record that in his legal opinion and after extensive research this Development of Regional Impact (DRI) has expired by reason of abandonment. Abandonment meaning no annual reports filed no requests for extension for the DRI buildout agreement and if the DRI was in effect then this is not the appropriate procedure for this change. This is just for the record and should not have any impact on the Board decision.

Mr. Ansbacher, responded this is why we are doing it as a PUD and not as the DRI.

Chairman Dickinson closed the public hearing, and asked for Board comments.

Mr. Langello, stated that the concessions made by the Developer tonight should be conditioned as part of the approval. He also questioned the removal of perk pond 3 and if it will have any effect on the overall stormwater system.

Mr. Witte, responded no.

Mr. Langello, asked if any of this would change any vested rights to the commercial lot?

Mr. Mengel, Plaza Del Playa was approved, developed and used as sales center and the have an approved site plan. It will retain its entitlements.
Mr. DuBose, asked what recourse it there if the stormwater system does not work as planned and it floods their properties.

Mr. Mengel, responded the enforcement powers of the Water Management District.

Mr. Barr, asked if the Board of County Commissioners have more latitude then the Planning Board when making their determination on a project like this.

Mr. Hadeed, they have to make their determination on the evidence presented at the hearing. They do have some latitude as a second look see but they are bound by the Comprehensive Plan and Code.

Chairman Dickinson, asked that the concessions made by the developer being a 5 bedroom limit, no short term rentals less than 6 months minimum, maximum 3 stories including garage, 100 percent opaque buffer along SR A1A and temporary construction entry to the north and a privacy fence along the south property line to be included in the motion.

Mr. Ansbacher, clarified there will not be a fence on the east side it will be a hedge it will be vegetated that will be 4 feet at planting. He then added that the construction entrances will be to the north and the south.

Motion made to recommend approval to the BOCC with the 7 additional items mentioned made by Mr. Langello, seconded by Mr. DuBose.

Motion approved unanimously

Mr. Mengel, asked the Board that staff’s comments along with the public comments be spread across items 10, 11, 12 and 13.

Motion made by Mr. DuBose seconded by Mr. Langello

Motion approved unanimously

10. Quasi-judicial requiring disclosure of ex parte communication:

Application #3078 – APPLICATION FOR PRELIMINARY PLAT IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT — request for preliminary plat for Los Lagos I subdivision. Parcel Number: 37-10-31-1550-00000-0151; 15.0 acres. Owner: LR5A-JV, LP/Applicant: Duval Realty Trust, LLC.

Chairman Dickinson called for disclosure of exparte communications.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval with an added recommendation for an additional easement that would include a landscape buffer.
Chairman Dickinson opened the public hearing.

Chairman Dickinson closed the public hearing.

Motion made to recommend approval to the BOCC by Mr. Langello seconded by Mr. Barr

Motion approved unanimously

11. Quasi-judicial requiring disclosure of ex parte communication:

Application #3079 – APPLICATION FOR PRELIMINARY PLAT IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for preliminary plat for Los Lagos II subdivision.

Parcel Number: 37-10-31-1550-00000-0155; 8.3 acres. Owner: LR5A-JV, LP/Applicant: Duval Realty Trust, LLC.

Chairman Dickinson called for disclosure of exparte communications.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Chairman Dickinson closed the public hearing.

Motion made to recommend approval to BOCC by Mr. Dubose seconded by Ms. Kornel

Motion approved unanimously

12. Quasi-judicial requiring disclosure of ex parte communication:

Application #3081 – APPLICATION FOR SITE DEVELOPMENT PLAN REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for review of a Site Development Plan in the PUD District for Las Casitas. Parcel Numbers: 37-10-31-3725-00000-00G0, 37-10-31-155000000-0154, and 37-10-31-3725-00000-003A; 24.6 acres. Owners: Matanzas Shores Owners Association and LR5A-JV, LP/Applicant: Duval Realty Trust, LLC.

Chairman Dickinson called for disclosure of exparte communications.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval in addition to the same comments made on the Los Lagos SDP.

Chairman Dickinson opened the public hearing.

Chairman Dickinson closed the public hearing.
Draft

Motion made to recommend approval to the BOCC by Mr. Langello seconded by Mr. Barr

Motion approved unanimously

13. Quasi-judicial requiring disclosure of ex parte communication:

Application #3080 – APPLICATION FOR PRELIMINARY PLAT IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for preliminary plat for Las Casitas subdivision. Parcel Numbers: 37-10-31-3725-00000-00G0, 37-10-31-1550-00000-0154, and 37-10-31-3725-00000003A; 24.6 acres. Owners: Matanzas Shores Owners Association and LR5A-JV, LP/Applicant: Duval Realty Trust, LLC.

Chairman Dickinson called for disclosure of exparte communications.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Chairman Dickinson closed the public hearing.

Motion made to recommend approval to BOCC by Mr. Dubose seconded by Ms. Kornel

Motion approved unanimously

14. Quasi-judicial requiring disclosure of ex parte communication:

Application # 3092 – APPLICATION FOR REVIEW IN A PUD (PLANNED UNIT DEVELOPMENT) – AMENDMENT TO DEVELOPMENT AGREEMENT – request to amend the development agreement of Huntington Woods PUD. Parcel Numbers 22-14-31-0000-01010-0030 and 22-14-310000-01010-0040; 29.97+/- acres. Owner: BADC Huntington Communities, LLC/Applicant: Michael J. Woods, Esq.

Chairman Dickinson called for disclosure of exparte communications, none reported.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Mark Watts, Cobb Cole 351 E New York Ave. Deland FL 32724 representing the applicant discussed the changes to be made to the Development Agreement.

Mr. Langello asked why there is a discrepancy between the draft document within the Board Packet and what is being proposed tonight.
Mr. Mengel responded the document within the packet was an original submittal of the proposed
Development Agreement that had to be further modified due to Saint John’s Water Management
(SJWM) permit considerations.

Mr. Watts stated that at time of TRC we had our engineer using the approved stormwater plan approved
by SJWM determined we could only go to 42.6 % total impervious lot coverage.

Chairman Dickinson closed the public hearing, and asked for Board comments.

Motion to recommend approval the draft Development Agreement provided to the Board this evening to
the BOCC made by Mr. DuBose and seconded by Mr. Langello
Motion approved unanimously

15. Quasi-judicial requiring disclosure of ex parte communication:
Application #3094 – APPLICATION FOR SIDE SETBACK VARIANCE IN THE R-1
(RURAL RESIDENTIAL DISTRICT) – request for a 2.5 foot side setback variance from the 7.5
foot minimum setback requirement at 94 Hernandez Avenue; 0.31 acres. Parcel Number 40-10-31-
0010-001000020. Owner/Applicant: David P. and Angela L. Bailus, husband and wife.

Chairman Dickinson called for disclosure of exparte communications, none reported.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval.

Chairman Dickinson opened the public hearing.

Stephen Ryan, 90 Hernandez Ave., Asked if this variance would allow for other variances to be
approved and are there time limits on variances?

Angela Miniagi 635 N Orange St, Property owner of 99 Hernandez Ave., Asked of all the
properties in the area get this set back.

Mr. Mengel each variance does not have a time limit and is treated separately and is based on
specific criteria.

Freida Wilson, 96 Hernandez Ave., questioned the justification of the reduction of the setback.

Chairman Dickinson closed the public hearing, and asked for Board comments.

Mr. Langello asked if there would be any elevation adjustments

These minutes are unofficial until adopted by the Planning and Development Board.
16. Quasi-judicial requiring disclosure of ex parte communication:

Application #3095 – APPLICATION FOR SPECIAL EXCEPTION IN THE AC
(AGRICULTURE) DISTRICT – request for a Special Exception for a Land Clearing, Debris
Disposal, Storage and Processing Facility at 449 County Road 304; Parcel Number 36-12-30-065000A0-0112; 29.71 acres. Owner/Applicant: Darrell Cone Dozer Service, Inc.

Chairman Dickinson called for disclosure of exparte communications, none reported.

Planning Director Adam Mengel presented the item and staff’s recommendation for approval with the following conditions:

1. maintain the current 50 foot buffer around project perimeter and all work limits;
2. maintain the current minimum 25 foot buffer round all wetland areas, with no storage (equipment or materials) permitted to encroach into the wetland buffer;
3. hours of operation to be 7 a.m. to 6 p.m., Monday through Saturday;
4. no outdoor storage of heavy equipment or trucks unless they are screened from view by fencing or natural vegetation;
5. limit height of debris storage pile to 50 foot high maximum or as approved by DEP permit if less than 50 feet in height;
6. maintain compliance with all other agency permits during the duration of the Special Exception approval;
7. applicant to provide necessary improvements within the public right-of-way to ensure safe traffic movement on and off County Road 304, with no damage to pavement and/or drainage flow;
8. these conditions run with the land and are transferrable to a subsequent owner or operator provided that these conditions continue to be met; and expiration of Special Exception approval to be concurrent with DEP permit expiration, or October 31, 2022, whichever occurs first

Chairman Dickinson opened the public hearing seeing no one

Chairman Dickinson closed the public hearing, and asked for Board comments.
Draft

Mr. Langello asked the applicant if he was able to he is able to renew his DEP permit would he be able to continue his Special Exception.

Mr. Mengel responded that if his permit has expired and the Special Exception had not been sought for renewal, we would come back and to this process. It was discussed in 2012-13 but not this time around.

Mr. Langello stated that what he was eluding to was if conditions do not change he would not have to continue to go through this renewal process.

Mr. Mengel stated that he would be comfortable with that as long as the DEP Permit remains in place and is renewed and does not lapse, then a new Special Exception would be required.

Mr. Mengel amended #9 of the conditions to state that as long as DEP permit remains active additional Special Exception approval shall not be needed.

Motion to approve as amended made by Mr. Langello, seconded by Ms. Kornel.
Motion approved unanimously

17. Legislative not requiring disclosure of ex parte communication:

Application #3097 – APPLICATION FOR FUTURE LAND USE MAP AMENDMENT GREATER THAN TEN ACRES – request for a Future Land Use Map Amendment for greater than ten acres from AC (Agriculture Timberlands) to RLSF (Residential Low Density/Single Family). Parcel Number 22-12-31-0000-01010-0011; 202.2 +/- acres. Owner: Venture 8, LLC/Applicant: Michael D. Chiumento III, Esq.

Planning Director Adam Mengel stated that the applicant would like this item to be continued to the next regularly scheduled Planning & Development Board Meeting on November 14, 2017 at 6 pm. This item was noticed and as such would retain public notice but allow anyone who would like to be heard that cannot attend that meeting be heard this evening for the record.

Chairman Dickinson opened the public hearing. Seeing no one he closed the Public Hearing and asked for a motion.

Motion to postpone to November 14, 2017 at 6 pm made by Mr. Langello and seconded by Ms. Kornel

18. Quasi-judicial requiring disclosure of ex parte communication:
Draft

Application #3098 – APPLICATION FOR REZONING – request for Rezoning from AC (Agriculture) to PUD (Planned Unit Development). Parcel Number 22-12-31-0000-01010-0011; 202.2+/– acres. Owner: Venture 8, LLC/Applicant: Michael D. Chiumento III, Esq.

Planning Director Adam Mengel stated that this is the related rezoning request to the previous item and the applicant would like this item to be continued to the next regularly scheduled Planning & Development Board Meeting on November 14, 2017 at 6 pm. This item was noticed and as such would retain public notice but allow anyone who would like to be heard that cannot attend that meeting be heard this evening for the record.

Chairman Dickinson opened the public hearing. Seeing no one he closed the Public Hearing and opened asked for a motion.

Motion to postpone to November 14, 2017 at 6 pm made by Mr. Langello and seconded by Ms. Kornel

19. Board Comments None

20. Public Comments None

21. Adjournment

Motion to adjourn made by Mr. Langello at 10:45 p.m.

Minutes drafted by Wendy Hickey.
Minutes reviewed By Adam Mengel.
Comments on Proposed
Los Lagos & Las Casitas Developments
Flagler County, Florida

Focus on Environmental Concerns
October 10, 2017

Glenn M. Greenwald
Consulting Ecologist
U.S. Fish & Wildlife Service, Retired
Changing Environmental Conditions

• Environmental conditions have changed since the projects were first proposed: sea level rise has accelerated; increased/stronger tropical storms, nor’easters, storm surges, and rainfall; and local coastal dunes have been decimated.

• Such changing conditions have increased the frequency and severity of flooding for Lakeside-by-the-Sea (“Lakeside”) and many other Northeast Florida coastal communities. Increased long-term flooding from storms is now the “new norm”.
Flooding is a Major Concern

• The proposed development projects would greatly impede the already-stressed Lakeside stormwater management system.

• The proposed 48-acre project area would include about 61% (~29 acres) of impervious land.

• Under the current conditions, the Lakeside stormwater system discharge has not been able to keep up with stormwater inflow, either during or after storm events. Adding 244% more impervious lands to the existing stormwater system would likely produce catastrophic flooding events.
During the few weeks after Hurricane Irma, there were at least three occurrences when the Main Lake level continued to rise, from one to two days after rainfall ceased (= red arrows \[\rightarrow\] in graph), despite the continual discharge into the ICW outfall pipeline. During the combined nor'easter / tropical wave event of September 28 - October 1, the Main Lake level rose faster than the ICW discharge outfall could discharge floodwaters (= black arrow \[\uparrow\] in graph). Therefore, the rate of stormwater inflow was greater than the rate of stormwater outflow for at least four periods during and in the three weeks after Hurricane Irma. Note that for the Lakeside area, NAVD 88 elevations = NVGD 29 elevations minus 1.03 feet, as determined by VERTCON (https://alt.ngs.noaa.gov/cgi-bin/VERTCON/vert_con.prl).
Wetlands & Deepwater Habitats

• A large portion of the proposed project area contains wetlands and deepwater habitats that would be destroyed if the project proceeds.

• There does not appear to be any mention of Army Corps of Engineers (COE) permits to remove or place fill into wetlands or deepwater habitats in these proposed projects.

• These wetlands and deepwater habitats support a wide array of wildlife species, including species that are protected by state and federal regulations.

• Have any formal wetland delineations been conducted for the project area?

• Has the COE and FWC been contacted about these proposed projects?
Deepwater Habitat
Wetlands as Stormwater Buffers

• Wetlands act to absorb floodwaters and decrease the rate of runoff into stormwater management systems. They act like a sponge to buffer the effects of stormwater runoff and their continued presence is vital to moderate the severity of flood events.

• The adverse effects created by decreasing the amount of wetlands and deepwater habitats is similar to channelizing streams – stormwater volumes and flow rates are increased – often to devastating levels.
Other Environmental Concerns

• During construction activities, a large amount of fill would be required to elevate the developed areas to meet the project design. Placing this fill would generate a large volume of airborne dust, noise, vibration, and exhaust fumes. These serious environmental problems could possibly last for several years.

• Due to the large amount of needed fill, and depending upon the final project design, the number of dump truck hauls required would likely be in the thousands, perhaps (?) ranging from 10,000 to 35,000 hauls.

• This massive number of dump truck hauls would cause severe damage to local roadways and bridges, plus it would create a serious safety hazard, both inside and outside of Lakeside.

• Many other serious direct and indirect environmental concerns exist.
Conclusions

• The proposed Los Lagos and Las Casitas projects would likely amplify flooding in the already-flood prone Lakeside community.

• The proposed projects would likely cause additional major negative impacts to wetlands, deepwater habits, wildlife, and to the human community at Lakeside.

• Due to this plethora of serious environmental and other concerns, the proposed Los Lagos and Las Casitas projects should not be approved.
PRESERVE LAKESIDE BY THE SEA
... keep us SAFE.

STOP MATANZAS SHORES DEVELOPMENT PROPOSALS
KEEP LAKESIDE BY THE SEA FROM CATASTROPHE

Presented to Flagler County Planning Board for 10/10/17 meeting by concerned Lakeside by the Sea community members.
Proposed directly adjoining Lakeside by the Sea: LOS LAGOS AND LAS CASITAS

Today Lakeside – 28% impervious land:
• Safe 20+ years.
• Barely Survived Matthew, Irma, and nor’easter (Sept 30-Oct 1, 2017)

Proposed in flood zone:
• 61% impervious land
• Not safe - 244% INCREASE
• Creates CATASTROPHIC FUTURE

FLAGLER COUNTY
STOP THE PROPOSALS, STOP CATASTROPHE
DON’T RISK OUR SAFETY AND LIVES
Proposals’ recipes for CATASTROPHE:
Build in flood area, 61% impervious land, 3-story homes
LAKESIDE PAST FLOODING
Flooding during Matthew, and before surge:
Surf Club, A1A & Lakeside’s South Entrance

LAS CASITAS proposed entrance and building area
LAKESIDE ... DURING MATTHEW
HOMES NARROWLY ESCAPED FLOODING
LAS CASITAS proposed building area

• REPEAT FLOODING – MATTHEW, IRMA & OCT NOR’EASTER.

• FLOODING MAY BE CATASTROPHIC at 61%+ IMPERVIOUS LAND

SOUTH ZONE - DANGERS
Proposed Las Casitas and adjacent land

DANGER: BUILD OUT SOUTH FLOOD AREA
Post-Matthew: Flooded Recreation Area Adjacent to Proposed Las Casitas
DANGER: BUILD OUT NORTH FLOOD AREA
NORTH SECTION FLOODING - Matthew & post-Irma
SAN JUAN DRIVE ADJACENT to LOS LAGOS

DANGER

PROPOSED HOMES IN NORTH SECTION FLOOD AREA
PROPOSED LOS LAGOS AREA...2 DAYS POST-IRMA
UNLIKE THIS IN FLAGLER BEACH, THERE IS NO BUFFER ON A1A IN THE PLANS FOR LOS LAGOS 3-STORY HOMES
Building height conformity will not exist. Proposed vague plans pose multiple dangers.
DANGER – Disaster risks

• 48-ACRE PROJECT, 61% IMPERVIOUS LAND

• CHANGING LANDSCAPE AND LAKE INFRASTRUCTURE

• LARGER BUILDINGS, SMALLER LOTS, UNKNOWN FLOOD MITIGATION
Matthew Ocean SURGE across A1A into lake...KILLED FISH.

Life in our lakes was restored, and includes:

- Largemouth bass and bluegill
- Recently introduced species thriving - red drum (redfish), striped mullet, blue crab, and fiddler crab.
LAKESIDE WATER LEVELS: AFTER MATTHEW AND SURGES

...above bulkheads
After Matthew and surges - flooded docks...
LAKESIDE FLOODING – HURRICANE IRMA
Same areas as with Matthew…

ADJACENT TO PROPOSED LAS CASITAS AREA
... 2 DAYS POST- IRMA
NEAR PROPOSED LOS LAGOS AREA

... 2 DAYS POST- IRMA
WATER LEVELS ROSE MORE THAN EXPECTED,
Despite improved drainage & deployed pump
3 weeks post-Irma, after ~24 hours rain we saw flooding Oct 1, 2017, North Tract area
3 weeks post-Irma,
Taken from flooded tennis court looking out to perc pond 3 area, proposed for Las Casitas build.

Photo taken Oct 2.

Opposite vantage point taken outside perc pond 3 area, looking toward Lakeside homes. Las Casitas would flood and Lakeside would flood more.

Photo taken Oct 2.

Flooding again on court and surrounding area.
3 weeks post-Irma, Oct 3

West side A1A
South of Lakeside entrance and close to Proposed Las Casitas Building area was flooded during storm Sept 30-Oct 1, 2017.
3 weeks post-Irma, Oct 2
Hammock flooding again during storm
LAKESIDE SURVIVED 20+ YEARS
DO NOT JEOPARDIZE OUR LIVES

FLAGLER COUNTY
STOP THE PROPOSALS,
STOP CATASTROPHE
TO: Chairman and Planning Board Members

FROM: Planning and Zoning Department

DATE: November 14, 2017

SUBJECT: Application #3097, FUTURE LAND USE MAP AMENDMENT FROM AGRICULTURE AND TIMBERLANDS TO RESIDENTIAL LOW DENSITY/SINGLE FAMILY

I. Requested Action & Purpose: This legislative request is for approval of a Future Land Use amendment from Agriculture and Timberlands to Residential Low Density/Single Family.

II. Related Application: Application #3098 – Rezoning from AC (Agriculture) to PUD (Planned Unit Development) District.

III. Location and Legal Description: West of Old Kings Road and East of Interstate 95, located midway between State Road 100 and Old Dixie Highway, within Section 22, Township 12 South, Range 31 East, Flagler County, Florida; Parcel #22-12-31-0000-01010-0011.

IV. Owner and Applicant/Agent:
Owner: Venture 8, LLC
Applicant: Michael D. Chiumento III, Esq.

V. Existing Zoning and Land Use Classification:
Zoning: AC (Agriculture) District
Land Use: Agriculture and Timberlands

VI. Future Land Use Map Classification/Zoning of Surrounding Land:
North: City of Palm Coast Mixed Use / City of Palm Coast AC District
East: Old Kings Road; Residential Low Density/Rural Estate, Commercial High Intensity, and Residential Medium Density / PUD (Planned Unit Development) District
South: Residential Low Density/Single Family and Conservation / PUD (Planned Unit Development) District
West: I-95; City of Palm Coast Residential / City of Palm Coast SFR-2

VII. Land Development Code Sections Affected: Land Development Code subsection 2.02.05.2: “The Planning Board shall review and act upon applications
for development review pursuant to the County Land Development Code and other applicable county ordinances."

**VIII. Report in Brief:** On August 30, 2017, Venture 8, LLC, through their agent, Michael Chiumento III, submitted applications for a Future Land Use amendment (Application #3097) and rezoning (Application #3098) for the 202.2 acres located North of and abutting the limits of the Eagle Lakes Planned Unit Development (PUD) on Old Kings Road. The subject parcel is North of the Eagle Lakes Planned Unit Development (PUD), which was last amended through Ordinance No. 2014-03, recorded at Official Records Book 2027, Page 235, Public Records of Flagler County, Florida.

Based on the current submittal, the owner's intent is to combine the 202.2 acres of the subject parcel with the existing 535 acres of Eagle Lakes. The original plat for Eagle Lakes Phase I, Section 1 consisted of 111 lots, with an additional 4 units potentially development within Tracts J and K, which were not initially platted as lots. As initially approved, Eagle Lakes was a sub-Development of Regional Impact (sub-DRI) project consisting of a maximum of 749 units. In addition to the 115 potential units in Phase I, Section 1, the remainder identified as Phase I, Section 2 and Phase II provided for a maximum of 578 single-family residential units, totaling 693 units, leaving 56 units excluded from the Phase I, Section 1 plat and the initial preliminary plats. As part of the 2014 negotiations, in addition to the 115 Phase I, Section 1 units and the 578 units previously identified within both Phase I, Section 2 and Phase II, an additional 32 units were set out as reserved that could be added by the developer without requiring a PUD amendment. The remainder – 24 additional single-family units – were terminated and no longer available for development, bringing the total potential development within Eagle Lakes to 725 units.

**Previous Public Hearings**
February 7, 2005 – Board of County Commissioners approves Ordinance No. 2005-02, establishing the PUD zoning classification and development standards for Eagle Lakes.

April 18, 2005 – Board of County Commissioners approves Ordinance No. 2005-06, a Chapter 163, Florida Statutes, Development Agreement (this Agreement subsequently expired and is no longer in force).


July 23, 2014 – Board of County Commissioners approves Ordinance No. 2014-03 (recorded at Official Records Book 2027, Page 235, Public Records of Flagler County, Florida), amending the development standards for lots within Eagle Lakes Phase I, Section 1 owned or controlled by Venture 8, LLC as of the time of the
adoption of the agreement, along with future development within Phase I, Section 2 and Phase II, both of which are owned by Venture 8 and have not yet been final platted.

October 10, 2017 – Planning and Development Board – at staff’s request – opened and continued the public hearing on the Future Land Use amendment to the November 14, 2017 regular meeting.

IX. **Staff Analysis:** As best can be determined based on the submittal, the owner’s intent is to add 111 units to Eagle Lakes through the Future Land Use amendment for the 202.2 acres. This would represent an additional 71 units over the 40 units presently allowed as the maximum density under the current Agriculture and Timberlands designation at 1 unit per 5 acres. Total development within the Eagle Lakes project as a whole would then equal 836 units; however, the submittal is not clear whether or not this is the intent. Under the requested Residential Low Density/Single Family designation, maximum density would equal 3 units per acre, potentially allowing an additional 567 units (a total of 607 units, when added to the initial 40). For purposes of this analysis, the maximum density has been assumed absent the inclusion of any parcel-specific limiting policy. Likewise, while the requested Residential Low Density/Single Family is consistent with the bulk of Eagle Lakes, this designation may not be most appropriate for this parcel if a lesser density is ultimately desired. Arguably, the parcel-specific text amendment would take the place of a lesser density Future Land Use category, but a more relevant argument would include the seeking of additional density through a more dense category when a lesser dense category would match the needs of the owner/applicant.

For reference, while this project is not a Development of Regional Impact (DRI) and future DRI’s are no longer required through Chapter 380, Florida Statutes, due to the increase in the County’s population exceeding 100,000 persons, the County presumptive threshold for a DRI is now 1,000 units.

A comprehensive analysis of the effect of this Future Land Use amendment accompanies this staff report.

The comments were reviewed by the Technical Review Committee on September 20, 2017. Staff comments were not addressed by the applicant in advance of the Planning and Development Board meeting; however, public notice was provided and the deficiencies may be addressed by the applicant through their presentation and additional submittals to demonstrate availability of public services and to clarify the nature of their request.

Public notice has been provided for this application according to LDC Section 2.07.00 and Section 125.66 and Chapter 163, Florida Statutes.
X. Standards for Review:
Consistent with Comprehensive Plan Table A.2, development on this parcel with the Residential Low Density/Single Family designation would be limited to 1 to 3 units per gross acre.

Trip generation in this analysis is based on the maximum permitted density. Applying the maximum density (3 units/acre) under the Residential Low Density/Single Family designation to the 202.2 acres yields 607 dwelling units, resulting in 5,809 daily trips (based on 9.57 average weekday trips generated by a single-family detached dwelling unit; Land Use 210, ITE Trip Generation, 8th Edition). This amendment represents an increase of 5,426 trips over the 383 trips generated by the 40 units permitted under the existing Agriculture and Timberlands designation. A traffic study has been requested and is forthcoming.

The Future Land Use amendment to Residential Low Density/Single Family would permit a higher density than is presently permitted, but arguably would be similar to the density level encountered on surrounding parcels.

Analysis of Consistency with Florida Statutes
The proposed amendment has been evaluated by staff for its consistency with Section 163.3177(6) of Florida Statutes:

“2. The future land use plan and plan amendments shall be based upon surveys, studies, and data regarding the area, as applicable, including:
   a. The amount of land required to accommodate anticipated growth.”

   This request is not related to any studies of future growth; this amendment increases the development potential on this parcel consistent with the applicant’s request.

“b. The projected permanent and seasonal population of the area.”

   The amendment would represent a permanent decrease in population in the area of 1,361 persons, using 2.4 persons per household (pph) for the increase from 40 dwelling units (96 persons) to 607 dwelling units (1,457 persons). If the intent is a lesser unit count, a parcel-specific limiting policy should be proposed by the applicant and incorporated into the Planning and Development Board’s recommendation.

“c. The character of undeveloped land.”

   The land is mostly level and utilized as pasture at this time.

“d. The availability of water supplies, public facilities, and services.”
Potable water and sanitary sewer are provided by Flagler County Utilities. Availability of these services at the Eagle Lakes plant is nonexistent at this time, with the availability of potable water presently under stress with the current level of development within Eagle Lakes Phase I, Section 1. Either an upgrade to the plant or connection to existing area utilities – either through Volusia County to the South or the City of Palm Coast to the North and West – will be necessary.

“e. The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.”

This amendment is not facilitated by a need for redevelopment, but is instead prompted by the applicant’s request as the owner of the parcel. This request is not related to development which is blighted, nonconforming, or inconsistent with the community.

“f. The compatibility of uses on lands adjacent to or closely proximate to military installations.”

Not applicable – the subject parcel is not adjacent or proximate to a military installation.

“g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.”

Not applicable – the subject parcel is not adjacent to an airport.

“h. The discouragement of urban sprawl.”

This area has been the subject of multiple prior land use amendments dating back to the early 2000s. Proximity to I-95 and anticipated availability of utilities has driven prior amendments.

“i. The need for job creation, capital investment, and economic development that will strengthen and diversify the community’s economy.”

Not applicable – as residential development, this request will only generate employment for the duration of the construction activity. With the remainder of Eagle Lakes likely to develop with either mobile homes or modular homes, the onsite construction activity may be limited to horizontal subdivision infrastructure and installation of the homes versus construction.
“j. The need to modify land uses and development patterns within antiquated subdivisions.”

Not applicable – this development is not occurring within an antiquated subdivision.

“8. Future land use map amendments shall be based upon the following analyses:
   a. An analysis of the availability of facilities and services.”

This report and the attached analyses provide a preliminary analysis of the availability of facilities and services. Final determination of the availability of facilities and services will be made at the time of permit issuance.

“b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.”

No site characteristics would hinder development of the parcel.

“c. An analysis of the minimum amount of land needed as determined by the local government.”

Not applicable – this amendment is discretionary as to the amount included by the applicant and based on the parcel size. This amendment is not based on a capacity analysis or anticipated need for future housing stock.

“9. The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl.
   a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:
      (I) Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.
      (II) Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.
(III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.

(IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

(V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.

(VI) Fails to maximize use of existing public facilities and services.

(VII) Fails to maximize use of future public facilities and services.

(VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.

(IX) Fails to provide a clear separation between rural and urban uses.

(X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

(XI) Fails to encourage a functional mix of uses.

(XII) Results in poor accessibility among linked or related land uses.

(XIII) Results in the loss of significant amounts of functional open space.”

Staff concludes that this request neither results in the 13 sprawl indicators being met or not met; the approval of the request would likely have an overall de minimis impact on the sprawl indicators, provided that deficiencies in service provision – trip generation, potable water, sanitary sewer, and educational facilities – are addressed appropriately.

“b. The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:

(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.
(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

(IV) Promotes conservation of water and energy.

(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

(VI) Preserves open space and natural lands and provides for public open space and recreation needs.

(VII) Creates a balance of land uses based upon demands of residential population for the nonresidential needs of an area.

(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164."

Staff concludes that this request neither results in the eight “anti-sprawl” objectives being met or not met; the approval of the request would have an overall de minimis impact on the sprawl indicators. The present Agriculture and Timberlands Future Land Use designation would not permit the rezoning to PUD at the desired additional density, hence necessitating the RLDSF amendment request.

Analysis of Consistency with the Comprehensive Plan

The proposed amendment has been evaluated by staff for its consistency with the Comprehensive Plan:

“Policy A.1.2.2: The Flagler County Planning and Zoning Department shall maintain consistency between the Land Development Regulations (LDRs) and the Comprehensive Plan by the following means:

(1) Parcels being considered for amendment to the Future Land Use Map shall be concurrently evaluated for rezoning to the most appropriate zoning district.

(2) Parcels seeking site plan approval shall continue to be designed, developed and used for activities allowed by the appropriate zoning district.

(3) Property owners will be asked to conform to pending land use/zoning regulations as they request development approval.”

The owner is seeking a concurrent rezoning under Application #3098 to PUD, a consistent zoning designation for the Residential Low Density/Single Family Future Land Use designation.
“Policy A.1.4.1: During the review of requests for plan amendments, topography, vegetation, wildlife habitat, flood hazard, the 100-year flood plain, and soils for the areas to be amended will be analyzed and specific findings made as part of the plan amendment process.”

No site characteristics are present on this parcel that would impact the requested amendment.

“Policy A.6.1.1: Land use plan amendments shall be reviewed under the criteria established in the Coastal Management Element, Transportation Element, and other applicable standards contained in the adopted Flagler County Comprehensive Plan.”

This analysis satisfies this Policy’s requirements, provided that deficiencies in services are addressed.

“Policy A.7.3.6: All requests for amendments to the Future Land Use Map shall include an analysis of the level of service for public facilities, including an analysis of the potable water supply. Applications for land use map amendments shall be provided to the appropriate potable water supplier and the St. Johns River Water Management District (SJRWMD) for their review.”

This analysis satisfies this Policy’s requirements. Potable water requirements are satisfied through permitting by the County for this use. As noted, at this time there is not sufficient availability of potable water for development of subsequent phases within Eagle Lakes or elsewhere within the unincorporated County portion of the Old Kings Road corridor.

Analysis of Compatibility with the Land Development Code
The requested small scale amendment has been evaluated by staff for its compatibility with the Land Development Code:

“8.04.00.: Plan amendments. A report shall be prepared by county staff as required and forwarded as part of the major plan amendment process to the long range planning and land development review board, planning board and the board of county commissioners. The report shall indicate the anticipated impact of the administrative action on the levels of service adopted in this ordinance. This report is intended to be a general analysis and should identify corrective actions and any responsibility for the cost of those actions.”

This request is considered a major plan amendment. Staff has addressed the concurrency-related requirements of Florida Statutes, the Comprehensive Plan, and this section of the LDC through this staff report and the accompanying materials.
Ultimately, the plan amendment process provides a “forward look” at concurrency issues, with the LDC requiring concurrency to be met or programmed at the time of final plat approval or permit issuance, as applicable. For purposes of this application, limited analysis was provided by the applicant, with no proposals to address deficiencies.

XI. Quasi-judicial / Legislative Review: This agenda item is:
   ____ quasi-judicial, requiring disclosure of ex-parte communication; or
   ___ legislative, not requiring formal disclosure of ex-parte communication.

XII. Staff Recommendation: Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3097 a Future Land Use Map amendment from Agriculture and Timberlands to Residential Low Density/Single Family, finding that the request is consistent with the adopted Comprehensive Plan, subject to inclusion of a parcel-specific limiting policy.

XIII. Suggested Recommendation Language: The Planning and Development Board recommends approval to the Board of County Commissioners for Application #3097 a Future Land Use Map amendment from Agriculture and Timberlands to Residential Low Density/Single Family, finding that the request is consistent with the adopted Comprehensive Plan, subject to inclusion of a parcel-specific limiting policy.

   Note: If ultimately approved, the Future Land Use Map amendment shall not become effective until adoption by the County.

Attachments
1. FLUM Amendment Analysis
2. Application and supporting documents
3. Draft ordinance
4. Public notice
Future Land Use Map
Zoning Map
## FUTURE LAND USE AMENDMENT
### SUMMARY FOR APPLICATION #3097

<table>
<thead>
<tr>
<th>Existing FLUM Category</th>
<th>Proposed FLUM Category</th>
<th>Existing Maximum Density (DU/Acre)</th>
<th>Proposed Maximum Density (DU/Acre)</th>
<th>Existing Maximum Intensity (FAR)</th>
<th>Proposed Maximum Intensity (FAR)</th>
<th>Net Increase or (Decrease) in Maximum Density</th>
<th>Non-Residential Net Increase or (Decrease) in Potential Floor Area</th>
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<tbody>
<tr>
<td>Agriculture and Timberlands – 202.2 acres</td>
<td>Residential: Low Density/Single Family – 202.2 acres</td>
<td>1 DU/5 Acres</td>
<td>3 DU/Acre</td>
<td>N/A</td>
<td>N/A</td>
<td>+567 units</td>
<td>N/A</td>
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**Transportation Impacts:**

### Trip Generation Potential of Parcels Affected by FLUA #3097

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Land Use Designation</th>
<th>Maximum Allowed Intensity</th>
<th>ITE Land Use Code</th>
<th>Size of Development</th>
<th>Daily Trips</th>
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<tr>
<td>Existing</td>
<td>Agriculture and Timberlands</td>
<td>1 dwelling units per 5 acres</td>
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<td>202.2</td>
<td>40 units</td>
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<td>Proposed</td>
<td>Residential: Low Density/Single Family</td>
<td>3 dwelling units per acre</td>
<td>210</td>
<td>202.2</td>
<td>607 units</td>
</tr>
<tr>
<td>Change in Daily Trips</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Page 1
## FUTURE LAND USE AMENDMENT
### SUMMARY FOR APPLICATION #3097

### Potable Water:

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Land Use Designation</th>
<th>Maximum Allowed Intensity</th>
<th>Criterion</th>
<th>Size of Development</th>
<th>Daily Potable Water Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing</td>
<td>Agriculture and Timberlands</td>
<td>1 dwelling units per 5 acres</td>
<td>125 gals per capita per day</td>
<td>202.2</td>
<td>12,000 gallons</td>
</tr>
<tr>
<td>Proposed</td>
<td>Residential: Low Density/ Single Family</td>
<td>3 dwelling units per acre</td>
<td>125 gals per capita per day</td>
<td>202.2</td>
<td>182,100 gallons</td>
</tr>
<tr>
<td>Change in Potable Water Demand</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>+170,100 gallons</td>
</tr>
</tbody>
</table>

Note: Single-family demand based on 2.4 pph.

### Sanitary Sewer:

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Land Use Designation</th>
<th>Maximum Allowed Intensity</th>
<th>Criterion</th>
<th>Size of Development</th>
<th>Daily Sanitary Sewer Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing</td>
<td>Agriculture and Timberlands</td>
<td>1 dwelling units per 5 acres</td>
<td>110 gals per capita per day</td>
<td>202.2</td>
<td>10,560 gallons</td>
</tr>
<tr>
<td>Proposed</td>
<td>Residential: Low Density/ Single Family</td>
<td>3 dwelling units per acre</td>
<td>110 gals per capita per day</td>
<td>202.2</td>
<td>160,248 gallons</td>
</tr>
<tr>
<td>Change in Sanitary Sewer Demand</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>+149,688 gallons</td>
</tr>
</tbody>
</table>

Note: Single-family demand based on 2.4 pph.
## FUTURE LAND USE AMENDMENT
SUMMARY FOR APPLICATION #3097

### Solid Waste:

#### Solid Waste Impacts of Parcels Affected by FLUA #3097

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Land Use Designation</th>
<th>Maximum Allowed Intensity</th>
<th>Criterion</th>
<th>Size of Development</th>
<th>Daily Solid Waste Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing</td>
<td>Agriculture and Timberlands</td>
<td>1 dwelling units per 5 acres</td>
<td>9.3 pounds per capita per day</td>
<td>202.2</td>
<td>893 pounds</td>
</tr>
<tr>
<td>Proposed</td>
<td>Residential: Low Density/ Single Family</td>
<td>3 dwelling units per acre</td>
<td>9.3 pounds per capita per day</td>
<td>202.2</td>
<td>13,548 pounds</td>
</tr>
</tbody>
</table>

Change in Solid Waste Demand
+12,655 pounds

Note: Single-family demand based on 2.4 pph.

### Parks and Recreation:

#### Parks and Recreation Impacts of Parcels Affected by FLUA #3097

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Land Use Designation</th>
<th>Maximum Allowed Intensity</th>
<th>Criterion</th>
<th>Size of Development</th>
<th>Parks and Recreation Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing</td>
<td>Agriculture and Timberlands</td>
<td>1 dwelling units per 5 acres</td>
<td>Resident population</td>
<td>202.2</td>
<td>96 persons</td>
</tr>
<tr>
<td>Proposed</td>
<td>Residential: Low Density/ Single Family</td>
<td>3 dwelling units per acre</td>
<td>Resident population</td>
<td>202.2</td>
<td>1,457 persons</td>
</tr>
</tbody>
</table>

Change in Parks and Recreation Demand
+1,361 persons

Note: Parks and recreation LOS demand is based on aggregated population counts.
Educational Facilities:

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Land Use Designation</th>
<th>Maximum Allowed Intensity</th>
<th>Criterion</th>
<th>Size of Development</th>
<th>Educational Facilities Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing</td>
<td>Agriculture and Timberlands</td>
<td>1 dwelling units per 5 acres</td>
<td>FTE</td>
<td>202.2</td>
<td>40 units, 13 students</td>
</tr>
<tr>
<td>Proposed</td>
<td>Residential: Low Density/Single Family</td>
<td>3 dwelling units per acre</td>
<td>FTE</td>
<td>202.2</td>
<td>607 units, 202 students</td>
</tr>
</tbody>
</table>

Change in Educational Facilities Demand: +189 students

Note: Educational facilities LOS demand is based on FTE counts determined within Concurrency Service Areas (CSAs). This project is located within CSA Number 3. No deficiencies in service have been indicted through the most recent District Work Plan; however, Old Kings Elementary (within CSA No. 3) is the one school within the District closest to reaching capacity. County staff also recognizes the applicant’s reference to “active living community”, although a specific age-restriction has not been provided.
AN ORDINANCE OF FLAGLER COUNTY, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; PROVIDING FOR THE REDESIGNATION OF APPROXIMATELY 202.2+/- ACRES OF PROPERTY LYING ALONG OLD KINGS ROAD; PROVIDING FOR THE CHANGE OF 202.2+/- ACRES FROM AGRICULTURE & TIMBERLANDS TO RESIDENTIAL LOW DENSITY/SINGLE FAMILY; PROVIDING FOR FINDINGS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Venture 8, LLC, is the owner of Parcel #22-12-31-0000-01010-0011, 202.2 acres more or less in size; and

WHEREAS, on October 10, 2017, the Planning and Development Board conducted a public hearing on this amendment and voted to continue the public hearing – at staff’s request – to the November 14, 2017 regular meeting; and

WHEREAS, on November 14, 2017, the Planning and Development Board conducted a public hearing on this amendment and voted to recommend ________________ of the amendment; and

WHEREAS, on ________________ ____, 2017, the Flagler County Board of County Commissioners, sitting in their capacity as the Local Planning Agency, conducted a public hearing on this amendment and voted to transmit the amendment to the State Land Planning Agency and other Agencies as part of the Expedited State Review Process; and

WHEREAS, public notice of this action has been provided in accordance with Sections 125.66(2)(a) and 163.3184, Florida Statutes, and Section 2.07.00, Flagler County Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. FINDINGS

a. The Board of County Commissioners finds that the proposed Future Land Use Map amendment and Future Land Use Element policy text amendment are consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan.

b. This ordinance is adopted in compliance with and pursuant to the Community Planning Act, Sections 163.3161-163.3217, Florida Statutes.
Section 2.  FUTURE LAND USE MAP AMENDMENT

The real property containing approximately 202.2 acres, more or less, and legally described herein is hereby amended from Agriculture and Timberlands to Residential Low Density/Single Family, as graphically shown on Exhibit “A” attached hereto. The 2010-2035 Future Land Use Map of the adopted Comprehensive Plan shall be amended to reflect this amendment. The legal description of the subject property to be amended through this application is:

INSERT BOUNDARY LEGAL DESCRIPTION TO BE PROVIDED
BY APPLICANT CONSISTING OF 2005 PARCEL LEGAL EXCLUDING
COUNTY WELL SITE PARCEL

Section 3.  FUTURE LAND USE ELEMENT POLICY AMENDMENT

The Future Land Use Element is hereby amended by the addition of a new policy A.1.1.10(XX) that shall read as follows:

Policy A.1.1.10: Parcel Specific Limitations – Notwithstanding the maximum density and/or intensity permitted by this Future Land Use Plan, the following properties have proffered, and Flagler County agrees to implement a more limited yield:

(XX) FLUM Application #3097, Venture 8, LLC, limits residential development through an approved Planned Unit Development (PUD) to [insert limiting text here], being all of Tax Parcel #22-12-31-0000-01010-0011 and totaling 202.2 acres in size.

Section 4.  EFFECTIVE DATE

The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.
PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA THIS _______ DAY OF ________________,
2017.

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

_______________________________
Nate McLaughlin, Chairman

ATTEST:

_______________________________
Tom Bexley, Clerk of the
Circuit Court and Comptroller

APPROVED AS TO FORM:

_______________________________
Al Hadeed, County Attorney
**APPLICATION FOR**
**FUTURE LAND USE MAP AMENDMENT**
**TEN ACRES OR GREATER**

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

<table>
<thead>
<tr>
<th>PROPERTY OWNER(S)</th>
<th>Name(s):</th>
<th>Venture 8, LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>P.O. Drawer 2140</td>
<td></td>
</tr>
<tr>
<td>City: Daytona Beach</td>
<td>State: FL</td>
<td>Zip: 32115</td>
</tr>
<tr>
<td>Telephone Number</td>
<td>Fax Number</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPLICANT/AGENT</th>
<th>Name(s):</th>
<th>Michael D. Chiumento III, Esq.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>145 City Place, Suite 301</td>
<td></td>
</tr>
<tr>
<td>City: Palm Coast</td>
<td>State: FL</td>
<td>Zip: 32164</td>
</tr>
<tr>
<td>Telephone Number:</td>
<td>386-445-8900 ext 102</td>
<td>Fax Number: 386-445-6702</td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:Michael3@palmcoastlaw.com">Michael3@palmcoastlaw.com</a></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SITE LOCATION (street address):</th>
<th>South Old Kings Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEGAL DESCRIPTION:</td>
<td>See attached Exhibit &quot;A&quot;</td>
</tr>
<tr>
<td>Parcel # (tax ID #):</td>
<td>22-12-31-0000-01010-0011</td>
</tr>
<tr>
<td>Parcel Size:</td>
<td>202.2 Acres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FUTURE LAND USE DESIGNATION</th>
<th>Present Future Land Use Designation(s)</th>
<th>Provide acreage of each classification.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agricultural Timberland - 202.2 Acres</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FUTURE LAND USE DESIGNATION</th>
<th>Proposed Future Land Use Designation (s)</th>
<th>Provide acreage of each classification.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low Density/Single Family 202.2</td>
<td></td>
</tr>
</tbody>
</table>

A Traffic Impact Study (TIS) is required to be prepared by a transportation engineer to evaluate the impact of the proposed amendment on segments and intersections of the affected regional transportation network. The horizon year for the analysis shall be 2010. The study area will include all arterial and collector roadway segments and intersections within a two-mile radius of the external boundary of the FLUM parcel. Existing traffic counts shall be for the preceding calendar year and based upon FDOT, Flagler County or City of Palm Coast published data. If the traffic engineer conducts counts, they must be for a minimum of 72 consecutive hours during M-F and be adjusted to AADT using FDOT seasonal adjustment factors. Intersection turning counts shall be made during weekday peak hour. Trip generation of existing and proposed uses shall be based upon the applicable ITE land use code. Residential density is measured in maximum number of units per acre times the gross acreage. Non-residential FAR's are .3 comm. low, .4 comm. high and .5 industrial. The adopted LOS of the applicable comprehensive plan, County or City, shall be used and capacity determined by reference to FDOT Level of Service Manual for road segments and the Highway Capacity Manual for intersections.

Trip distribution to determine the directional flow of traffic associated with the proposed FLUM shall be based upon FSUTMS using the Flagler County model set. The annual growth rate for traffic shall be calculated by calculating the previous 10 year's traffic counts or by using the following: U.S. 1 - 4.7%, I-95 - 4.6%, S.R. 100 - 10%, all other segments - 5%. Committed improvements must be underway, subject of a binding development agreement or funding in a State, County or municipal capital budget. The TIS concludes with an analysis of 2010 conditions in the study area with and without the proposed FLUM and any recommendations to mitigate the impact of increased traffic on the operational efficiency of the regional transportation network.

Traffic Impact Study Prepared by: Lassiter Transportation Group

Name: R. Sans Lassiter

Address: 1450 W. Granada Blvd., #2

City/State/Zip: Ormond Beach, FL 32174


Rev 05/08
### RECREATION AND OPEN SPACE

<table>
<thead>
<tr>
<th>Facilities immediately serving site:</th>
<th>Golf course, open space, &amp; rec space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this site within a targeted Park Land?</td>
<td>YES ☐ NO ✓</td>
</tr>
</tbody>
</table>

### WATER

Method (check one) | Private wells ☐ Central ✓ Private treatment plant ☐

Attach completed SJRWMD Consumptive Use Worksheet and supporting information concerning growth projection or committee capacity.

If Central Water, provide name and address of facility:

Name: Flagler County
Address: 1769 E. Moody Blvd., Building 2
City/State/Zip Bunnell, FL 32110

### SEWER

Method (check one) | Onsite Sewage Treatment and Disposal System ☐ Central ✓ Private treatment plant ☐

Attach completed FDEP operating information for previous 12 months.

If Central Sewer, provide name and address of facility:

Name: Flagler County
Address: 1769 E. Moody Blvd., Building 2
City/State/Zip Bunnell, FL 32110
If proposed land use amendment is for other than residential land use

<table>
<thead>
<tr>
<th>Type</th>
<th>Square Footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td></td>
</tr>
<tr>
<td>Industrial</td>
<td></td>
</tr>
</tbody>
</table>

Detention/Retention facilities immediately serving the site
Private onsite stormwater

Available downstream facilities:
N/A

Is site situated within a known floodplain area? Identify FIRM panel.
YES ☐ NO ☑

Signature of All Property Owners: ____________________________ Date: 6/1/17

The foregoing was acknowledge before me this 1st day of June, 2017 by John Schubert, and personally known to me or who has produced ______________________ as identification, and who (did) (did not) take an oath.

Signature of Notary Public: ____________________________

**OFFICIAL USE ONLY**

PLANNING BOARD RECOMMENDATION/ACTION:

*APPROVED [ ]
*APPROVED WITH CONDITIONS [ ]
DENIED [ ]

Signature of Chairman: ____________________________ Date: ____________________________ *approved with conditions, see attached.

**OFFICIAL USE ONLY**

BOARD OF COUNTY COMMISSIONER/ACTION:

*APPROVED WITH CONDITIONS [ ]
DENIED [ ]

Signature of Chairman: ____________________________ Date: ____________________________ *approved with conditions, see attached.
**Required Attachments:**
Will need 33* sets of the following:

1. Location Map – Attachment “A”;
2. Legal Description – Attachment “B”;
3. Sealed Land survey showing the natural features of the land, the Ordinary high
water line. **Survey cannot be more than 2 years old.** Attachment “C”
4. Zoning Map Showing Current Zoning – Attachment “D”;
5. Present Future Land Use Designation Map – Attachment “E”;
6. Proposed Future Land Use Designation Map – Attachment “F”;
7. Population Analysis – Attachment “G”;
8. Transportation Study – Attachment “H”
9. Recreation and Open Space Analysis – Attachment “I”;
10. Water and Sewer Analysis – Attachment “J”;
11. Solid Waste Analysis – Attachment “K”;
12. Drainage Study – Attachment “L”.
13. FLUCCS code information including delineation of endangered and threatened
species and species of special concern habitat and observations – Attach. “M”;
14. Soil association - Attachment “O”.
15. Topographic map - Attachment “P”.
16. Aerials (false color) - Attachment “Q”.

*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 submittal
in PDF format is preferred.

Application fee of $1,220.00 plus $20.00 per acre or portion thereof up to a maximum of
$15,000 plus cost of newspaper ad(s) and postage at prevailing rate and $50 for each
notification of public hearing (posting of sign). Make check payable to BOCC.

Fee amount per Resolution 2008-31.

**NOTE:** OWNER/APPLICANT IS RESPONSIBLE FOR REQUIRED RESPONSE TO OBJECTIONS,
RECOMMENDATIONS AND COMMENTS FROM STATE REVIEWING AGENCY.

**NOTE:** Pursuant to Section 286.0105 of Florida Statutes, Flagler County hereby notifies all interested
persons that if a person decides to appeal any decision made by the Planning Board or Board of County
Commissioners with respect to any matter considered at such meetings or hearings, he or she will need a
record of the proceedings, and 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.


Rev 7/09
EXHIBIT A

THE FOLLOWING LEGAL DESCRIPTION WAS PREPARED BY TOMOKA ENGINEERING DAYTONA BEACH, FLORIDA, UNDER THE SUPERVISION OF PETER G. JOHNSON, FLORIDA SURVEYOR NO. 5913 ON APRIL 7, 2005 AND IS BASED ON A SKETCH BY TOMOKA ENGINEERING, PROJECT NO. T5026DELAN, DRAWING REFERENCE NO. 5026SL-PARCEL A.

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 22 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE N88°51'25" E ALONG THE NORTH LINE OF SAID SECTION 27 FOR A DISTANCE OF 883.13 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE S18°20'14"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF A DISTANCE OF 122.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND A POINT ON A NON-TANGENT CURVE BEING THE EASTERLY LINE OF A 200' PERPETUAL DRAINAGE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 549, PAGES 961-964; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE AND RUN ALONG THE EASTERLY LINE OF SAID DRAINAGE EASEMENT ALONG A CURVE TO THE LEFT HAVING AND ARC LENGTH OF 216.02 FEET, A RADIUS OF 499.93 FEET, A CENTRAL ANGLE OF 24°45'27", A CHORD BEARING OF N77°19'17"E, AND A CHORD DISTANCE OF 214.34 FEET; THENCE N64°56'34"E AND DEPARTING SAID EASTERLY EASEMENT LINE FOR A DISTANCE OF 2688.29 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100 FOOT RIGHT-OF-WAY); THENCE S26°39'38"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 1575.08 FEET TO A POINT OF CURVATURE; THENCE CONTINUING SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 271.36 FEET, A RADIUS OF 5679.65 FEET; A CENTRAL ANGLE OF 02°44'15", A CHORD BEARING OF S25°17'30"E AND A CHORD DISTANCE OF 271.34 FEET TO A POINT OF TANGENCY; THENCE S23°55'23"E FOR A DISTANCE OF 458.33 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 274.46 FEET, A RADIUS OF 5779.65 FEET, A CENTRAL ANGLE OF 02°43'15", A CHORD BEARING OF S25°17'00"E AND A CHORD DISTANCE OF 274.43 FEET TO A POINT OF TANGENCY; THENCE S26°38'38"E FOR A DISTANCE OF 547.09 FEET; THENCE S61°46'57"W AND DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD FOR A DISTANCE OF 3350.50 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95; THENCE N18°20'14"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 3547.11 FEET TO THE POINT OF BEGINNING OF THE DESCRIPTION.
Owner’s Authorization for Applicant/Agent

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

Application/Project #

Michael D. Chiumento III, is hereby authorized TO ACT ON BEHALF
OF Venture 8, LLC, the owner(s) of those lands described
within the attached application, and as described in the attached deed or other such
proof of ownership as may be required, in applying to Flagler County, Florida for an
application for Comp Plan Amendment Application & Rezoning Application.

(ALL PERSONS WHO’S NAMES APPEAR ON THE DEED MUST SIGN)

By: 

Signature of Owner

John Schnebly, Sr./Manager

Printed Name of Owner / Title (if owner is corporation or partnership)

Signature of Owner

Printed Name of Owner

Address of Owner: P.O. Drawer 2140

Mailing Address

Daytona Beach FL 32115

City State Zip

STATE OF

COUNTY OF Volusia

The foregoing was acknowledged before me this 7th day of June, 2012, by John Schnebly Sr. and
who is/are personally known to me or who has produced as identification, and who (did) / (did not) take an oath.

Signature of Notary Public


Revised 5/08
Location Map
Warranty Deed
PREPARED BY
AND RETURN TO:
ANDREA J. FOWLER, ESQ.
THE ROSENTHAL LAW FIRM, P.A.
4798 NEW BROAD STREET, SUITE 310
ORLANDO, FL 32814

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED (this "Deed") is made and executed the 29th day of November, 2012, by EAGLE FL VI SPE, LLC, a NORTH CAROLINA LIMITED LIABILITY COMPANY ("Grantor"), whose post office address is 2501 20th Place South, Birmingham, Alabama 35223, in favor of VENTURE 8, LLC, a FLORIDA LIMITED LIABILITY COMPANY ("Grantee"), whose post office address is 125 N. Ridgewood Avenue, Suite 100, Daytona Beach, Florida 32114.

WITNESSETH:

THAT Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, alienates, remises, releases, conveys and confirms unto Grantee, all that certain land located in Flagler County, Florida and more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property") having parcel identification numbers set forth on Exhibit "B" attached hereto and incorporated herein by this reference.

TOGETHER with all the easements, tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND Grantor hereby covenants with Grantee 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; that Grantor hereby warrants the title to the Property and will defend the same against the lawful claims of all persons claiming by or through Grantor, but against none other.
IN WITNESS WHEREOF, Grantor has signed and sealed these presents the day and year
first above written.

Witnesses:

EAGLE FL VI SPE, LLC, a North
Carolina limited liability company

By: Stanley E. Weir, Vice President

STATE OF ALABAMA
COUNTY OF JEFFERSON

The foregoing special warranty deed was acknowledged before me this ___ day of November,
2012, by Stanley E. Weir, as Vice President of EAGLE FL VI SPE, LLC, on behalf of the
company. He is personally known to me or has produced ______________________ as
identification.

[Signature of Notary Public]
Lisa Desimone
(Typed name of Notary Public)
Notary Public, State of Alabama
Commission No. & Expiration __________________
My Commission Expires 08/24/2016
EXHIBIT "A"

PARCEL A

PARCEL 1
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER SECTIONS 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE WEST LINE OF SECTION 26 A DISTANCE OF 660.09 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE BEAR S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 898.01 FEET; THENCE S13°51'53"W A DISTANCE OF 1236.81 FEET; THENCE PARALLEL WITH (AND 100 FEET OFFSET FROM) THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING FOUR (4) COURSES: (1) N34°48'25"W A DISTANCE OF 137.99 FEET; (2) N20°46'14"W A DISTANCE OF 335.30 FEET TO A POINT OF CURVATURE; (3) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF N19°33'14"W, AND CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (4) N18°20'14"W A DISTANCE OF 1812.02 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 3249.03 FEET TO THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE ALONG THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD (100' RIGHT-OF-WAY) THE FOLLOWING THREE (3) COURSES: (1) S26°38'38"E A DISTANCE OF 466.50 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA 02°34'15", A RADIUS OF 5779.65 FEET, A LENGTH OF 259.33 FEET, A CHORD BEARING OF S27°55'46"E, AND CHORD OF 259.31 FEET; (3) S29°12'54"E A DISTANCE OF 680.16 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF OLD KINGS ROAD BEAR S60°47'06"W A DISTANCE OF 1228.92 FEET; THENCE S29°12'54"E A DISTANCE OF 1083.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL 2
A PARCEL OF LAND BEING A PORTION OF THE 100' STRIP OF LAND RECORDED IN O.R. 929, PP. 1204-1207, EXHIBIT "A". PARCEL B, LYING IN GOVERNMENT SECTION 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER SECTIONS 34; TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE EAST LINE OF SECTION 27 A DISTANCE OF 660.08 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET; THENCE CONTINUE S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 898.01 FEET; THENCE S13°51'53"W A DISTANCE OF 1236.81 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE CONTINUE S13°51'53"W A DISTANCE OF 146.32 FEET TO THE EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG THE FIRST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING TWO (2) COURSES: (1) N21°11'20"W A DISTANCE OF 41.95 FEET (2) N34°48'25"W A DISTANCE OF 208.18 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 N06°06'43"W A DISTANCE OF 276.81 FEET; THENCE N20°46'14"W A DISTANCE OF 40.00 FEET; THENCE S89°13'46"W A DISTANCE OF 70.00 FEET TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING THREE (3) COURSES: (1) N20°46'14"W A DISTANCE OF 40.00 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34227.47 FEET, A LENGTH OF 1453.84 FEET, A CHORD BEARING OF N19°33'14"W, AND A CHORD OF 1453.53 FEET TO A POINT OF TANGENCY; (3) S18°20'14"W A DISTANCE OF 1794.60 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"W A DISTANCE OF 101.54 FEET TO A LINE RUNNING PARALLEL AND 100' TO THE EAST AS MEASURED AT RIGHT ANGLES TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG SAID LINE THE FOLLOWING FOUR (4) COURSES: (1) S18°20'14"E A DISTANCE OF 1812.19 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF S19°33'14"E, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (3) S20°48'14"E A DISTANCE OF 335.30 FEET; (4) S 34°48'25"E A DISTANCE OF 137.99 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL B

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING BEING THE NORTHWEST CORNER OF GOVERNMENT SECTION 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 35 SOUTH 01°50'44" WEST A DISTANCE OF 200.25 FEET; THENCE DEPARTING THE WESTERLY BOUNDARY LINE OF SAID SECTION 35 NORTH 88°59'36" EAST A DISTANCE OF 1282.78 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KING'S ROAD A (100' R/W) SAID POINT INTERSECTING A NON-TANGENT CURVE; THENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF OLD KING'S ROAD ALONG A CURVE TO THE RIGHT (CONCAVE WESTERLY) 255.26 FEET, WITH A RADIUS OF 2814.93 FEET, AND A CENTRAL ANGLE OF 05°11'43", HAVING A CHORD DISTANCE OF 255.17 FEET AND A CHORD BEARING OF SOUTH 15°53'00" EAST TO A POINT OF TANGENCY; THENCE SOUTH 13°17'15" EAST A DISTANCE OF 489.56 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT (CONCAVE EASTERLY) 126.93 FEET, WITH A RADIUS OF 5779.65 FEET AND A CENTRAL ANGLE OF 01°15'30", HAVING A CHORD DISTANCE OF 126.93 AND A CHORD BEARING OF SOUTH 13°54'53" EAST TO A POINT OF TANGENCY; THENCE SOUTH 14°32'45" EAST A DISTANCE OF 1204.30 FEET; THENCE SOUTH 14°22'51" EAST A DISTANCE OF 1638.44 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY OF OLD KINGS ROAD SOUTH 75°36'15" WEST, A DISTANCE OF 563.89 FEET; THENCE SOUTH 17°36'38" WEST A DISTANCE OF 188.29 FEET TO THE CENTER OF THE KORONA CANAL AS RECORDED IN O.R. BOOK 459, PAGE 127 AND O.R. BOOK 28, PAGE 94, THENCE
ALONG THE CENTER LINE OF SAID KORONA CANAL NORTH 73°59'57" WEST A DISTANCE OF 3286.50 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 95 (R/W VARIES) THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 20°47'05" WEST A DISTANCE OF 1535.59 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 13°52'27" EAST A DISTANCE OF 1383.13 FEET; THENCE NORTH 17°21'27" WEST A DISTANCE OF 898.01 FEET, THENCE NORTH 22°01'57" WEST A DISTANCE OF 178.20; THENCE ALONG THE SOUTHERLY PROPERTY LINE OF A PARCEL OF LAND OWNED BY RAYONIER, INC. NORTH 88°40'51" EAST A DISTANCE OF 2100.90 FEET TO A POINT ON THE EASTERLY LINE OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG SAID EASTERLY LINE OF SECTION 27 SOUTH 01°00'17" EAST A DISTANCE OF 660.00 FEET TO THE BEGINNING OF DESCRIPTION.

PARCEL C

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING A PERMANENT REFERENCE MONUMENT AT THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE NORTH 00°58'28" WEST, ALONG THE EAST LINE OF SECTION 27 AND THE WEST LINE OF SECTION 26, 660.09 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND:

THENCE SOUTH 88°40'04" WEST, 333.37 FEET; THENCE NORTH 29°12'32" WEST, 1083.00 FEET; THENCE NORTH 60°46'59" EAST, 1228.92 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100' FOOT WIDE RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 29°12'51" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 951.92 FEET TO A POINT OF CURVATURE; THENCE 82.47 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2814.93 FEET AND A CENTRAL ANGLE OF 1°40'43" A CHORD BEARING OF SOUTH 28°22'31" EAST AND A CHORD DISTANCE OF 82.46 FEET TO A POINT OF TANGENCY; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 374.34 FEET; THENCE SOUTH 22°32'00" EAST, 614.01 FEET; THENCE NORTH 88°58'58" EAST, 374.34 FEET TO SAID WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE SOUTH 20°37'28" EAST, 53.08 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 968.74 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:


ADDITIONAL LANDS:
THE FOLLOWING LEGAL DESCRIPTION WAS PREPARED BY TOMOKA ENGINEERING DAYTONA BEACH, FLORIDA, UNDER THE SUPERVISION OF PETER G. JOHNSON, FLORIDA SURVEYOR NO. 5913 ON APRIL 7, 2005 AND IS BASED ON A SKETCH BY TOMOKA ENGINEERING, PROJECT NO. T5026DELAN, DRAWING REFERENCE NO. 5026SL-PARCEL A.

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 22 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE N88°51'25" E ALONG THE NORTH LINE OF SAID SECTION 27 FOR A DISTANCE OF 883.13 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE S18°20'14"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF A DISTANCE OF 122.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND A POINT ON A NON-TANGENT CURVE BEING THE EASTERLY LINE OF A 200' PERPETUAL DRAINAGE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 549, PAGES 961-964; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE AND RUN ALONG THE EASTERLY LINE OF SAID DRAINAGE EASEMENT ALONG A CURVE TO THE LEFT HAVING AND ARC LENGTH OF 216.02 FEET, A RADIUS OF 499.93 FEET, A CENTRAL ANGLE OF 24°45'27", A CHORD BEARING OF N77°19'17"E, AND A CHORD DISTANCE OF 214.34 FEET; THENCE N64°56'34"E AND DEPARTING SAID EASTERLY EASEMENT LINE FOR A DISTANCE OF 2688.29 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100 FOOT RIGHT-OF-WAY); THENCE S26°39'38"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 1575.08 FEET TO A POINT OF CURVATURE; THENCE CONTINUING SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 271.36 FEET, A RADIUS OF 5679.65 FEET; A CENTRAL ANGLE OF 02°44'15", A CHORD BEARING OF S25°17'30"E AND A CHORD DISTANCE OF 271.34 FEET TO A POINT OF TANGENCY; THENCE S23°55'23"E FOR A DISTANCE OF 458.33 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 274.46 FEET, A RADIUS OF 5779.65 FEET, A CENTRAL ANGLE OF 02°43'15", A CHORD BEARING OF S25°17'00"E AND A CHORD DISTANCE OF 274.43 FEET TO A POINT OF TANGENCY; THENCE S26°38'38"E FOR A DISTANCE OF 547.09 FEET; THENCE S61°46'57"W AND DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD FOR A DISTANCE OF 3350.50 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95; THENCE N18°20'14"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 3547.11 FEET TO THE POINT OF BEGINNING OF THE DESCRIPTION.
EXHIBIT “B”

1. Parcel Identification Number 22-12-31-0000-01010-0011
2. Parcel Identification Number 26-12-31-0000-01010-0010
3. Parcel Identification Number 27-12-31-0000-01010-0000
4. Parcel Identification Number 27-12-31-0000-01010-0010
5. Parcel Identification Number 27-12-31-0000-01010-0030
6. Parcel Identification Number 27-12-31-0000-01020-0010
7. Parcel Identification Number 27-12-31-0000-01020-0020
8. Parcel Identification Number 27-12-31-0000-01020-0030
9. Parcel Identification Number 34-12-31-0650-000D0-0072
10. Parcel Identification Number 34-12-31-0650-000D0-0080
11. Parcel Identification Number 35-12-31-0000-02010-0040
12. Parcel Identification Number 35-12-31-2010-00000-0020
13. Parcel Identification Number 35-12-31-2010-00000-0030
14. Parcel Identification Number 35-12-31-2010-00000-0040
15. Parcel Identification Number 35-12-31-2010-00000-0050
16. Parcel Identification Number 35-12-31-2010-00000-0060
17. Parcel Identification Number 35-12-31-2010-00000-0070
18. Parcel Identification Number 35-12-31-2010-00000-0080
19. Parcel Identification Number 35-12-31-2010-00000-0090
20. Parcel Identification Number 35-12-31-2010-00000-0100
21. Parcel Identification Number 35-12-31-2010-00000-0110
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23. Parcel Identification Number 35-12-31-2010-00000-0130
24. Parcel Identification Number 35-12-31-2010-00000-0140
25. Parcel Identification Number 35-12-31-2010-00000-0150
26. Parcel Identification Number 35-12-31-2010-00000-0160
27. Parcel Identification Number 35-12-31-2010-00000-0180
28. Parcel Identification Number 35-12-31-2010-00000-0190
29. Parcel Identification Number 35-12-31-2010-00000-0210
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31. Parcel Identification Number 35-12-31-2010-00000-0230
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33. Parcel Identification Number 35-12-31-2010-00000-0270
34. Parcel Identification Number 35-12-31-2010-00000-0280
35. Parcel Identification Number 35-12-31-2010-00000-0290
36. Parcel Identification Number 35-12-31-2010-00000-0300
37. Parcel Identification Number 35-12-31-2010-00000-0310
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39. Parcel Identification Number 35-12-31-2010-00000-0330
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41. Parcel Identification Number 35-12-31-2010-00000-0350
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56. Parcel Identification Number 35-12-31-2010-00000-0530
57. Parcel Identification Number 35-12-31-2010-00000-0540
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75. Parcel Identification Number 35-12-31-2010-00000-0740
76. Parcel Identification Number 35-12-31-2010-00000-0750
77. Parcel Identification Number 35-12-31-2010-00000-0760
78. Parcel Identification Number 35-12-31-2010-00000-0770
79. Parcel Identification Number 35-12-31-2010-00000-0780
80. Parcel Identification Number 35-12-31-2010-00000-0790
81. Parcel Identification Number 35-12-31-2010-00000-0800
82. Parcel Identification Number 35-12-31-2010-00000-0810
83. Parcel Identification Number 35-12-31-2010-00000-0820
84. Parcel Identification Number 35-12-31-2010-00000-0830
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86. Parcel Identification Number 35-12-31-2010-00000-0850
87. Parcel Identification Number 35-12-31-2010-00000-0860
88. Parcel Identification Number 35-12-31-2010-00000-0870
89. Parcel Identification Number 35-12-31-2010-00000-0880
90. Parcel Identification Number 35-12-31-2010-00000-0890
91. Parcel Identification Number 35-12-31-2010-00000-0900
92. Parcel Identification Number 35-12-31-2010-00000-0920
93. Parcel Identification Number 35-12-31-2010-00000-0930
94. Parcel Identification Number 35-12-31-2010-00000-0940
95. Parcel Identification Number 35-12-31-2010-00000-0950
96. Parcel Identification Number 35-12-31-2010-00000-0960
97. Parcel Identification Number 35-12-31-2010-00000-0970
98. Parcel Identification Number 35-12-31-2010-00000-0980
99. Parcel Identification Number 35-12-31-2010-00000-1000
100. Parcel Identification Number 35-12-31-2010-00000-1010
101. Parcel Identification Number 35-12-31-2010-00000-1020
102. Parcel Identification Number 35-12-31-2010-00000-1040
103. Parcel Identification Number 35-12-31-2010-00000-1050
104. Parcel Identification Number 35-12-31-2010-00000-1080
August 28, 2017

Gina Lemon
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110

Re: Eagle Lakes – Comp Plan

Dear Ms. Lemon:

I have examined the title with respect to the property described in Exhibit A attached hereto and made part hereof. Based upon my examination of the title search, it is my legal opinion that as of August 11, 2017, that fee simple title to the property is vested in VENTURE 8, LLC, a Florida limited liability company, subject to the following matters:

1. Non-Exclusive Ingress and Egress Easement between Venture 8 LLC and Flagler County as recorded in O.R. Book 1993, Page 1027, Public Records of Flagler County, Florida.
2. Any interest Venture 8, LLC may have in the property pursuant to that certain Quit Claim Deed by Eagle FL VI SPE, LLC to Venture 8, LLC, recorded in O.R. Book 1921, Page 1399 and those certain Warranty Deeds between the same parties recorded in O.R. Book 1908, Page 123, O.R. Book 1919, Page 309, and O.R. Book 1921, Page 1388 and the Certificate of Title’s recorded in O.R. Book 1915, Page 205 and in O.R. Book 1808, Page 951, Public Records of Flagler County, Florida.
6. All of the terms and provisions set forth and contained in that certain Short Form Lease between Plantation Land & Cattel Co., Lessor and OPM-USA-Inc., Lessee recorded May 8, 1997 in O.R. Book 582, Page 501, as amended by First Amendment dated June 13, 2001 (unrecored) and Assignment of Lease recorded October 12, 2004 in O.R. Book 1154, Page 422, as further amended by Memorandum of Lease, by and between Hometown Communities Inc. and American
August 28, 2017
Page 2


7. All of the terms and provisions set forth and contained in that certain PCS Site Agreement between OPM-USA, Inc., Lessor and SprintCom, Inc., Lessee, a memorandum of which is recorded October 2, 1997 in O.R. Book 594, Page 686, and as affected by Memorandum of Lease, by and between Hometown Communities, Inc. and American Tower, L.P., recorded August 29, 2005 in O.R. Book 1309, Page 228, Public Records of Flagler County, Florida.


9. All of the terms and provisions set forth and contained in that certain Agreement between OPM-USA, Inc. now known as OPM-USA, a Division of American Tower Systems, L.P., Lessor and APT Tampa/Orlando, Inc., Lessee, a memorandum of which is recorded July 20, 1998 in O.R. Book 621, Page 1900, and as affected by Memorandum of Lease, by and between Hometown Communities, Inc. and American Tower, L.P., recorded August 29, 2005 in O.R. Book 1309, Page 228, Public Records of Flagler County, Florida.

10. All of the terms and provisions set forth and contained in that certain Sublease between OPM-USA, Inc. a Division of American Tower Systems, L.P., Lessor and BellSouth Mobility, Inc., Lessee, a memorandum of which is recorded December 16, 1998 in O.R. Book 637, Page 997, and as affected by Memorandum of Lease, by and between Hometown Communities, Inc. and American Tower, L.P., recorded August 29, 2005 in O.R. Book 1309, Page 228, Public Records of Flagler County, Florida.


18. Unrecorded Eagle Lakes Planned Unit Development Agreement attached to unrecorded Ordinance No. 2005-02, by the Flagler County Board of County Commissioners, and Amendment to the Eagle Lakes Planned Unit Development pursuant to the terms, conditions and provisions of Ordinance No. 2014-03 as set forth in instrument filed October 1, 2014 in Official Records Book 2027, page 235 of the public records of Flagler County, Florida.

19. Agreement Between Flagler County, Venture 8 LLC and the Eagle Lakes Homeowners Association, Inc. for Potable Water Interconnection for Emergency Fire Protection as filed


21. Taxes for the 2017 and subsequent years, which are not yet due and payable. Taxes for the year 2016 are paid under Parcel ID Numbers: 221231-0000-01010-0011.

Sincerely yours,

[Signature]

Michael D. Chiumento III
MC/kd
EXHIBIT A

THE FOLLOWING LEGAL DESCRIPTION WAS PREPARED BY TOMOKA ENGINEERING DAYTONA BEACH, FLORIDA, UNDER THE SUPERVISION OF PETER G. JOHNSON, FLORIDA SURVEYOR NO. 5913 ON APRIL 7, 2005 AND IS BASED ON A SKETCH BY TOMOKA ENGINEERING, PROJECT NO. T5026DELAN, DRAWING REFERENCE NO. 5026SL-PARCEL A.

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 22 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE N88°51'25" E ALONG THE NORTH LINE OF SAID SECTION 27 FOR A DISTANCE OF 883.13 FEET TO A POINT ON THE EASTERY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE S18°20'14"E ALONG SAID EASTERY RIGHT-OF-WAY LINE OF A DISTANCE OF 122.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND A POINT ON A NON-TANGENT CURVE BEING THE EASTERY LINE OF A 200' PERPETUAL DRAINAGE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 549, PAGES 961-964; THENCE DEPARTING SAID EASTERY RIGHT-OF-WAY LINE AND RUN ALONG THE EASTERY LINE OF SAID DRAINAGE EASEMENT ALONG A CURVE TO THE LEFT HAVING AND ARC LENGTH OF 216.02 FEET, A RADIUS OF 499.93 FEET, A CENTRAL ANGLE OF 24°45'27", A CHORD BEARING OF N77°19'17"E, AND A CHORD DISTANCE OF 214.34 FEET; THENCE N64°56'34"E AND DEPARTING SAID EASTERY EASEMENT LINE FOR A DISTANCE OF 2688.29 FEET TO A POINT ON THE WESTERY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100 FOOT RIGHT-OF-WAY); THENCE S26°39'38"E ALONG SAID WESTERY RIGHT-OF-WAY LINE FOR A DISTANCE OF 1575.08 FEET TO A POINT OF CURVATURE; THENCE CONTINUING SOUTHEASTERLY ALONG SAID WESTERY RIGHT-OF-WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 271.36 FEET, A RADIUS OF 5679.65 FEET; A CENTRAL ANGLE OF 02°44'15", A CHORD BEARING OF S25°17'30"E AND A CHORD DISTANCE OF 271.34 FEET TO A POINT OF TANGENCY; THENCE S23°55'23"E FOR A DISTANCE OF 458.33 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 274.46 FEET, A RADIUS OF 5779.65 FEET, A CENTRAL ANGLE OF 02°43'15", A CHORD BEARING OF S25°17'00"E AND A CHORD DISTANCE OF 274.43 FEET TO A POINT OF TANGENCY; THENCE S26°38'38"E FOR A DISTANCE OF 547.09 FEET; THENCE S61°46'57"W AND DEPARTING SAID WESTERY RIGHT-OF-WAY LINE OF OLD KINGS ROAD FOR A DISTANCE OF 3350.50 FEET TO A POINT ON THE AFOREMENTIONED EASTERY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95; THENCE N18°20'14"W ALONG SAID EASTERY RIGHT-OF-WAY LINE FOR A DISTANCE OF 3547.11 FEET TO THE POINT OF BEGINNING OF THE DESCRIPTION.
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: PLANNING DEPARTMENT

1. Amendment from Agriculture and Timberlands (1 unit per 5 acres) to Residential Low Density (1-3 units per acre) for 202.2 acres ("Additional Property") would create a net increase in density of 566 units (606 units at the maximum density in the RLD of 3 units per acre minus 40 units based on A&T), unless a parcel-specific limiting policy is proposed. The intent appears to be to limit the overall density on the 202 acres to 111 units (the 40 units presently allowed with the addition of 71 units as provided in the applicant's letter dated August 30, 2017. If this is the intent, a parcel-specific limiting policy should be included with the request, limiting the resulting density under the RLD Future Land Use to not more than 111 units and including in the analysis a comparison of the impact on services - traffic, water, sewer, solid waste, and schools - under the existing 40 units and the additional 71 units, showing the increase in services between the existing and the proposed.

2. Deficiencies in services should be identified, including proposals to remedy any deficiencies, with the ultimate determination of the availability of concurrency made at the time of final plat approval.

3. If the intent is to make the community age-restricted, then the school facilities impacts may be omitted from the analysis, with an agreement provided between the School District and the developer acknowledging that the project will be age-restricted and exempt from school concurrency.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

Please verify that the additional property is to the north of the Eagle Lakes Subdivision Phase I.

Adjacent Property Owners - There are lots in the Eagle Lakes Subdivision Phase I subdivision that are not included in the application and the owners names are not on the list. Clarify

Provide a Boundary Survey of the entire site.

Provide Owners affidavit of approval for parcels that are included in the application and are not owned by Venture 8, LLC.

Why aren't the HOA parcels included in this application. Clarify.

Additional comments may be forthcoming with further submittals.

REVIEWING DEPARTMENT: FIRE INSPECTOR

No Comments at this time

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.
## #3097 FLUM Amendment

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<td>FLAGLER BEACH POLO CLUB WEST HOA, INC</td>
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<td>VENTURE 8 LLC</td>
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<td>DAYTONA BEACH, FL 32115</td>
</tr>
</tbody>
</table>

I hereby affirm mailed notice to each owner on September 22, 2017 for the Planning & Development Board Meeting on October 10, 2017 at 6 pm

[Signature]

Wendy Hickey, Planner

Hasler
09/22/2017
US POSTAGE $00.00
ZIP 32110 011D11646866
THE NEWS-JOURNAL
Published Daily and Sunday
Daytona Beach, Volusia County, Florida

State of Florida,
County of Volusia

Before the undersigned authority personally appeared

Cynthia Anderson

who, on oath says that she is ........................................

LEGAL COORDINATOR
of The News-Journal, a daily and Sunday newspaper, published at Daytona Beach in Volusia County, Florida; the attached copy of advertisement, being a

PUBLIC NOTICE
L 2261732

in the Court, was published in said newspaper in the issues...........

SEPTEMBER 22, 2017

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper

Sworn to and subscribed before me

This 22ND of SEPTEMBER
A.D. 2017

__________________________
Deborah Lynn Keesee

NOTICE OF FUTURE LAND USE MAP AMENDMENT
APPLICATION #3097

Pursuant to Section [65.3184, Florida Statutes], the Flagler County Board of County Commissioners hereby gives notice of a proposal to transmit the following Ordinance affecting the area shown in the map below:

AN ORDINANCE OF FLAGLER COUNTY, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; PROVIDING FOR THE REDESIGNATION OF APPROXIMATELY 202.24± ACRES OF PROPERTY LYING ALONG OLD KCNS ROAD; PROVIDING FOR THE CHANGE OF 202.24± ACRES FROM AGRICULTURE & TIMBERLAND TO RESIDENTIAL LOW DENSITY SINGLE FAMILY; PROVIDING FOR FINDINGS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

Application #3097 / Owner: Venture 8, LLC / Applicant: Michael D. Chiumiento III, Esq.

A public hearing on the above-captioned matter will be held as follows:

PLANNING AND DEVELOPMENT BOARD — October 10, 2017 at 6:00 p.m. in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Bunnell, Florida, 32110.

A public hearing before the Board of County Commissioners will be held prior to transmittal of this amendment to Florida Department of Community Affairs and will be similarly advertised.

Information relating to this matter is available for inspection at the Planning and Zoning Department located at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, during the hours of 8:00 a.m. – 5:00 p.m. Monday through Friday.

All interested parties may attend any and all of the public hearings or may express their opinion in writing to:

Adam Mengel, Planning Director
1769 E. Moody Boulevard, Bldg. 2
Bunnell, FL 32110
(386) 313-4009
Email: amengel@flaglercounty.org

PURSUANT TO SECTION 286.0105 OF 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.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE MEETINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT (386) 313-4009 AT LEAST 48 HOURS PRIOR TO THE MEETING.
Google buys HTC team in $1.1B bid

By Ryan Nakashima and Michael Liedtke
The Associated Press

SAN FRANCISCO — Google is biting off a big piece of device manufacturer HTC for $1.1 billion to expand its efforts to build phones, speakers and other gadgets equipped with its arsenal of digital services.

It's buying the HTC engineering team that built the Pixel smartphone for Google in a cash deal, the companies said in a joint statement Thursday. Google is also getting a non-exclusive license for Taiwan-based HTC's intellectual property to help support Pixel phones.

The deal underscores how serious Google is becoming about designing its own family of devices to compete against Apple and Amazon in a high-stakes battle to become the technological hub of people's lives.

"We think this is a very important step for Google in our hardware efforts," Rick Osterloh, Google's senior vice president of hardware, said at a press conference in Taipei.

"We've been focusing on building our core capabilities. But with this agreement, we're taking a very large leap forward."

The deal, which needs regulatory approval, is expected to close by early 2018.

Over the past decade, Google had focused on giving away its Android operating system to an array of device makers, including HTC, to ensure people would keep using its ubiquitous search engine, email, maps...
TO: Chairman and Planning Board Members
FROM: Planning and Zoning Department
DATE: November 14, 2017
SUBJECT: Application #3098, REZONING FROM AC (AGRICULTURE) TO PUD (PLANNED UNIT DEVELOPMENT)

I. Requested Action & Purpose: This quasi-judicial request is for approval of a Rezoning from AC (Agriculture) to PUD (Planned Unit Development).

II. Related Application: Application #3097 – Future Land Use amendment from Agriculture and Timberlands to Residential Low Density/Single Family.

III. Location and Legal Description: West of Old Kings Road and East of Interstate 95, located midway between State Road 100 and Old Dixie Highway, within Section 22, Township 12 South, Range 31 East, Flagler County, Florida; Parcel #22-12-31-0000-01010-0011.

IV. Owner and Applicant/Agent:
Owner: Venture 8, LLC
Applicant: Michael D. Chiumento III, Esq.

V. Existing Zoning and Land Use Classification:
Zoning: AC (Agriculture) District
Land Use: Agriculture and Timberlands

VI. Future Land Use Map Classification/Zoning of Surrounding Land:
North: City of Palm Coast Mixed Use / City of Palm Coast AC District
East: Old Kings Road; Residential Low Density/Rural Estate, Commercial High Intensity, and Residential Medium Density / PUD (Planned Unit Development) District
South: Residential Low Density/Single Family and Conservation / PUD (Planned Unit Development) District
West: I-95; City of Palm Coast Residential / City of Palm Coast SFR-2

VII. Land Development Code Sections Affected: Land Development Code (LDC) Section 3.07.05, Rezoning
VIII. Report in Brief: On August 30, 2017, Venture 8, LLC, through their agent, Michael Chiumento III, submitted applications for a Future Land Use amendment (Application #3097) and rezoning (Application #3098) for the 202.2 acres located North of and abutting the limits of the Eagle Lakes Planned Unit Development (PUD) on Old Kings Road. The subject parcel is North of the Eagle Lakes Planned Unit Development (PUD), which was last amended through Ordinance No. 2014-03, recorded at Official Records Book 2027, Page 235, Public Records of Flagler County, Florida.

Based on the current submittal, the owner’s intent is to combine the 202.2 acres of the subject parcel with the existing 535 acres of Eagle Lakes. The original plat for Eagle Lakes Phase I, Section 1 consisted of 111 lots, with an additional 4 units potentially development within Tracts J and K, which were not initially platted as lots. As initially approved, Eagle Lakes was a sub-Development of Regional Impact (sub-DRI) project consisting of a maximum of 749 units. In addition to the 115 potential units in Phase I, Section 1, the remainder identified as Phase I, Section 2 and Phase II provided for a maximum of 578 single-family residential units, totaling 693 units, leaving 56 units excluded from the Phase I, Section 1 plat and the initial preliminary plats. As part of the 2014 negotiations, in addition to the 115 Phase I, Section 1 units and the 578 units previously identified within both Phase I, Section 2 and Phase II, an additional 32 units were set out as reserved that could be added by the developer without requiring a PUD amendment. The remainder – 24 additional single-family units – were terminated and no longer available for development, bringing the total potential development within Eagle Lakes to 725 units.

The intent is to incorporate the subject parcel into an overall amendment to the Eagle Lakes PUD, amending the provisions of the 2014 agreement by adding additional units within the new parcel. Ultimately, development of an age-restricted, modular home community appears to be the intended outcome. A subsequent action to incorporate the subject 202.2 acre parcel into the overall Eagle Lakes PUD will be required, under the context of the amendment to the 2014 agreement. This will follow the current Future Land Use and rezoning applications should these efforts ultimately be successful. In effect, this rezoning will assign the PUD designation, but will not provide any specificity through dimensional standards or development criteria, nor will this rezoning be accompanied by a PUD Site Development Plan.

Previous Public Hearings
February 7, 2005 – Board of County Commissioners approves Ordinance No. 2005-02, establishing the PUD zoning classification and development standards for Eagle Lakes.
April 18, 2005 – Board of County Commissioners approves Ordinance No. 2005-06, a Chapter 163, Florida Statutes, Development Agreement (this Agreement subsequently expired and is no longer in force).


July 23, 2014 – Board of County Commissioners approves Ordinance No. 2014-03 (recorded at Official Records Book 2027, Page 235, Public Records of Flagler County, Florida), amending the development standards for lots within Eagle Lakes Phase I, Section 1 owned or controlled by Venture 8, LLC as of the time of the adoption of the agreement, along with future development within Phase I, Section 2 and Phase II, both of which are owned by Venture 8 and have not yet been final platted.

October 10, 2017 – Planning and Development Board – at staff’s request – postpones review of the rezoning request, opening and continuing the public hearing to the November 14, 2017 regular meeting.

IX. Standards for Review: LDC Section 3.07.05 Rezoning - action by the Planning and Development Board and Board of County Commissioners. The Flagler County Planning and Development Board may recommend and the Flagler County Commission may enact an ordinance amending the zoning classification of the subject parcel. The adopted Flagler County Land Development Code lacks specific standards for review of a rezoning request; however, generally a request should be consistent with the adopted Comprehensive Plan and the following suggested standards:

A. For all rezoning requests, the requested zoning designation must be consistent with the Future Land Use designation of the parcel as depicted on the adopted Future Land Use Map and as described in the Future Land Use Element of the adopted Flagler County Comprehensive Plan.

The PUD (Planned Unit Development) zoning district is consistent with the proposed Residential Low Density/Single Family Future Land Use designation. The resulting density as proposed is a maximum of 3 units per acre. Deficiencies in public facilities and services are noted through the limited analysis which accompanies the application.

B. The requested zoning designation must be consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan.

The requested rezoning is consistent with the adopted Comprehensive Plan. The rezoning paired with the Future Land Use amendment increases the density of development of this parcel. The proposed Residential Low
Density/Single Family is compatible with the surrounding area. Consistency with the Goals, Objectives, and Policies must be demonstrated through the accompanying Future Land Use amendment application.

C. The requested zoning designation must be compatible with the adjacent and surrounding land uses. Land uses shall include, but not be limited to permitted uses, structures, and activities allowed within the Future Land Use category and zoning district. Compatibility shall be based on characteristics which can impact adjacent or surrounding uses including type of use, height, appearance, aesthetics, odors, noise, smoke, dust, vibration, traffic, sanitation, drainage, fire risk, environmental impacts, maintenance of public infrastructure, availability of potable water and sanitary sewer, and other necessary public services.

The PUD rezoning of this parcel is consistent with the past actions for the bulk of the Eagle Lakes development, which is owned by the applicant. As best can be determined, ultimate use of this parcel will be for single-family residential development, likely as a modular home community. As provided in the staff report for the Future Land Use amendment (Application #3097), deficiencies in public facilities and services are anticipated to occur unless and until a strategy to address any shortfall is provided to the County. The ultimate PUD amendment can address these shortcomings; however, the Future Land Use amendment must demonstrate on its own that these shortcomings are not so egregious so as to preclude the requested change. Likewise, this PUD rezoning sets the stage for future successive steps that will lead to more specificity.

D. The requested zoning will not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide available public facilities, including transportation, water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar public facilities.

This rezoning will be a placeholder lacking specificity, awaiting the overall PUD amendment for Eagle Lakes. As presented and absent limitations and/or strategies to mitigate deficiencies in public facilities, the PUD zoning offers the best opportunity for the County to advance the project through the rezoning process, without specifically conveying a future entitlement.

E. The requested zoning shall not be approved if any of the proposed permitted uses or activities result in a public nuisance.

At this point, the PUD zoning will not specify any proposed permitted uses or activities. The subsequent amendment to the 2014 agreement and the inclusion of this parcel within that amendment will add the residential density achieved through the Future Land Use amendment to the overall PUD and
provide the details related to the development of this parcel as part of the whole project.

F. The requested zoning shall not be approved if any of the proposed traffic flow of the permitted uses have an unreasonable impact on the contiguous and surrounding area; or if the proposed traffic has an unreasonable impact upon the projected wear and tear of any public roadway designed to carry lighter traffic than proposed with the rezoning; or if the proposed traffic results in an unreasonable danger to the safety of other traffic, pedestrians, and bicyclists.

Specific traffic impacts have not provided at this time since the traffic study was pending as of the drafting of this report. The PUD rezoning at this time advances the project, while lacking specificity for the next stage of the project. Unless and until this parcel is incorporated into the overall Eagle Lakes PUD through the amendment of the entire project, this rezoning will remain as a PUD in name only.

X. **Quasi-judicial / Legislative Review:** This agenda item is:

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

XI. **Staff Recommendation:** Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3098, rezoning from AC to PUD for 202.2+/- acres consisting of Parcel #22-12-31-0000-01010-0011, finding that the rezoning is consistent with the adopted Comprehensive Plan and the Land Development Code and that the County’s rezoning standards have been met, and conditioned that the rezoning will not become effective until the Future Land Use amendment considered under Application #3097 becomes effective.

XII. **Suggested Motion Language:** The Planning and Development Board finds that the rezoning is consistent with the adopted Comprehensive Plan and the Land Development Code and that the County’s rezoning standards have been met and recommends approval of Application #3098, rezoning from AC to PUD for 202.2+/- acres consisting of Parcel #22-12-31-0000-01010-0011, subject to the Future Land Use amendment considered under Application #3097 becoming effective.

**Attachments**
1. Public notice
2. Application and supporting materials
3. Draft ordinance
ORDINANCE NO. 2017 – ___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING THE ZONING CLASSIFICATION OF A TOTAL OF 202.2 ACRES, MORE OR LESS, LOCATED ON THE WEST SIDE OF OLD KINGS ROAD, PARCEL NUMBER 22-12-31-0000-01010-0011, FROM AC (AGRICULTURE) TO PUD (PLANNED UNIT DEVELOPMENT) DISTRICT; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Venture 8, LLC, are the owners of Parcel #22-12-31-0000-01010-0011, totaling 202.2 acres, more or less, in size; and

WHEREAS, Venture 8, LLC, is seeking the rezoning of the lands described herein; and

WHEREAS, on October 10, 2017, the Planning and Development Board conducted a public hearing on this rezoning and voted to continue the public hearing – at staff’s request – to the November 14, 2017 regular meeting; and

WHEREAS, on November 14, 2017, the Planning and Development Board conducted a public hearing on this rezoning and voted to recommend approval; and

WHEREAS, on __________________, 2017, the Flagler County Board of County Commissioners conducted a public hearing on this rezoning request and voted to adopt the rezoning; and

WHEREAS, public notice of this action has been provided in accordance with Section 125.66, Florida Statutes, and Section 2.07.00, Flagler County Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS:

SECTION 1. FINDINGS
A. The Board of County Commissioners finds that the proposed rezoning is consistent with the Flagler County Comprehensive Plan and in particular the Future Land Use Element.

B. The recitals provided above are incorporated herein.
SECTION 2. ZONING MAP AMENDMENT
The real property containing 202.2+/- acres legally described herein is hereby rezoned to the PUD (Planned Unit Development) District. The Official Zoning Map of Flagler County shall be amended to reflect this amendment. The legal description of the subject property is:

INSERT BOUNDARY LEGAL DESCRIPTION TO BE PROVIDED
BY APPLICANT CONSISTING OF 2005 PARCEL LEGAL EXCLUDING
COUNTY WELL SITE PARCEL

SECTION 3. EFFECTIVE DATE
This Ordinance shall take effect upon the effective date of the related Future Land Use amendment adopted through Ordinance No. 2017-_____.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS ___ DAY OF __________________, 2017.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
By: __________________________
    Nate McLaughlin, Chairman

ATTEST:

Approved as to Form:

By: __________________________
    Tom Bexley, Clerk of the Circuit Court and Comptroller

By: __________________________
    Albert J. Hadeed, County Attorney
APPLICATION FOR REZONING TO A PLANNED UNIT DEVELOPMENT

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

Application/Project #: 3098/2017080008

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<th>Name(s): Venture 8, LLC, a Florida limited liability company</th>
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<tr>
<td>Mailing Address:</td>
<td>P.O. Drawer 2140</td>
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<tr>
<td>City: Daytona Beach</td>
<td>State: FL Zip: 32115</td>
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<tr>
<th>APPLICANT / AGENT</th>
<th>Name(s): Michael D. Chiumento III, Esq.</th>
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<tbody>
<tr>
<td>Mailing Address:</td>
<td>145 City Place, Suite 301</td>
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<tr>
<td>City: Palm Coast</td>
<td>State: FL Zip: 32164</td>
</tr>
<tr>
<td>Telephone Number</td>
<td>386-445-8900 Fax Number 386-445-6702</td>
</tr>
<tr>
<td>Email Address</td>
<td><a href="mailto:Michael3@palmcoastlaw.com">Michael3@palmcoastlaw.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SITE LOCATION (street address):</th>
<th>South Old Kings Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEGAL DESCRIPTION:</td>
<td>See attached Exhibit &quot;A&quot;</td>
</tr>
<tr>
<td>Parcel # (tax ID #):</td>
<td>See attached Exhibit &quot;A&quot;</td>
</tr>
<tr>
<td>Parcel Size:</td>
<td>594 Acres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ZONING PROPERTY</th>
<th>PRESENT Zoning Classification: PUD &amp; Agriculture</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Present Future Land Use Designation: Residential Low Density &amp; Agriculture/Timberlands</td>
</tr>
<tr>
<td></td>
<td>PROPOSED ZONING CLASSIFICATION: PUD</td>
</tr>
</tbody>
</table>

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

"OFFICIAL USE ONLY"

PLANNING BOARD RECOMMENDATION/ACTION:

*APPROVED WITH CONDITIONS [ ]

APPROVED [ ]

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.

Rev. 0306

Page 1 of 4
REQUIRED ATTACHMENTS:
1. Copy of Owner’s recorded Warranty Deed;
2. Owner’s Affidavit, if applicable;
3. Boundary survey of area to be classified as PUD;
4. All items specified at Section 3.04.02, Flagler County Land Development Code;
5. Application fee in the amount of $720.00 + $25.00/acre.  
   Fee amount per Resolution 2008-31.  
   Fee is subject to cost of newspaper ad(s) and postage at prevailing rates, and $50 for each notification of public hearings (posting of signs).
6. 33* Sets of plans meeting all requirements of the 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 submittal in PDF format.

Pursuant to Section 286.0105 of Florida Statutes, Flagler County hereby notifies all interested persons that if a person decides to appeal any decision made by the Planning Board or Board of County Commissioners with respect to any matter considered at such meetings or hearings, he or she will need a record of the proceedings, and 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.

NOTE: Pursuant to Section 286.0105 of Florida Statutes, the Flagler County Planning Board hereby notifies all interested persons that if a person decides to appeal any decision made by the Planning Board with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and 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.
3.04.02. Reclassification procedure.

A. Application for reclassification to a PUD. A PUD shall be initiated by a land use amendment reclassifying the subject areas as a planned unit development, pursuant to the provisions of subsections 3.05.05A and 3.05.05B of this article. The application for reclassification to a PUD shall require the following:

1. Boundary survey of the area to be classified as a PUD;
2. The name and address of the owner(s) and, if applicable, evidence of the assignment of an agent who represents the owner(s);
3. Evidence of unified control of the entire area within the PUD with all owners within the area of same identified;
4. An agreement by all owners within the PUD which includes their commitment to:
   (a) Proceed with the proposed development in accordance with the adopted PUD ordinance as advertised and approved by the Flagler County Commission; and,
   (b) Provide a written statement of a proposal for completion of such development according to plans approved by such ordinance, and for continuing operating and maintenance of such areas, functions, and facilities as are not to be provided, operated, or maintained by Flagler County pursuant to written agreement; and,
   (c) Bind their successors to title to any commitments made in their application.

B. Materials to accompany petition. An application for reclassification to or development of a PUD shall be accompanied by the following in sufficient copies as deemed necessary by the Flagler County Commission for referrals and recommendations:

1. A written description of the intended plan of development, clearly indicating where approval of the PUD will benefit the future occupants of the proposed development and Flagler County in general.
2. A sketch plan at an appropriate scale supporting the above statement illustrating:
   (a) The conceptual location of all uses; and,
   (b) The number and type of residential units proposed and their general site distribution; and,
   (c) Vehicular and pedestrian circulation diagram; and,
   (d) A plan for open space and recreational uses, with estimates of approximate acreage to be dedicated and that to be retained in common or private ownership; and,
   (e) A topographic map at an appropriate scale showing existing contour lines, including all existing buildings, wooded areas, and unique natural features.
3. General statement indicating how the maintenance and ownership of common facilities will be handled.

4. Conceptual development phasing including:

   (a) Areas to be developed; and,

   (b) Streets, utilities and other improvements necessary to serve the proposed development; and,

   (c) The dedication of land to public use.

C. **Pre-application conference.** 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.

D. **Simultaneous DRI and PUD application review (optional).** In cases where a proposed PUD must also obtain approval as a Development of Regional Impact (DRI) under the provisions of Chapter 380.06 Florida Statutes, the developer may opt for simultaneous review by the Flagler County Commission. When the developer, with the concurrence of the land owner(s), requests simultaneous PUD and DRI review, the public hearing required for the DRI application shall also serve as the public hearing provided under subsection 3.05.05C of this article. The time limits set by Florida Statutes for the review of a DRI shall be applicable and those set by this article for the review of land use amendments shall be waived. The developer may submit copies of the completed DRI application for development approval, including maps and exhibits, in fulfillment of the PUD reclassification application requirements, where applicable. All requirements of subsection 3.04.02A and 3.04.02B, however, shall be met.

E. **Density of development.** The density of the PUD shall comply with the Flagler County Comprehensive Land Use Plan and these regulations.

F. **Action by the planning board and board of county commissioners.** Pursuant to the requirements of subsection 3.05.05, the Flagler County Planning Board may recommend and the Flagler County Commission may enact an ordinance establishing a PUD, including any special conditions related thereto, based upon findings that:

   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.

   3. If the board of county commissioners shall enact an ordinance creating a PUD district, the district shall be indicated on the official land use district map. All maps, plans, documents, agreements, stipulations, conditions, and safeguards constituting the development plan as finally approved shall be placed on file, within thirty (30) days of approval, in the office of the clerk of the circuit court and shall constitute the regulations for the specific PUD district that has been approved. All development within the boundaries of the PUD district as approved shall take place in accord with such regulations. Any unapproved deviation from
the PUD ordinance shall constitute a violation of the Flagler County Land Development Code.

4. Approval of a PUD application by the board of county commissioners shall be contingent upon acceptance by the applicant within thirty (30) days.

5. The county shall not be responsible for approving or enforcing any covenants and restrictions related in any PUD project.

G. Deviations from ordinance creating a PUD. In order to facilitate minor adjustments to the plans approved as part of the Ordinance creating a PUD, the Development Administrator may approve changes in such plans which comply with the following criteria:

1. There are the same or fewer number of dwelling units and/or floor area; or,

2. The open space is in the same general amount, or a greater amount; or,

3. The roads follow approximately the same course, have the same or greater width, have the same public or private rights therein.

H. Expiration of time limits provided in ordinance creating a PUD.

1. Development actions required by the ordinance creating a PUD shall be taken within one (1) year of the date of enactment, or, due to the project's size and complexity, other time limits set by the Flagler County Commission. If such time limits expire, the approval of the PUD shall become invalid and the area shall revert back to the previous land use classification. The applicant may request and the commission may grant extensions to the time limits.

2. The applicant must begin and substantially complete the development of the planned unit within two (2) years from the time of its final approval. If the planned unit is to be developed in stages, the applicant shall submit a development schedule for commencement and completion of each phase for approval by the county commission with his application for development approval.

3. The applicant must begin and complete the development of each phase according to the approved development schedule.

4. No time extension will be granted by the county commission if the project is considered not to be an ongoing PUD. An ongoing PUD is one in which substantial and good faith progress has been shown by conducting construction activities in a regular continuing and orderly manner designed to meet the approved development schedule dates.

5. Determination by the county commission that the PUD is not ongoing will be considered cause for revocation of the PUD approval for development.
APPENDIX A

ZONING AMENDMENT

A development order for a rezoning will require the following information for any project.

1. Present land use classification;
2. Proposed land use classification;
3. Proposed occupancy;
4. Names of abutting property owners;
5. Legal description of property;
6. Boundary survey and location of all existing streets and the distance from building of abutting property owners;
7. Owner of the property.

This information shall be submitted to the Development Administrator for review, as required by Section 3.07.05 of this Ordinance.
Owner’s Authorization
Owner's Authorization for Applicant/Agent

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

Application/Project # ____________________

Michael D. Chiumento III ____________________, is hereby authorized TO ACT ON BEHALF
OF ____________________, the owner(s) of those lands described
within the attached application, and as described in the attached deed or other such
proof of ownership as may be required, in applying to Flagler County, Florida for an
application for ________________________ .

(ALL PERSONS, WHO'S NAMES APPEAR ON THE DEED MUST SIGN)

By: ____________________________
Signature of Owner

John Schnebly, Sr./Manager
Printed Name of Owner / Title (if owner is corporation or partnership)

______________________________
Signature of Owner

______________________________
Printed Name of Owner

Address of Owner: __________________________

P.O. Drawer 2140
Mailing Address ________________________

Daytona Beach FL 32115
City State Zip

Telephone Number (incl. area code) 386-252-2000

STATE OF ____________________
COUNTY OF ____________________

The foregoing was acknowledged before me this 1st day of June, 2017, by ____________________, and
who is/are personally known to me or who has produced
as identification, and who (did) / (did not) take an oath.

______________________________
Signature of Notary Public

(Certified Copy)

Revised 5/08
Location on Map
Present Land Use Classification
Names of Abutting Property Owners
VENTURE 8 LLC  
PO DRAWER 2140  
DAYTONA BEACH, FL 32115

DANCE NANCY H TRUSTEE  
3800 S OLD KINGS RD  
FLAGLER BEACH, FL 32136

ARRIGONI JOHN W  
3481 OLD KINGS RD S  
FLAGLER BEACH, FL 32136

FEDUN WILLIAM M  
3650 OLD KINGS RD S  
FLAGLER BEACH, FL 32136

DANCE JOHN R & MARILYN T  
3780 OLD KINGS RD SOUTH  
FLAGLER BEACH, FL 32136

DANCE NANCY H  
LIFE ESTATE  
3800 S OLD KINGS RD  
FLAGLER BEACH, FL 32136

PLANTATION OAKS MHC-NM, LLC  
C/O NORTHWESTERN MUTUAL  
LIFE INSURANCE COMPANY 720 E WISCONSIN AVENUE  
MILWAUKEE, WI 53202

MHC BULOW PLANTATION LLC  
C/O B&D EQUITY PROPERTY TAX GR  
P.O. BOX 06115  
CHICAGO, IL 60606

MHC BULOW PLANTATION TWO LLC  
C/O B&D EQUITY PROPERTY TAX GR  
P.O. BOX 06115  
CHICAGO, IL 60606
<table>
<thead>
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<tr>
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</tr>
<tr>
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<td>DAYTONA BEACH, FL 32115</td>
</tr>
<tr>
<td>DANCE NANCY H TRUSTEE</td>
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<td>3800 OLD KINGS RD S</td>
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<td>FLAGLER BEACH, FL 32136</td>
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</tbody>
</table>
VENTURE 8 LLC
PO DRAWER 2140
TONA BEACH, FL 32115

COREY ELIAS R & ANDREA B H&W
TRUSTEES
PO BOX 354269
PALM COAST, FL 321354269

EAGLE LAKES HOMEOWNERS'
ASSOCIATION INC
C/O BB&T (PID 2056) 2501 20TH PLACE S
BIRMINGHAM, AL 35223

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FL
1769 E MOODY BLVD, BLDG 2
BUNNELL, FL 32110

VENTURE 8 LLC
PO DRAWER 2140
DAYTONA BEACH, FL 32115

DANCE NANCY H
3800 OLD KINGS RD S
FLAGLER BEACH, FL 32136

VENTURE 8 LLC
PO DRAWER 2140
DAYTONA BEACH, FL 32115

COLLINS JOHN & ANN RODGERS
COLLINS H&W
2249 OLD DIXIE HWY
ORMOND BEACH, FL 32174

VENTURE 8 LLC
PO DRAWER 2140
DAYTONA BEACH, FL 32115

DANCE NANCY H
3800 OLD KINGS RD S
FLAGLER BEACH, FL 32136
EXHIBIT A

PARCEL A

PARCEL 1
A PARCEL OF LAND LYING IN GOVERNMENT SECTION 26, 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER SECTIONS 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE WEST LINE OF SECTION 26 A DISTANCE OF 660.09 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE BEAR S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 898.01 FEET; THENCE S13°51'53"W A DISTANCE OF 1236.81 FEET; THENCE PARCEL WITH (AND 100 FEET OFFSET FROM) THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING FOUR (4) COURSES: (1) N34°48'25"W A DISTANCE OF 137.99 FEET; (2) N20°46'14"W A DISTANCE OF 335.30 FEET TO A POINT OF CURVATURE; (3) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF N19°33'14"W, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (4) N18°20'14"W A DISTANCE OF 1812.02 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 3249.03 FEET TO THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE ALONG THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD (100' RIGHT-OF-WAY) THE FOLLOWING THREE (3) THE FOLLOWING THREE (3) COURSES: (1) S26°38'38"E A DISTANCE OF 466.50 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTEASTERLY HAVING A DELTA 02°34'15", A RADIUS OF 5779.65 FEET, A LENGTH OF 259.33 FEET, A CHORD BEARING OF S27°55'46"E, AND CHORD OF 259.31 FEET; (3) S29°12'54"E A DISTANCE OF 680.16 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF OLD KINGS ROAD BEAR S60°47'06"W A DISTANCE OF 1228.92 FEET; THENCE S29°12'54"E A DISTANCE OF 1083.00 FEET TO THE POINT OF BEGINNING OF THIS DISCRIPTION.

PARCEL 2

A PARCEL OF LAND BEING A PORTION OF THE 100' STRIP OF LAND RECORDED IN O.R. 929, PP. 1204-1207. EXHIBIT "A", PARCEL B, LYING IN GOVERNMENT SECTION 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 34; TOWNSHIP 12 SOUTH, RANGE 31 EAST;
THENENCE BEAR N00°58'28"W ALONG THE EAST LINE OF SECTION 27 A DISTANCE OF 660.08 FEET; THENENCE S88°40'04"W A DISTANCE OF 33.37 FEET; THENENCE CONTINUE S88°40'04"W A DISTANCE OF 1756.16 FEET; THENENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENENCE S17°22'00"E A DISTANCE OF 896.01 FEET; THENENCE S13°51'53"W A DISTANCE OF 1236.81 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENENCE CONTINUE S13°51'53"W A DISTANCE OF 146.32 FEET TO THE EAST RIGHT-OF-WAY OF INTERSTATE 95; THENENCE ALONG THE FIRST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING TWO (2) COURSES: (1) N21°11'20"W A DISTANCE OF 41.95 FEET (2) N34°48'25"W A DISTANCE OF 208.18 FEET; THENENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 N06°06'43"W A DISTANCE OF 276.81 FEET; THENENCE N20°46'14"W A DISTANCE OF 40.00 FEET; THENENCE S89°13'46"W A DISTANCE OF 70.00 FEET TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING THREE (3) COURSES: (1) N20°46'14"W A DISTANCE OF 40.00 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34227.47 FEET, A LENGTH OF 1453.84 FEET, A CHORD BEARING OF N19°33'14"W, AND A CHORD OF 1453.53 FEET TO A POINT OF TANGENCY; (3) N18°20'14"W A DISTANCE OF 1794.60 FEET; THENENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 101.54 FEET TO A LINE RUNNING PARALLEL AND 100' TO THE EAST AS MEASURED AT RIGHT ANGLES TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENENCE ALONG SAID LINE THE FOLLOWING FOUR (4) COURSES: (1) S18°20'14"E A DISTANCE OF 1812.19 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF S19°33'14"E, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (3) S20°48'14"E A DISTANCE OF 335.30 FEET; (4) S 34°48'25"E A DISTANCE OF 137.99 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL B

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34, AND 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS follows:

POINT OF BEGINNING BEING THE NORTHWEST CORNER OF GOVERNMENT SECTION 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 35 SOUTH 01°50'44" WEST A DISTANCE OF 200.25 FEET; THENENCE DEPARTING THE WESTERLY BOUNDARY LINE OF SAID SECTION 35 NORTH 88°59'36" EAST A DISTANCE OF 1282.78 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD A (100' R/W) SAID POINT INTERSECTING A NON-TANGENT CURVE; THENENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD ALONG A CURVE TO THE RIGHT (CONCAVE WESTERLY) 255.26 FEET, WITH A RADIUS OF 2814.93 FEET, AND A CENTRAL ANGLE
OF 05°11'43"", HAVING A CHORD DISTANCE OF 255.17 FEET AND A CHORD BEARING OF SOUTH 15°53'00" EAST TO A POINT OF TANGENCY; THENCE SOUTH 13°17'15" EAST A DISTANCE OF 489.56 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT (CONCAVE EASTERLY) 126.93 FEET, WITH A RADIUS OF 5779.65 FEET AND A CENTRAL ANGLE OF 01°15'30"", HAVING A CHORD DISTANCE OF 126.93 AND A CHORD BEARING OF SOUTH 13°54'53" EAST TO A POINT OF TANGENCY; THENCE SOUTH 14°32'45" EAST A DISTANCE OF 1204.30 FEET; THENCE SOUTH 14°22'51" EAST A DISTANCE OF 1638.44 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY OF OLD KINGS ROAD SOUTH 75°36'15" WEST, A DISTANCE OF 563.89 FEET; THENCE SOUTH 17°36'38" WEST A DISTANCE OF 188.29 FEET TO THE CENTER OF THE KORONA CANAL AS RECORDED IN O.R. BOOK 459, PAGE 127 AND O.R. BOOK 28, PAGE 94, THENCE ALONG THE CENTER LINE OF SAID KORONA CANAL NORTH 73°59'57" WEST A DISTANCE OF 3286.50 FEET TO A POINT ON THE EASTERNLY RIGHT-OF-WAY LINE OF INTERSTATE 95 (R/W VARIES) THENCE NORTHWESTERLY ALONG SAID EASTERNLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 20°47'05" WEST A DISTANCE OF 1535.59 FEET; THENCE DEPARTING SAID EASTERNLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 13°52'27" EAST A DISTANCE OF 1383.13 FEET; THENCE NORTH 17°21'27" WEST A DISTANCE OF 898.01 FEET, THENCE NORTH 22°01'57" WEST A DISTANCE OF 178.20; THENCE ALONG THE SOUTHERLY PROPERTY LINE OF A PARCEL OF LAND OWNED BY RAYONIER, INC. NORTH 88°40'51" EAST A DISTANCE OF 2100.90 FEET TO A POINT ON THE EASTERNLY LINE OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG SAID EASTERNLY LINE OF SECTION 27 SOUTH 01°00'17" EAST A DISTANCE OF 660.00 FEET TO THE BEGINNING OF DESCRIPTION.

PARCEL C

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING A PERMANENT REFERENCE MONUMENT AT THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE NORTH 00°58'28" WEST, ALONG THE EAST LINE OF SECTION 27 AND THE WEST LINE OF SECTION 26, 660.09 FEET TO THE POINT OF BEGINNING OF THE HEREBIN DESCRIBED PARCEL OF LAND:

THENCE SOUTH 88°40'04" WEST, 33.37 FEET; THENCE NORTH 29°12'32" WEST, 1083.00 FEET; THENCE NORTH 60°46'59" EAST, 1228.92 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100' FOOT WIDE RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 29°12'51" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 951.92 FEET TO A POINT OF CURVATURE; THENCE 82.47 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2814.93 FEET AND A CENTRAL ANGLE OF 1°40'43" A CHORD BEARING OF SOUTH 28°22'31" EAST AND A CHORD DISTANCE OF 82.46 FEET TO A POINT OF TANGENCY; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 374.34 FEET; THENCE SOUTH
22°32'00" EAST, 614.01 FEET; THENCE NORTH 88°58'58" EAST, 374.34 FEET TO SAID WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE SOUTH 20°37'28" EAST, 53.08 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 968.74 FEET TO THE POINT OF BEGINNING.

AND

THE FOLLOWING LEGAL DESCRIPTION WAS PREPARED BY TOMOKA ENGINEERING DAYTONA BEACH, FLORIDA, UNDER THE SUPERVISION OF PETER G. JOHNSON, FLORIDA SURVEYOR NO. 5913 ON APRIL 7, 2005 AND IS BASED ON A SKETCH BY TOMOKA ENGINEERING, PROJECT NO. T5026DELAN, DRAWING REFERENCE NO. 5026SL-PARCEL A.

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 22 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE N88°51'25" E ALONG THE NORTH LINE OF SAID SECTION 27 FOR A DISTANCE OF 883.13 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE S18°20'14"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF A DISTANCE OF 122.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND A POINT ON A NON-TANGENT CURVE BEING THE EASTERLY LINE OF A 200' PERPETUAL DRAINAGE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 549, PAGES 961-964; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE AND RUN ALONG THE EASTERLY LINE OF SAID DRAINAGE EASEMENT ALONG A CURVE TO THE LEFT HAVING AND ARC LENGTH OF 216.02 FEET, A RADIUS OF 499.93 FEET, A CENTRAL ANGLE OF 24°45'27", A CHORD BEARING OF N77°19'17"E, AND A CHORD DISTANCE OF 214.34 FEET; THENCE N64°56'34"E AND DEPARTING SAID EASTERLY EASEMENT LINE FOR A DISTANCE OF 2688.29 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100 FOOT RIGHT-OF-WAY); THENCE S26°39'58"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 1575.08 FEET TO A POINT OF CURVATURE; THENCE CONTINUING SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 271.36 FEET, A RADIUS OF 5679.65 FEET; A CENTRAL ANGLE OF 02°44'15", A CHORD BEARING OF S25°17'30"E AND A CHORD DISTANCE OF 271.34 FEET TO A POINT OF TANGENCY; THENCE S23°55'23"E FOR A DISTANCE OF 458.33 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 274.46 FEET, A RADIUS OF 5779.65 FEET, A CENTRAL ANGLE OF 02°43'15", A CHORD BEARING OF S25°17'00"E AND A CHORD DISTANCE OF 274.43 FEET TO A POINT OF TANGENCY; THENCE S26°38'38"E FOR A DISTANCE OF 547.09 FEET; THENCE S61°46'57"W AND DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD FOR A DISTANCE OF 3350.50 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95; THENCE N18°20'14"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 3547.11 FEET TO THE POINT OF BEGINNING OF THE DESCRIPTION.
LESS AND EXCEPT:

COUNTY PARCEL DESCRIBED AS FOLLOWS:

ALL THOSE CERTAIN PIECE, PARCELS OR TRACTS OF LAND SITUATE, LYING AND BEING IN THE COUNTY OF FLAGLER AND STATE OF FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1:
A parcel of land lying within Government Section 27, Township 12 South, Range 31 East, Flagler County, Florida and being more particularly described as follows:

As a point of reference of reference, commence at the intersection of the northerly line of Section 27 with the westerly line of Old Kings Road (a 100 foot right-of-way); thence S 29° 39' 38" E along said westerly right-of-way line of Old Kings Road for a distance of 449.25 feet to a point of curvature; thence Southeasterly along a curve to the right having an arc length of 271.36 feet, a radius of 5,679.65 feet, a central angle of 02° 44' 15", a chord bearing of S 25° 17' 30" E and a chord distance of 271.34 feet to a point of tangency; thence S 23° 55' 23" E for a distance of 178.91 feet to the Point of Beginning of this description; thence continuing along said westerly right-of-way line S 23° 55' 23" E for a distance of 279.42 feet to a point of curvature; thence southeasterly along a curve to the left having an arc length of 274.46 feet, a radius of 5,779.65 feet, a central angle of 02° 43' 15", a chord bearing of S 25° 17' 00" E and a chord distance of 274.43 feet to a point of tangency; thence S 26° 38' 38" E for a distance of 547.09 feet; thence departing said westerly right-of-way line S 61° 46' 57" W for a distance of 750.00 feet; thence N 26° 38' 38" W for a distance of 705.14 feet; thence S 61° 46' 57" W for a distance of 230.32 feet; thence N 26° 38' 38" W for a distance of 394.86 feet; thence N 61° 46' 57" E for a distance of 1,000.11 feet to the Point of Beginning of this description.
SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED (this “Deed”) is made and executed the 29th day of November, 2012, by EAGLE FL VI SPE, LLC, a North Carolina limited liability company (“Grantor”), whose post office address is 2501 20th Place South, Birmingham, Alabama 35223, in favor of VENTURE 8, LLC, a Florida limited liability company (“Grantee”), whose post office address is 125 N. Ridgewood Avenue, Suite 100, Daytona Beach, Florida 32114.

WITNESSETH:

THAT Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto Grantee, all that certain land located in Flagler County, Florida and more particularly described on Exhibit “A” attached hereto and incorporated herein by this reference (the “Property”) having parcel identification numbers set forth on Exhibit “B” attached hereto and incorporated herein by this reference.

TOGETHER with all the easements, tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND Grantor hereby covenants with Grantee 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; that Grantor hereby warrants the title to the Property and will defend the same against the lawful claims of all persons claiming by or through Grantor, but against none other.
IN WITNESS WHEREOF, Grantor has signed and sealed these presents the day and year first above written.

Witnesses:

Print Name: [Signatures]

EAGLE FL VI SPE, LLC, a North Carolina limited liability company

By: [Signature]

Stanley E. Weir, Vice President

STATE OF ALABAMA
COUNTY OF JEFFERSON

The foregoing special warranty deed was acknowledged before me this __th day of November, 2012, by Stanley E. Weir, as Vice President of EAGLE FL VI SPE, LLC, on behalf of the company. He is personally known to me or has produced ______________________ as identification.

[Signature]
(Signature of Notary Public)

[Typed name]
(Typed name of Notary Public)
Notary Public, State of Alabama
Commission No. & Expiration

My Commission Expires 08/24/2016
EXHIBIT “A”

PARCEL A

PARCEL 1
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER SECTIONS 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE WEST LINE OF SECTION 26 A DISTANCE OF 660.09 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE BEAR S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 898.01 FEET; THENCE S13°51'53"W A DISTANCE OF 1236.81 FEET; THENCE PARALLEL WITH (AND 100 FEET OFFSET FROM) THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING FOUR (4) COURSES: (1) N34°48'25"W A DISTANCE OF 137.99 FEET; (2) N20°46'14"W A DISTANCE OF 335.30 FEET TO A POINT OF CURVATURE; (3) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF N19°33'14"W, AND CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (4) N18°20'14"W A DISTANCE OF 1812.02 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 3249.03 FEET TO THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE ALONG THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD (100' RIGHT-OF-WAY) THE FOLLOWING THREE (3) COURSES: (1) S26°38'38"E A DISTANCE OF 466.50 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA 02°34'15", A RADIUS OF 5779.65 FEET, A LENGTH OF 259.33 FEET, A CHORD BEARING OF S27°55'46"E, AND CHORD OF 259.31 FEET; (3) S29°12'54"E A DISTANCE OF 680.16 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF OLD KINGS ROAD BEAR S60°47'06"W A DISTANCE OF 1228.92 FEET; THENCE S29°12'54"E A DISTANCE OF 1083.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL 2
A PARCEL OF LAND BEING A PORTION OF THE 100' STRIP OF LAND RECORDED IN O.R. 929, PP. 1204-1207, EXHIBIT "A", PARCEL B, LYING IN GOVERNMENT SECTION 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 34; TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE EAST LINE OF SECTION 27 A DISTANCE OF 660.08 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET; THENCE CONTINUE S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 896.01 FEET; THENCE S13°51'53"W A DISTANCE OF 1236.81 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE CONTINUE S13°51'53"W A DISTANCE OF 146.32 FEET TO THE EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG THE FIRST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING TWO (2) COURSES: (1) N21°11'20"W A DISTANCE OF 41.95 FEET (2) N34°48'25"W A DISTANCE OF 208.18 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 N06°06'43"W A DISTANCE OF 276.81 FEET; THENCE N20°46'14"W A DISTANCE OF 40.00 FEET; THENCE S89°13'46"W A DISTANCE OF 70.00 FEET TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING THREE (3) COURSES: (1) N20°46'14"W A DISTANCE OF 40.00 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34227.47 FEET, A LENGTH OF 1453.84 FEET, A CHORD BEARING OF N19°33'14"W, AND A CHORD OF 1453.53 FEET TO A POINT OF TANGENCY; (3) N18°20'14"W A DISTANCE OF 1794.60 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 101.54 FEET TO A LINE RUNNING PARALLEL AND 100' TO THE EAST AS MEASURED AT RIGHT ANGLES TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG SAID LINE THE FOLLOWING FOUR (4) COURSES: (1) S18°20'14"E A DISTANCE OF 1812.19 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF S19°33'14"E, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (3) S20°48'14"E A DISTANCE OF 335.30 FEET; (4) S 34°48'25"E A DISTANCE OF 137.99 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL B

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING BEING THE NORTHWEST CORNER OF GOVERNMENT SECTION 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 35 SOUTH 01°50'44" WEST A DISTANCE OF 200.25 FEET; THENCE DEPARTING THE WESTERLY BOUNDARY LINE OF SAID SECTION 35 NORTH 88°59'36" EAST A DISTANCE OF 1282.78 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD A (100' R/W) SAID POINT INTERSECTING A NON-TANGENT CURVE; THENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD ALONG A CURVE TO THE RIGHT (CONCAVE WESTERLY) 255.26 FEET, WITH A RADIUS OF 2814.93 FEET, AND A CENTRAL ANGLE OF 05°11'43", HAVING A CHORD DISTANCE OF 255.17 FEET AND A CHORD BEARING OF SOUTH 15°53'00" EAST TO A POINT OF TANGENCY; THENCE SOUTH 13°17'15" EAST A DISTANCE OF 489.56 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT (CONCAVE EASTERLY) 126.93 FEET, WITH A RADIUS OF 5779.65 FEET AND A CENTRAL ANGLE OF 01°15'30", HAVING A CHORD DISTANCE OF 126.93 AND A CHORD BEARING OF SOUTH 13°54'53" EAST TO A POINT OF TANGENCY; THENCE SOUTH 14°32'45" EAST A DISTANCE OF 1204.30 FEET; THENCE SOUTH 14°22'51" EAST A DISTANCE OF 1638.44 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY OF OLD KINGS ROAD SOUTH 75°36'15" WEST, A DISTANCE OF 563.89 FEET; THENCE SOUTH 17°36'38" WEST A DISTANCE OF 188.29 FEET TO THE CENTER OF THE KORONA CANAL AS RECORDED IN O.R. BOOK 459, PAGE 127 AND O.R. BOOK 28, PAGE 94, THENCE
ALONG THE CENTER LINE OF SAID KORONA CANAL NORTH 73°59'57" WEST A DISTANCE OF 3286.50 FEET TO A POINT ON THE EASTERNLY RIGHT-OF-WAY LINE OF INTERSTATE 95 (R/W VARIES) THENCE NORTHWESTERLY ALONG SAID EASTERNLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 20°47'05" WEST A DISTANCE OF 1535.59 FEET; THENCE DEPARTING SAID EASTERNLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 13°52'27" EAST A DISTANCE OF 1383.13 FEET; THENCE NORTH 17°21'27" WEST A DISTANCE OF 898.01 FEET, THENCE NORTH 22°01'57" WEST A DISTANCE OF 178.20; THENCE ALONG THE SOUTHERLY PROPERTY LINE OF A PARCEL OF LAND OWNED BY RAYONIER, INC. NORTH 88°40'51" EAST A DISTANCE OF 2100.90 FEET TO A POINT ON THE EASTERNLY LINE OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG SAID EASTERNLY LINE OF SECTION 27 SOUTH 01°00'17" EAST A DISTANCE OF 660.00 FEET TO THE BEGINNING OF DESCRIPTION.

PARCEL C

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING A PERMANENT REFERENCE MONUMENT AT THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE NORTH 00°58'28" WEST, ALONG THE EAST LINE OF SECTION 27 AND THE WEST LINE OF SECTION 26, 660.09 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND:

THENCE SOUTH 88°40'04" WEST, 333.37 FEET; THENCE NORTH 29°12'32" WEST, 1083.00 FEET; THENCE NORTH 60°46'59" EAST, 1228.92 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100' FOOT WIDE RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 29°12'51" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 951.92 FEET TO A POINT OF CURVATURE; THENCE 82.47 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2814.93 FEET AND A CENTRAL ANGLE OF 1°40'43" A CHORD BEARING OF SOUTH 28°22'31" EAST AND A CHORD DISTANCE OF 82.46 FEET TO A POINT OF TANGENCY; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 374.34 FEET; THENCE SOUTH 22°32'00" EAST, 614.01 FEET; THENCE NORTH 88°58'58" EAST, 374.34 FEET TO SAID WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE SOUTH 20°37'28" EAST, 53.08 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 968.74 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:


ADDITIONAL LANDS:
THE FOLLOWING LEGAL DESCRIPTION WAS PREPARED BY TOMOKA ENGINEERING DAYTONA BEACH, FLORIDA, UNDER THE SUPERVISION OF PETER G. JOHNSON, FLORIDA SURVEYOR NO. 5913 ON APRIL 7, 2005 AND IS BASED ON A SKETCH BY TOMOKA ENGINEERING, PROJECT NO. T5026DELAN, DRAWING REFERENCE NO. 5026SL-PARCEL A.

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 22 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE N88°51'25" E ALONG THE NORTH LINE OF SAID SECTION 27 FOR A DISTANCE OF 883.13 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE S18°20'14" E ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF A DISTANCE OF 122.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND A POINT ON A NON-TANGENT CURVE BEING THE EASTERLY LINE OF A 200' PERPETUAL DRAINAGE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 549, PAGES 961-964; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE AND RUN ALONG THE EASTERLY LINE OF SAID DRAINAGE EASEMENT ALONG A CURVE TO THE LEFT HAVING AND ARC LENGTH OF 216.02 FEET, A RADIUS OF 499.93 FEET, A CENTRAL ANGLE OF 24°45'27", A CHORD BEARING OF N77°19'17" E, AND A CHORD DISTANCE OF 214.34 FEET; THENCE N64°56'34" E AND DEPARTING SAID EASTERLY EASEMENT LINE FOR A DISTANCE OF 2688.29 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100 FOOT RIGHT-OF-WAY); THENCE S26°39'38" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 1575.08 FEET TO A POINT OF CURVATURE; THENCE CONTINUING SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 271.36 FEET, A RADIUS OF 5679.65 FEET, A CENTRAL ANGLE OF 02°44'15", A CHORD BEARING OF S25°17'30" E AND A CHORD DISTANCE OF 271.34 FEET TO A POINT OF TANGENCY; THENCE S23°55'33" E FOR A DISTANCE OF 458.33 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 274.46 FEET, A RADIUS OF 5779.65 FEET, A CENTRAL ANGLE OF 02°43'15", A CHORD BEARING OF S25°17'00" E AND A CHORD DISTANCE OF 274.43 FEET TO A POINT OF TANGENCY; THENCE S26°38'38" E FOR A DISTANCE OF 547.09 FEET; THENCE S61°46'57" W AND DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD FOR A DISTANCE OF 3350.50 FEET TO A POINT ON THE FOREMENTIONED EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95; THENCE N18°20'14" W ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 3547.11 FEET TO THE POINT OF BEGINNING OF THE DESCRIPTION.
EXHIBIT "B"

1. Parcel Identification Number 22-12-31-0000-01010-0011
2. Parcel Identification Number 26-12-31-0000-01010-0010
3. Parcel Identification Number 27-12-31-0000-01010-0000
4. Parcel Identification Number 27-12-31-0000-01010-0010
5. Parcel Identification Number 27-12-31-0000-01010-0030
6. Parcel Identification Number 27-12-31-0000-01020-0010
7. Parcel Identification Number 27-12-31-0000-01020-0020
8. Parcel Identification Number 27-12-31-0000-01020-0030
9. Parcel Identification Number 34-12-31-0650-000D0-0072
10. Parcel Identification Number 34-12-31-0650-000D0-0080
11. Parcel Identification Number 35-12-31-0000-02010-0040
12. Parcel Identification Number 35-12-31-2010-00000-0020
13. Parcel Identification Number 35-12-31-2010-00000-0030
14. Parcel Identification Number 35-12-31-2010-00000-0040
15. Parcel Identification Number 35-12-31-2010-00000-0050
16. Parcel Identification Number 35-12-31-2010-00000-0060
17. Parcel Identification Number 35-12-31-2010-00000-0070
18. Parcel Identification Number 35-12-31-2010-00000-0080
19. Parcel Identification Number 35-12-31-2010-00000-0090
20. Parcel Identification Number 35-12-31-2010-00000-0100
21. Parcel Identification Number 35-12-31-2010-00000-0110
22. Parcel Identification Number 35-12-31-2010-00000-0120
23. Parcel Identification Number 35-12-31-2010-00000-0130
24. Parcel Identification Number 35-12-31-2010-00000-0140
25. Parcel Identification Number 35-12-31-2010-00000-0150
26. Parcel Identification Number 35-12-31-2010-00000-0160
27. Parcel Identification Number 35-12-31-2010-00000-0180
28. Parcel Identification Number 35-12-31-2010-00000-0190
29. Parcel Identification Number 35-12-31-2010-00000-0210
30. Parcel Identification Number 35-12-31-2010-00000-0220
31. Parcel Identification Number 35-12-31-2010-00000-0230
32. Parcel Identification Number 35-12-31-2010-00000-0260
33. Parcel Identification Number 35-12-31-2010-00000-0270
34. Parcel Identification Number 35-12-31-2010-00000-0280
35. Parcel Identification Number 35-12-31-2010-00000-0290
36. Parcel Identification Number 35-12-31-2010-00000-0300
37. Parcel Identification Number 35-12-31-2010-00000-0310
38. Parcel Identification Number 35-12-31-2010-00000-0320
39. Parcel Identification Number 35-12-31-2010-00000-0330
40. Parcel Identification Number 35-12-31-2010-00000-0340
41. Parcel Identification Number 35-12-31-2010-00000-0350
42. Parcel Identification Number 35-12-31-2010-00000-0360
43. Parcel Identification Number 35-12-31-2010-00000-0370
44. Parcel Identification Number 35-12-31-2010-00000-0380
45. Parcel Identification Number 35-12-31-2010-00000-0390
46. Parcel Identification Number 35-12-31-2010-00000-0400
47. Parcel Identification Number 35-12-31-2010-00000-0430
48. Parcel Identification Number 35-12-31-2010-00000-0440
49. Parcel Identification Number 35-12-31-2010-00000-0450
50. Parcel Identification Number 35-12-31-2010-00000-0460
51. Parcel Identification Number 35-12-31-2010-00000-0480
52. Parcel Identification Number 35-12-31-2010-00000-0490
53. Parcel Identification Number 35-12-31-2010-00000-0500
54. Parcel Identification Number 35-12-31-2010-00000-0510
55. Parcel Identification Number 35-12-31-2010-00000-0520
56. Parcel Identification Number 35-12-31-2010-00000-0530
57. Parcel Identification Number 35-12-31-2010-00000-0540
58. Parcel Identification Number 35-12-31-2010-00000-0550
59. Parcel Identification Number 35-12-31-2010-00000-0560
60. Parcel Identification Number 35-12-31-2010-00000-0570
61. Parcel Identification Number 35-12-31-2010-00000-0600
62. Parcel Identification Number 35-12-31-2010-00000-0610
63. Parcel Identification Number 35-12-31-2010-00000-0620
64. Parcel Identification Number 35-12-31-2010-00000-0630
65. Parcel Identification Number 35-12-31-2010-00000-0640
66. Parcel Identification Number 35-12-31-2010-00000-0650
67. Parcel Identification Number 35-12-31-2010-00000-0660
68. Parcel Identification Number 35-12-31-2010-00000-0670
69. Parcel Identification Number 35-12-31-2010-00000-0680
70. Parcel Identification Number 35-12-31-2010-00000-0690
71. Parcel Identification Number 35-12-31-2010-00000-0700
72. Parcel Identification Number 35-12-31-2010-00000-0710
73. Parcel Identification Number 35-12-31-2010-00000-0720
74. Parcel Identification Number 35-12-31-2010-00000-0730
75. Parcel Identification Number 35-12-31-2010-00000-0740
76. Parcel Identification Number 35-12-31-2010-00000-0750
77. Parcel Identification Number 35-12-31-2010-00000-0760
78. Parcel Identification Number 35-12-31-2010-00000-0770
79. Parcel Identification Number 35-12-31-2010-00000-0780
80. Parcel Identification Number 35-12-31-2010-00000-0790
81. Parcel Identification Number 35-12-31-2010-00000-0800
82. Parcel Identification Number 35-12-31-2010-00000-0810
83. Parcel Identification Number 35-12-31-2010-00000-0820
84. Parcel Identification Number 35-12-31-2010-00000-0830
85. Parcel Identification Number 35-12-31-2010-00000-0840
86. Parcel Identification Number 35-12-31-2010-00000-0850
87. Parcel Identification Number 35-12-31-2010-00000-0860
88. Parcel Identification Number 35-12-31-2010-00000-0870
89. Parcel Identification Number 35-12-31-2010-00000-0880
90. Parcel Identification Number 35-12-31-2010-00000-0890
91. Parcel Identification Number 35-12-31-2010-00000-0900
92. Parcel Identification Number 35-12-31-2010-00000-0920
93. Parcel Identification Number 35-12-31-2010-00000-0930
94. Parcel Identification Number 35-12-31-2010-00000-0940
95. Parcel Identification Number 35-12-31-2010-00000-0950
96. Parcel Identification Number 35-12-31-2010-00000-0960
97. Parcel Identification Number 35-12-31-2010-00000-0970
98. Parcel Identification Number 35-12-31-2010-00000-0980
99. Parcel Identification Number 35-12-31-2010-00000-1000
100. Parcel Identification Number 35-12-31-2010-00000-1010
101. Parcel Identification Number 35-12-31-2010-00000-1020
102. Parcel Identification Number 35-12-31-2010-00000-1040
103. Parcel Identification Number 35-12-31-2010-00000-1050
104. Parcel Identification Number 35-12-31-2010-00000-1080
Title Opinion
August 28, 2017

Gina Lemon
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110

Re: Eagle Lakes - Rezoning

Dear Ms. Lemon:

I have examined the title with respect to the property described in Exhibit A attached hereto and made part hereof. Based upon my examination of the title search, it is my legal opinion that as of August 11, 2017, that fee simple title to the property is vested in VENTURE 8, LLC, a Florida limited liability company, subject to the following matters:

1. Non-Exclusive Ingress and Egress Easement between Venture 8 LLC and Flagler County as recorded in O.R. Book 1993, Page 1027, Public Records of Flagler County, Florida.
2. Any interest Venture 8, LLC may have in the property pursuant to that certain Quit Claim Deed by Eagle FL VI SPE, LLC to Venture 8, LLC, recorded in O.R. Book 1921, Page 1399 and those certain Warranty Deeds between the same parties recorded in O.R. Book 1908, Page 123, O.R. Book 1919, Page 309, and O.R. Book 1921, Page 1388 and the Certificate of Title’s recorded in O.R. Book 1915, Page 205 and in O.R. Book 1808, Page 951, Public Records of Flagler County, Florida.
6. All of the terms and provisions set forth and contained in that certain Short Form Lease between Plantation Land & Cattel Co., Lessor and OPM-USA-Inc., Lessee recorded May 8, 1997 in O.R. Book 582, Page 501, as amended by First Amendment dated June 13, 2001 (unrecorded) and Assignment of Lease recorded October 12, 2004 in O.R. Book 1154, Page 422, as further amended by Memorandum of Lease, by and between Hometown Communities Inc. and American

“Your Legal Team for Life”
Since 1973
August 28, 2017
Page 2

7. All of the terms and provisions set forth and contained in that certain PCS Site Agreement between OPM-USA, Inc., Lessor and SprintCom, Inc., Lessee, a memorandum of which is recorded October 2, 1997 in O.R. Book 594, Page 686, and as affected by Memorandum of Lease, by and between Hometown Communities, Inc. and American Tower, L.P., recorded August 29, 2005 in O.R. Book 1309, Page 228, Public Records of Flagler County, Florida.
9. All of the terms and provisions set forth and contained in that certain Agreement between OPM-USA, Inc. now known as OPM-USA, a Division of American Tower Systems, L.P., Lessor and APT Tampa/Orlando, Inc., Lessee, a memorandum of which is recorded July 20, 1998 in O.R. Book 621, Page 1900, and as affected by Memorandum of Lease, by and between Hometown Communities, Inc. and American Tower, L.P., recorded August 29, 2005 in O.R. Book 1309, Page 228, Public Records of Flagler County, Florida.
10. All of the terms and provisions set forth and contained in that certain Sublease between OPM-USA, Inc. a Division of American Tower Systems, L.P., Lessor and BellSouth Mobility, Inc., Lessee, a memorandum of which is recorded December 16, 1998 in O.R. Book 637, Page 997, and as affected by Memorandum of Lease, by and between Hometown Communities, Inc. and American Tower, L.P., recorded August 29, 2005 in O.R. Book 1309, Page 228, Public Records of Flagler County, Florida.
18. Unrecorded Eagle Lakes Planned Unit Development Agreement attached to unrecorded Ordinance No. 2005-02, by the Flagler County Board of County Commissioners, and Amendment to the Eagle Lakes Planned Unit Development pursuant to the terms, conditions and provisions of Ordinance No. 2014-03 as set forth in instrument filed October 1, 2014 in Official Records Book 2027, page 235 of the public records of Flagler County, Florida.
19. Agreement Between Flagler County, Venture 8 LLC and the Eagle Lakes Homeowners Association, Inc. for Potable Water Interconnection for Emergency Fire Protection as filed


21. Taxes for the 2017 and subsequent years, which are not yet due and payable. Taxes for the year 2016 are paid under Parcel ID Numbers: 221231-0000-01010-0011; 261231-0000-01010-0010; 271231-0000-01010-0000; 271231-0000-01010-0030; 271231-0000-01020-0010; 271231-0000-01020-0020; 271231-0000-01020-0030; 341231-0650-000D0-0072; 341231-0650-000D0-0080 and 351231-0000-02010-0040.

Sincerely yours,

[Signature]

Michael D. Chiumento III
MC/kd
EXHIBIT A

PARCEL A

A PARCEL OF LAND LYING IN GOVERNMENT SECTION 26, 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER SECTIONS 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE WEST LINE OF SECTION 26 A DISTANCE OF 660.09 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE BEAR S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 898.01 FEET; THENCE S13°51'53"W A DISTANCE OF 1236.81 FEET; THENCE PARCEL WITH (AND 100 FEET OFFSET FROM) THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING FOUR (4) COURSES: (1) N34°48'25"W A DISTANCE OF 137.99 FEET; (2) N20°46'14"W A DISTANCE OF 335.30 FEET TO A POINT OF CURVATURE; (3) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF N19°33'14"W, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (4) N18°20'14"W A DISTANCE OF 1812.02 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 3249.03 FEET TO THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE ALONG THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD (100' RIGHT-OF-WAY) THE FOLLOWING THREE (3) THE FOLLOWING THREE (3) COURSES: (1) S26°38'38"E A DISTANCE OF 466.50 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA 02°34'15", A RADIUS OF 5779.65 FEET, A LENGTH OF 259.33 FEET, A CHORD BEARING OF S27°55'46"E, AND CHORD OF 259.31 FEET; (3) S29°12'54"E A DISTANCE OF 680.16 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF OLD KINGS ROAD BEAR S60°47'06"W A DISTANCE OF 1228.92 FEET; THENCE S29°12'54"E A DISTANCE OF 1083.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL 2

A PARCEL OF LAND BEING A PORTION OF THE 100' STRIP OF LAND RECORDED IN O.R. 929, PP. 1204-1207, EXHIBIT "A", PARCEL B, LYING IN GOVERNMENT SECTION 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 34; TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE EAST LINE OF SECTION 27 A DISTANCE OF 660.08 FEET; THENCE S88°40'04"W A DISTANCE OF 33.37 FEET; THENCE CONTINUE S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 896.01 FEET; THENCE S13°51'53"W A DISTANCE OF 1236.81 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE CONTINUE S13°51'53"W A DISTANCE OF 146.32 FEET TO THE EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG THE FIRST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING TWO (2) COURSES: (1) N21°11'20"W A DISTANCE OF 41.95 FEET (2) N34°48'25"W A DISTANCE OF 208.18 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 N06°06'43"W A DISTANCE OF 276.81 FEET; THENCE N20°46'14"W A DISTANCE OF 40.00 FEET; THENCE S89°13'46"W A DISTANCE OF 70.00 FEET TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING THREE (3) COURSES: (1) N20°46'14"W A DISTANCE OF 40.00 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34227.47 FEET, A LENGTH OF 1453.84 FEET, A CHORD BEARING OF N19°33'14"W, AND A CHORD OF 1453.53 FEET TO A POINT OF TANGENCY; (3) N18°20'14"W A DISTANCE OF 1794.60 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 101.54 FEET TO A LINE RUNNING PARALLEL AND 100' TO THE EAST AS MEASURED AT RIGHT ANGLES TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG SAID LINE THE FOLLOWING FOUR (4) COURSES: (1) S18°20'14"E A DISTANCE OF 1812.19 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF S19°33'14"E, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (3) S20°48'14"E A DISTANCE OF 335.30 FEET; (4) S34°48'25"E A DISTANCE OF 137.99 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL B

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34, AND 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING BEING THE NORTHWEST CORNER OF GOVERNMENT SECTION 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 35 SOUTH 01°50'44" WEST A DISTANCE OF 200.25 FEET; THENCE DEPARTING THE WESTERLY BOUNDARY LINE OF SAID SECTION 35 NORTH 88°59'36" EAST A DISTANCE OF 1282.78 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD A (100' R/W) SAID POINT INTERSECTING A NON-TANGENT CURVE; THENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD ALONG A CURVE TO THE RIGHT (CONCAVE WESTERLY) 255.26 FEET, WITH A RADIUS OF 2814.93 FEET, AND A CENTRAL ANGLE
OF 05°11'43"", HAVING A CHORD DISTANCE OF 255.17 FEET AND A CHORD BEARING OF SOUTH 15°53'00" EAST TO A POINT OF TANGENCY; THENCE SOUTH 13°17'15" EAST A DISTANCE OF 489.56 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT (CONCAVE EASTERLY) 126.93 FEET, WITH A RADIUS OF 5779.65 FEET AND A CENTRAL ANGLE OF 01°15'30", HAVING A CHORD DISTANCE OF 126.93 AND A CHORD BEARING OF SOUTH 13°54'53" EAST TO A POINT OF TANGENCY; THENCE SOUTH 14°32'45" EAST A DISTANCE OF 1204.30 FEET; THENCE SOUTH 14°22'51" EAST A DISTANCE OF 1638.44 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY OF OLD KINGS ROAD SOUTH 75°36'15" WEST, A DISTANCE OF 563.89 FEET; THENCE SOUTH 17°36'38" WEST A DISTANCE OF 188.29 FEET TO THE CENTER OF THE KORONA CANAL AS RECORDED IN O.R. BOOK 459, PAGE 127 AND O.R. BOOK 28; THENCE ALONG THE CENTER LINE OF SAID KORONA CANAL NORTH 73°59'57" WEST A DISTANCE OF 3286.50 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 95 (R/W VARIES) THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 20°47'05" WEST A DISTANCE OF 1535.59 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 13°52'27" EAST A DISTANCE OF 1383.13 FEET; THENCE NORTH 17°21'27" WEST A DISTANCE OF 898.01 FEET, THENCE NORTH 22°01'57" WEST A DISTANCE OF 178.20; THENCE ALONG THE SOUTHERLY PROPERTY LINE OF A PARCEL OF LAND OWNED BY RAYONIER, INC. NORTH 88°40'51" EAST A DISTANCE OF 2100.90 FEET TO A POINT ON THE EASTERLY LINE OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG SAID EASTERLY LINE OF SECTION 27 SOUTH 01°00'17" EAST A DISTANCE OF 660.00 FEET TO THE BEGINNING OF DESCRIPTION.

PARCEL C

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING A PERMANENT REFERENCE MONUMENT AT THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE NORTH 00°58'28" WEST, ALONG THE EAST LINE OF SECTION 27 AND THE WEST LINE OF SECTION 26, 660.09 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND:

THENCE SOUTH 88°40'04" WEST, 33.37 FEET; THENCE NORTH 29°12'32" WEST, 1083.00 FEET; THENCE NORTH 60°46'59" WEST, 1228.92 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100' FOOT WIDE RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 29°12'51" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 951.92 FEET TO A POINT OF CURVATURE; THENCE 82.47 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2814.93 FEET AND A CENTRAL ANGLE OF 1°40'43" A CHORD BEARING OF SOUTH 28°22'31" EAST AND A CHORD DISTANCE OF 82.46 FEET TO A POINT OF TANGENCY; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 374.34 FEET; THENCE SOUTH 22°32'00" EAST, 614.01 FEET; THENCE NORTH 88°58'58" EAST, 374.34 FEET TO SAID WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE SOUTH 20°37'28" EAST, 53.08
FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 968.74 FEET TO THE POINT OF BEGINNING.

AND

THE FOLLOWING LEGAL DESCRIPTION WAS PREPARED BY TOMOKA ENGINEERING DAYTONA BEACH, FLORIDA, UNDER THE SUPERVISION OF PETER G. JOHNSON, FLORIDA SURVEYOR NO. 5913 ON APRIL 7, 2005 AND IS BASED ON A SKETCH BY TOMOKA ENGINEERING, PROJECT NO. T5026DELAN, DRAWING REFERENCE NO. 5026SL-PARCEL A.

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 22 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE N88°51'25" E ALONG THE NORTH LINE OF SAID SECTION 27 FOR A DISTANCE OF 883.13 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE S18°20'14"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF A DISTANCE OF 122.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND A POINT ON A NON-TANGENT CURVE BEING THE EASTERLY LINE OF A 200' PERPETUAL DRAINAGE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 549, PAGES 961-964; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE AND RUN ALONG THE EASTERLY LINE OF SAID DRAINAGE EASEMENT ALONG A CURVE TO THE LEFT HAVING AND ARC LENGTH OF 216.02 FEET, A RADIUS OF 499.93 FEET, A CENTRAL ANGLE OF 24°45'27", A CHORD BEARING OF N77°19'17"E, AND A CHORD DISTANCE OF 214.34 FEET; THENCE N64°56'34"E AND DEPARTING SAID EASTERLY EASEMENT LINE FOR A DISTANCE OF 2688.29 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100 FOOT RIGHT-OF-WAY); THENCE S26°39'38"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 1575.08 FEET TO A POINT OF CURVATURE; THENCE CONTINUING SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 271.36 FEET, A RADIUS OF 5679.65 FEET; A CENTRAL ANGLE OF 02°44'15", A CHORD BEARING OF S25°17'30"E AND A CHORD DISTANCE OF 271.34 FEET TO A POINT OF TANGENCY; THENCE S23°55'23"E FOR A DISTANCE OF 458.33 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 274.46 FEET, A RADIUS OF 5779.65 FEET, A CENTRAL ANGLE OF 02°43'15", A CHORD BEARING OF S25°17'00"E AND A CHORD DISTANCE OF 274.43 FEET TO A POINT OF TANGENCY; THENCE S26°38'38"E FOR A DISTANCE OF 547.09 FEET; THENCE S61°46'57"W AND DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD FOR A DISTANCE OF 3350.50 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95; THENCE N18°20'14"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 3547.11 FEET TO THE POINT OF BEGINNING OF THE DESCRIPTION.
LESS AND EXCEPT:

COUNTY PARCEL DESCRIBED AS FOLLOWS:

ALL THOSE CERTAIN PIECE, PARCELS OR TRACTS OF LAND SITUATE, LYING AND BEING IN THE COUNTY OF FLAGLER AND STATE OF FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1:
A parcel of land lying within Government Section 27, Township 12 South, Range 31 East, Flagler County, Florida and being more particularly described as follows:

As a point of reference of reference, commence at the intersection of the northerly line of Section 27 with the westerly line of Old Kings Road (a 100 foot right-of-way); thence S 29° 39' 38" E along said westerly right-of-way line of Old Kings Road for a distance of 449.25 feet to a point of curvature; thence Southeasterly along a curve to the right having an arc length of 271.36 feet, a radius of 5,679.65 feet, a central angle of 02° 44' 15"; a chord bearing of S 25° 17' 30" E and a chord distance of 271.34 feet to a point of tangency; thence S 23° 55' 23" E for a distance of 178.91 feet to the Point of Beginning of this description; thence continuing along said westerly right-of-way line S 23° 55' 23" E for a distance of 279.42 feet to a point of curvature; thence southeasterly along a curve to the left having an arc length of 274.46 feet, a radius of 5,779.65 feet, a central angle of 02° 43' 15"; a chord bearing of S 25° 17' 00" E and a chord distance of 274.43 feet to a point of tangency; thence S 26° 38' 38" E for a distance of 547.09 feet; thence departing said westerly right-of-way line S 61° 46' 57" W for a distance of 750.00 feet; thence N 26° 38' 38" W for a distance of 705.14 feet; thence S 61° 46' 57" W for a distance of 230.32 feet; thence N 26° 38' 38" W for a distance of 394.86 feet; thence N 61° 46' 57" E for a distance of 1,000.11 feet to the Point of Beginning of this description.

O:\Venture 8, LLC (4942)\Eagle Lakes-2017 Development(170236)\Title Opinion Letter revised Rezoning.docx
Second Amended & Restated PUD Agreement for Eagle Lakes
SECOND AMENDED AND RESTATE
PLANNED UNIT DEVELOPMENT AGREEMENT
FOR EAGLE LAKES

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as the "Development Agreement") is made as of this ___ day of September, 2017, by and between Venture 8 LLC, (hereinafter referred to as “Owner”) and FLAGLER COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the "County") and, collectively, the Owner and County are hereinafter referred to as the “Parties”.

RECITALS

A. Pursuant to Flagler County Ordinance 2014-05 the County approved a Planned Unit Development for Eagle Lake (the “2014 PUD”) which permitted the development of 749 residential units in multiple phases on approximately 535 acres of land (the “Original Property”) locate in Flagler County.

B. Owner constructed certain improvements on a portion of the Original Property consistent with the 2014 PUD which included but are not limited to 111 residential lots, roadways, parks, and utilities depicted by the Eagle Lakes , Phase 1, Section 1 Plat recorded at Map Book 36, Page 10 of the official records of Flagler County (the “Phase 1 Development”).

C. Other than Phase 1 Development, the Owner did no develop any other improvements permitted by the 2014 PUD, leaving approximately 392.7 acres of vacant and undeveloped land still subject to the 2014 PUD (the “Remaining Property”).

D. The Owner also owns 202.2 acres of land (the “Additional Property”) adjacent to and south of Remaining Property and desires to amend the 2014 PUD by incorporating the
Additional Property and revising the Conceptual Site Plan without an effect on the Phase 1 Development.

E. The Owner desires to revise the Conceptual Site Plan by aggregating the Remaining Property and the Additional Property to create a 594.7 acre (the "Subject Property") master planned golf community subject to the terms and conditions of this Development Agreement (the "Phase 2 Development" or "Project") with the Subject Property described by Exhibit ____;

F. The Owner voluntarily agrees with the conditions, terms, and restrictions hereinafter recited, and has agreed voluntarily to their imposition as an incident to development of the Subject Property;

G. The Board of County Commissioners of Flagler County (the "BOCC") finds that this Development Agreement has been properly conditioned with the terms and restrictions to be consistent with the County’s Comprehensive Plan (2035) (the "Comprehensive Plan") and Land Development Code (the "LDC"), and that the conditions, terms, restrictions, and requirements set forth herein are necessary to ensure compliance with the Comprehensive Plan and LDC and the protection of the health, safety, and welfare of the citizens of the County;

H. This is a non-statutory Development Agreement which is not subject to or enacted pursuant to the provisions of Section 163.3220 – 163.3243, Florida Statutes;

I. The Applicant’s application for a Rezoning - Planned Unit Development is approved subject to the Development Agreement’s terms and conditions;

J. The Planning Board and County Staff recommended approval of this Ordinance and the Planning Board has found this requested change and the recommended conditions of approval consistent with the Comprehensive Plan;
K. The BOCC held duly noticed public hearings on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and the recommendation of the Planning Board which voted ___ to approve at the regularly scheduled meeting conducted on August __, 2017, and after complete deliberation, the BOCC hereby finds the requested change consistent with the Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder;

L. The BOCC hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Flagler County, Florida.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1) RECITALS: The foregoing recitals are true, a material part of this Development Agreement, and incorporated herein by this reference.

2) REPRESENTATIONS OF OWNER:

a. The Owner hereby represents and warrants to the County that the Owner is the owner of the Owner’s Property in accordance with the title opinion or title certification provided by the Owner to the County.

b. The Owner represents and warrants to the City that it has the power and authority to enter into and consummate the terms and conditions of this Development Agreement and that, upon the execution of this Development Agreement by the parties, this Development Agreement shall be valid and binding upon the parties hereto and their successors in interest.
c. The Owner hereby represents that all required joinders and consents have been obtained and set forth in a properly executed form on this Development Agreement.

3) **ZONING MAP AMENDMENT AND PUD AGREEMENT:** The Official Zoning Map of the County shall be amended to include a change of classification to PUD for the Subject Property. Specifically, the Remaining Property and the Additional Property described on Exhibit “A” and Exhibit “B”, which are attached and incorporated herein by this reference. County Staff is hereby directed to promptly amend the Official Zoning Map upon the effective date of this Ordinance. The Development Agreement and its exhibits attached hereto as Exhibit “A-____”, with all appropriate signatures and joinders, is hereby adopted and approved by the BOCC and shall constitute the regulations for the specific PUD District. The Development Agreement shall be recorded in the Official Records of Flagler County, Florida, by the Clerk of the Court.

4) **PROJECT DESCRIPTION:** This Development Agreement shall have no effect on the Phase 1 Development. The Project or Phase 2 Development shall be a 594.7 acres master planned golf community. The Project shall consist of up to 820 residences integrated with an eighteen (18) hole golf course, club house outdoor pools, outdoor whirlpool, exercise room, sundeck with terraces, tennis courts, pickleball courts, shuffleboard courts, fishing pier and H.O.A. planned activities. All amenities, roadways, paths, storm water lakes shall be privately owned and maintained. The Conceptual Site Plan, attached as Exhibit ____, depicts the conceptual layout of the Project and delineates the approximate property boundaries, streets, easements, property lines, general location of residences and intended uses. The Conceptual Site Plan contains a level of detail satisfactory to permit the Project to proceed directly to Final Site Plan approval with review and approval made by the County Administrator. Final Plat approval shall be made by the City Council after review and recommendation by the PLDRB. Modifications to the exact location and number of lots, roadways, primary sidewalk/pathway system, and other improvements may be
requested by the Owner and approved by the County Administrator during review of construction documents, site plans, or Preliminary Plat for the Project or portions thereof, as long as the development standards contained in this Development Agreement are maintained. Moreover, the County Administrator is authorized to approve those modifications to the Conceptual Site Plan as allowed by Code, and any construction documents, and Preliminary Plat for the Project or portions thereof provided that: (1) The number of residences are not exceeded, and (2) the approved plans maintain the development standards in this Development Agreement.

5) DEVELOPMENT STANDARDS: Development Standards for Phase 1 Development shall comply with the 2014 PUD which is incorporated by reference as it may apply only to Phase 1 Development and if any conflict between the 2014 PUD and this Development Agreement, this Development Agreement shall control. Notwithstanding the requirements of Phase 1 Development, Phase 2 Development shall comply with the following development standards:

a. Temporary Sales and Construction Trailers and Models. No more than 10 residences within the Project may be utilized for placement of temporary sales, construction trailers or models with such being subject to review and approval of the County Administrator, or his designee, and subject to any terms and conditions imposed in connection with the approval, if granted. If the temporary sales, constructions trailers and/or model are permitted prior to the Final Site Plan approval or Final Plat approval, the issuance of the certificates of occupancy shall be contingent on said final approval and the completion and approval of the subdivision infrastructure.

b. Common Areas. Common areas are located within the Project and shall include open space amenities and landscape areas.
c. **Cell Tower.** An existing cell tower is located within the Eagle Lake PUD is located in the Phase 1 Development and is a permitted use. The tower may be replaced, providing it remains in the location identified in the **PUD Master Plan.** The tower may not exceed a maximum height of 177 feet.

d. **Wetland Buffer.** A minimum 15’, average 25’ upland buffer shall be provided around all wetlands on the site, except where road crossings are necessary. The buffer areas shall be shown on the final plat(s) and shall be maintained in its natural state free of structures.

e. **Stormwater.** The necessary and required infrastructure to provide for storm water runoff shall be approved by the appropriate government entities. Storm water runoff shall be conveyed to on-site storm water retention systems by means of grassed swales and an underground drainage pipe system. The systems onsite may be interconnected with such systems on adjacent sites, subject to approval of the SJRWMD and the County.

f. **Roadways/Rights-of-Way.** Internal access shall be by private roadway which shall be privately owned and maintained. The Owner shall limit vehicular access to the Project from Old Kings Road through a maximum of two (2) entrance roads aligned to create four-way intersections as generally depicted on the Conceptual Site Plan. Each intersection may include turn lanes and tapers as may be required and consistent with County standards and shall align whenever reasonably possible with drive and entranceways on the east side of Old Kings Drive, as determined by the County. The entrance road(s) may be gated at the Owner’s discretion.

Internal Roadways: All rights of ways shall be (1) privately owned and maintained, (2) a min of twenty (20) feet in width, and (3) include a five (5) sidewalk on one side. External Roadway: The Owner shall construct a minimum 8’ wide public sidewalk/bike path along the frontage of Old Kings Road within the County’s right of way.
g. **Signage.** The Project may be identified by either one double faced or two single faced entrance signs to be located at each entrance to the Project. Such signs may be lighted (with lighting directed away from traffic), and shall be a maximum of eight feet (8’) tall, with a message area no greater than thirty-two (32) square feet in size. Directional, identity and information signs for recreation and other amenities may be provided throughout the Project, providing that none of these signs exceed six (6) square feet in size, including advertising and/or “for sale” signs. Signs shall be setback from adjacent roadways sufficient to protect public safety and view angles.

h. **Open space.** A minimum of 20% of the gross area of the Project shall remain as open space, which includes water, storm water ponds, preserved wetlands, and recreation (active and/or passive). All open space and common areas shall be privately owned and maintained.

i. **Landscape Berm.** A natural landscape berm shall be constructed along the Old Kings Road frontage; except where lakes are adjacent to Old Kings Road to provide view corridors to such lakes. This berm shall be a minimum of 6’ tall measured from the centerline of Old Kings road and shall be located within a 35’ wide landscape buffer (the “Landscape Buffer”) along the frontage to Old Kings Road.

j. **Lighting.** Decorative pole mounted lighting fixtures no more than 12’ high shall be provided throughout the Project. Additional landscape lighting may include low level lighting and occasional accent lighting. The locations of such fixtures shall be further described at the time of site plan approval.

k. **Parking and Driveways.** A minimum of 2 parking spaces per unit shall be provided within driveways with a minimum of 8’ x 20’ per space, on individual lots. Parking shall not be permitted within the paved street portion of internal rights-of-way. Driveways shall be setback a minimum of 5’ from any side yard boundary and 20’ from any street intersection with another street.
1. **Fire Protection.** Unless otherwise provided for herein, fire protection requirements for the Project will be met through a system of fire hydrants installed on the site by the Owner on a public water supply system approved by the County and in accordance with Governmental standards.

m. **Use and other requirements:** Except as provided herein, the Project shall be subject to those other requirements provided in Section 3.03.12 of LDC.

6.0 **PUBLIC FACILITIES.** The following public facilities will serve the Eagle Lake PUD, subject to the following terms and conditions:

a. **Transportation.** County and State roads and highways will service the Land. The Owner has met all the concurrency requirements of the Flagler County Land Development Code and Comprehensive Plan regarding the provision of roads. Therefore, the Owner is vested to proceed with all development provided for in this PUD without providing for any other traffic improvements (including off site improvements) except for those provided herein. In addition, the Owner shall pay the County two hundred thousand dollars ($200,000.00) as its contribution to and proportional fair share of the cost of a traffic signal and any associated intersection improvements at the intersection of Bulow Blvd. and the corresponding future Eagle Lakes Entrance (shown on the Conceptual Site Plans) and Old Kings Road.

b. **Potable Water/Wastewater.** A water/wastewater facility was constructed within the Eagle Lakes PUD having a capacity to serve a total of 181 units which include 111 units within the Phase 1 Development, the 4 units within the Outparcels and 66 units for Phase 2 Development without Owners payment to County of any fees or costs.

c. **Solid Waste.** The solid waste will be collected by the County’s franchised operation and disposed of as provided by County facilities or interlocal agreement.
d. **Drainage.** The Owner shall provide drainage in accordance with the St. Johns River Water Management District rules and the Flagler County Land Development Code.

e. **Recreation.** The Owner will provide local recreation within the Project to satisfy the adopted levels of service for neighborhood parks. All recreation will be consistent with the Flagler County Comprehensive Plan as amended from time to time, as well as the development standards set forth below.

7.0 **CODE APPLICABILITY.** The requirements of this Agreement supersede any inconsistent provisions of the Flagler County Land Development Code. Otherwise, all building codes, zoning ordinances, land development regulations, the Flagler County Comprehensive Plan and/or any similar plans adopted by the County, as may be amended from time to time, will be applicable to the Project, unless otherwise stated herein.

8.0 **PERMITS.** The Owner hereby acknowledges its obligation to obtain all necessary local development permits which may be needed for development of the Subject Property. The failure of this Development Agreement to address any particular permit, condition, term, or restriction applicable to the development of the Subject Property shall not relieve the Owner or any successor or assigns of the necessity of complying with federal, state, and local permitting requirements, conditions, terms, or restrictions as may be applicable.

9.0 **TERMINATION.** Upon execution of this Agreement by the Parties and upon recordation, the Development Agreements shall have no further force and effect on the Subject Property.

10.0 **RECORDATION.** Within fourteen (14) days after the County executes this Development Agreement, the County shall record it with the Clerk of the Circuit Court for Flagler County, Florida, at the Owner’s expense.
11.0 **BINDING EFFECT.** The burdens of this Development Agreement shall be binding upon, and the benefits of this Development Agreement shall inure to, all successors in interest to the parties to this Development Agreement.

12.0 **APPLICABLE LAW; JURISDICTION OF VENUE.** This Development Agreement, and the rights and obligations of the County and the Owner shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Flagler County, Florida. If any provision of this Development Agreement, or the application thereof to any person or circumstances shall be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Development Agreement shall be valid and enforceable to the fullest extent permitted by law. The fact that this Development Agreement does not detail all laws, rules, regulations, permits, conditions, terms and restriction that must be satisfied to complete the development contemplated by this Development Agreement shall not relieve the Owner or its successors in interest of the obligation to comply with the law governing such permit requirements, conditions, terms and restrictions.

13.0 **JOINT PREPARATION.** Preparation of this Development Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

14.0 **EXHIBITS.** All exhibits attached hereto contain additional terms of this Development Agreement and are incorporated herein by reference.

15.0 **CAPTION OR PARAGRAPH HEADINGS.** Captions and paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Development Agreement, nor the intent of any provision hereof.
16.0 **COUNTERPARTS.** This Development Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Development Agreement.

17.0 **EFFECTIVE DATE.** This Development Agreement shall become effective upon recordation in the public records of Flagler County.

18.0 **AMENDMENT.** This Development Agreement may be amended by written mutual consent of the Parties.

19.0 **FURTHER ASSURANCES.** Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Development Agreement and give effect thereto to the extent allowed and in a manner permitted by law. Without in any manner limiting the specific rights and obligations set forth in this Development Agreement or illegally limiting or infringing upon the governmental authority of the County, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Development Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

20.0 **NOTICES.** Any notices or reports required by this Development Agreement shall be sent to the following:

For the County:  
County Administrator  
1769 East Moody Blvd., Bldg.2  
Bunnell, Florida 32110

With a copy to:  
Albert J. Hadeed, Esquire  
1769 East Moody Blvd., Bldg. 2  
Bunnell, Florida 32110

For the Owner:  
Venture 8, LLC  
P.O. Drawer 2140  
Daytona Beach, FL 32115
With copy to: Michael Chiumento III, Esquire
Chiumento Selis Dwyer, P.L.
145 City Place, Suite 301
Palm Coast, FL 32164

Passed and Duly Adopted by the Board of County Commissioners of Flagler County, Florida,
this ______ day of September, 2017. IN WITNESS WHEREOF, the Parties executed this
Development Agreement on the date set forth below.

Attest: Tom Bexley, Clerk

Board of County Commissioners
Flagler County, Florida

______________________________
Clerk to the Board

______________________________
By: Nate McLaughlin, Chairman

THIS SPACE INTENTIONALLY LEFT BLANK
IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Agreement on the day(s) and year set forth below.

OWNER
VENTURE 8, LLC

By: ____________________________
Name: __________________________
Its: ____________________________

Name: __________________________
Date: ____________________________

STATE OF FLORIDA
COUNTY OF ____________

The foregoing instrument is hereby acknowledged before me this ___ day of __________, 2017, by ____________________________, as _______________ of VENTURE 8, LLC. He has produced ____________________ as identification and (did/did not) take an oath.

NOTARY PUBLIC, State of Florida
Name: ____________________________

My Commission Expires: __________
My Commission Number is: __________
EXHIBIT A

LAND
EXHIBIT A

PARCEL A

PARCEL 1
A PARCEL OF LAND LYING IN GOVERNMENT SECTION 26, 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER SECTIONS 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE WEST LINE OF SECTION 26 A DISTANCE OF 660.09 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE BEAR S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S22°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 898.01 FEET; THENCE S13°51'53"W A DISTANCE OF 1236.81 FEET; THENCE PARCEL WITH (AND 100 FEET OFFSET FROM) THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING FOUR (4) COURSES: (1) N34°48'25"W A DISTANCE OF 137.99 FEET; (2) N20°46'14"W A DISTANCE OF 335.30 FEET TO A POINT OF CURVATURE; (3) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF N19°33'14"W, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (4) N18°20'14"W A DISTANCE OF 1812.02 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 3249.03 FEET TO THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE ALONG THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD (100' RIGHT-OF-WAY) THE FOLLOWING THREE (3) THE FOLLOWING THREE (3) COURSES: (1) S26°38'38"E A DISTANCE OF 466.50 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA 02°34'15", A RADIUS OF 5779.65 FEET, A LENGTH OF 259.33 FEET, A CHORD BEARING OF S27°55'46"E, AND CHORD OF 259.31 FEET; (3) S29°12'54"E A DISTANCE OF 680.16 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF OLD KINGS ROAD BEAR S60°47'06"W A DISTANCE OF 1228.92 FEET; THENCE S29°12'54"E A DISTANCE OF 1083.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL 2

A PARCEL OF LAND BEING A PORTION OF THE 100' STRIP OF LANDRecordED IN O.R. 929, PP. 1204-1207, EXHIBIT "A", PARCEL B, LYING IN GOVERNMENT SECTION 27 AND 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 34; TOWNSHIP 12 SOUTH, RANGE 31 EAST;
THENCE BEAR N00°58′28″W ALONG THE EAST LINE OF SECTION 27 A DISTANCE OF 660.08 FEET; THENCE S88°40′04″W A DISTANCE OF 33.37 FEET; THENCE CONTINUE S88°40′04″W A DISTANCE OF 1756.16 FEET; THENCE S88°46′15″W A DISTANCE OF 11.51 FEET; THENCE S22°02′31″E A DISTANCE OF 178.22 FEET; THENCE S17°22′00″E A DISTANCE OF 896.01 FEET; THENCE S13°51′53″W A DISTANCE OF 1236.81 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE CONTINUE S13°51′53″W A DISTANCE OF 146.32 FEET TO THE EAST RIGHT-OFF-WAY OF INTERSTATE 95; THENCE ALONG THE FIRST RIGHT-OFF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING TWO (2) COURSES: (1) N21°11′20″W A DISTANCE OF 41.95 FEET (2) N34°48′25″W A DISTANCE OF 208.18 FEET; THENCE LEAVING SAID RIGHT-OFF-WAY OF INTERSTATE 95 N06°06′43″W A DISTANCE OF 276.81 FEET; THENCE N20°46′14″W A DISTANCE OF 40.00 FEET; THENCE S89°13′46″W A DISTANCE OF 70.00 FEET TO SAID EAST RIGHT-OFF-WAY OF INTERSTATE 95; THENCE ALONG SAID RIGHT-OFF-WAY THE FOLLOWING THREE (3) COURSES: (1) N20°46′14″W A DISTANCE OF 40.00 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26′00″, A RADIUS OF 34227.47 FEET, A LENGTH OF 1453.84 FEET, A CHORD BEARING OF N19°33′14″W, AND A CHORD OF 1453.53 FEET TO A POINT OF TANGENCY; (3) N18°20′14″W A DISTANCE OF 1794.60 FEET; THENCE LEAVING SAID RIGHT-OFF-WAY OF INTERSTATE 95 BEAR N61°46′45″E A DISTANCE OF 101.54 FEET TO A LINE RUNNING PARALLEL AND 100′ TO THE EAST AS MEASURED AT RIGHT ANGLES TO SAID EAST RIGHT-OFF-WAY OF INTERSTATE 95; THENCE ALONG SAID LINE THE FOLLOWING FOUR (4) COURSES: (1) S18°20′14″E A DISTANCE OF 1812.19 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26′00″, A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF S19°33′14″E, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (3) S20°48′14″E A DISTANCE OF 335.30 FEET; (4) S 34°48′25″E A DISTANCE OF 137.99 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL B

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34, AND 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING BEING THE NORTHWEST CORNER OF GOVERNMENT SECTION 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 35 SOUTH 01°50′44″ WEST A DISTANCE OF 200.25 FEET; THENCE DEPARTING THE WESTERLY BOUNDARY LINE OF SAID SECTION 35 NORTH 88°59′36″ EAST A DISTANCE OF 1282.78 FEET TO A POINT ON THE WESTERLY RIGHT-OFF-WAY LINE OF OLD KINGS ROAD A (100′ R/W) SAID POINT INTERSECTING A NON-TANGENT CURVE; THENCE ALONG THE WESTERLY RIGHT-OFF-WAY LINE OF OLD KINGS ROAD ALONG A CURVE TO THE RIGHT (CONCAVE WESTERLY) 255.26 FEET, WITH A RADIUS OF 2814.93 FEET, AND A CENTRAL ANGLE
OF 05°11'43"", HAVING A CHORD DISTANCE OF 255.17 FEET AND A CHORD BEARING OF SOUTH 15°53'00" EAST TO A POINT OF TANGENCY; THENCE SOUTH 13°17'15" EAST A DISTANCE OF 489.56 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT (CONCAVE EASTERLY) 126.93 FEET, WITH A RADIUS OF 5779.65 FEET AND A CENTRAL ANGLE OF 01°15'30", HAVING A CHORD DISTANCE OF 126.93 AND A CHORD BEARING OF SOUTH 13°54'53" EAST TO A POINT OF TANGENCY; THENCE SOUTH 14°32'45" EAST A DISTANCE OF 1204.30 FEET; THENCE SOUTH 14°22'51" EAST A DISTANCE OF 1638.44 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY OF OLD KINGS ROAD SOUTH 75°36'15" WEST, A DISTANCE OF 563.89 FEET; THENCE SOUTH 17°36'38" WEST A DISTANCE OF 188.29 FEET TO THE CENTER OF THE KORONA CANAL AS RECORDED IN O.R. BOOK 459, PAGE 127 AND O.R. BOOK 28, PAGE 94, THENCE ALONG THE CENTER LINE OF SAID KORONA CANAL NORTH 73°59'57" WEST A DISTANCE OF 3286.50 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 95 (R/W VARIES) THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 20°47'05" WEST A DISTANCE OF 1535.59 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 13°52'27" EAST A DISTANCE OF 1383.13 FEET; THENCE NORTH 17°21'27" WEST A DISTANCE OF 898.01 FEET, THENCE NORTH 22°01'57" WEST A DISTANCE OF 178.20; THENCE ALONG THE SOUTHERLY PROPERTY LINE OF A PARCEL OF LAND OWNED BY RAYONIER, INC. NORTH 88°40'51" EAST A DISTANCE OF 2100.90 FEET TO A POINT ON THE EASTERLY LINE OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG SAID EASTERLY LINE OF SECTION 27 SOUTH 01°00'17" EAST A DISTANCE OF 660.00 FEET TO THE BEGINNING OF DESCRIPTION.

PARCEL C

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING A PERMANENT REFERENCE MONUMENT AT THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE NORTH 00°58'28" WEST, ALONG THE EAST LINE OF SECTION 27 AND THE WEST LINE OF SECTION 26, 660.09 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND:

THENCE SOUTH 88°40'04" WEST, 33.37 FEET; THENCE NORTH 29°12'32" WEST, 1083.00 FEET; THENCE NORTH 60°46'59" EAST, 1228.92 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100' FOOT WIDE RIGHT-OF-WAY AS NOW ESTABLISHED): THENCE SOUTH 29°12'51" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 951.92 FEET TO A POINT OF CURVATURE; THENCE 82.47 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2814.93 FEET AND A CENTRAL ANGLE OF 1°40'43" A CHORD BEARING OF SOUTH 28°22'31" EAST AND A CHORD DISTANCE OF 82.46 FEET TO A POINT OF TANGENCY; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 374.34 FEET; THENCE SOUTH
22°32'00" EAST, 614.01 FEET; THENCE NORTH 88°58'58" EAST, 374.34 FEET TO SAID WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE SOUTH 20°37'28" EAST, 53.08 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 968.74 FEET TO THE POINT OF BEGINNING.

AND

THE FOLLOWING LEGAL DESCRIPTION WAS PREPARED BY TOMOKA ENGINEERING DAYTONA BEACH, FLORIDA, UNDER THE SUPERVISION OF PETER G. JOHNSON, FLORIDA SURVEYOR NO. 5913 ON APRIL 7, 2005 AND IS BASED ON A SKETCH BY TOMOKA ENGINEERING, PROJECT NO. T5026DELAN, DRAWING REFERENCE NO. 5026SL-PARCEL A.

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTIONS 22 AND 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE N88°51'25" E ALONG THE NORTH LINE OF SAID SECTION 27 FOR A DISTANCE OF 883.13 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE S18°20'14"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF A DISTANCE OF 122.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND A POINT ON A NON-TANGENT CURVE BEING THE EASTERLY LINE OF A 200' PERPETUAL DRAINAGE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 549, PAGES 961-964; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE AND RUN ALONG THE EASTERLY LINE OF SAID DRAINAGE EASEMENT ALONG A CURVE TO THE LEFT HAVING AND ARC LENGTH OF 216.02 FEET, A RADIUS OF 499.93 FEET, A CENTRAL ANGLE OF 24°45'27", A CHORD BEARING OF N77°19'17"E, AND A CHORD DISTANCE OF 214.34 FEET; THENCE N64°56'34"E AND DEPARTING SAID EASTERLY EASEMENT LINE FOR A DISTANCE OF 2688.29 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100 FOOT RIGHT-OF-WAY); THENCE S26°39'38"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 1575.08 FEET TO A POINT OF CURVATURE; THENCE CONTINUING SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 271.36 FEET, A RADIUS OF 5679.65 FEET; A CENTRAL ANGLE OF 02°44'15", A CHORD BEARING OF S25°17'30"E AND A CHORD DISTANCE OF 271.34 FEET TO A POINT OF TANGENCY; THENCE S23°55'23"E FOR A DISTANCE OF 458.33 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 274.46 FEET, A RADIUS OF 5779.65 FEET, A CENTRAL ANGLE OF 02°43'15", A CHORD BEARING OF S25°17'00"E AND A CHORD DISTANCE OF 274.43 FEET TO A POINT OF TANGENCY; THENCE S26°38'38"E FOR A DISTANCE OF 547.09 FEET; THENCE S61°46'57"W AND DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD FOR A DISTANCE OF 3350.50 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95; THENCE N18°20'14"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 3547.11 FEET TO THE POINT OF BEGINNING OF THE DESCRIPTION.
LESS AND EXCEPT:

COUNTY PARCEL DESCRIBED AS FOLLOWS:

ALL THOSE CERTAIN PIECE, PARCELS OR TRACTS OF LAND SITUATE, LYING AND BEING IN THE COUNTY OF FLAGLER AND STATE OF FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1:
A parcel of land lying within Government Section 27, Township 12 South, Range 31 East, Flagler County, Florida and being more particularly described as follows:

As a point of reference of reference, commence at the intersection of the northerly line of Section 27 with the westerly line of Old Kings Road (a 100 foot right-of-way); thence S 29° 39' 38" E along said westerly right-of-way line of Old Kings Road for a distance of 449.25 feet to a point of curvature; thence Southeasterly along a curve to the right having an arc length of 271.36 feet, a radius of 5,679.65 feet, a central angle of 02° 44' 15", a chord bearing of S 25° 17' 30" E and a chord distance of 271.34 feet to a point of tangency; thence S 23° 55' 23" E for a distance of 178.91 feet to the Point of Beginning of this description; thence continuing along said westerly right-of-way line S 23° 55' 23" E for a distance of 279.42 feet to a point of curvature; thence southeasterly along a curve to the left having an arc length of 274.46 feet, a radius of 5,779.65 feet, a central angle of 02° 43' 15", a chord bearing of S 25° 17' 00" E and a chord distance of 274.43 feet to a point of tangency; thence S 26° 38' 38" E for a distance of 547.09 feet; thence departing said westerly right-of-way line S 61° 46' 57" W for a distance of 750.00 feet; thence N 26° 38' 38" W for a distance of 705.14 feet; thence S 61° 46' 57" W for a distance of 230.32 feet; thence N 26° 38' 38" W for a distance of 394.86 feet; thence N 61° 46' 57" E for a distance of 1,000.11 feet to the Point of Beginning of this description.
EXHIBIT B

CONCEPTUAL SITE PLANS
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.
REVIEWING DEPARTMENT:  PLANNING DEPARTMENT

1. The initial rezoning from AC (Agriculture) to PUD (Planned Unit Development) is for the 202.2 acres ("Additional Property"), with the described intent to combine the Additional Property with the Remaining Property for a combined amendment to the 2014 PUD Development Agreement: this will require two applications, one to rezone the Additional Property and the other to amend the PUD inclusive of both the Remaining property and the Additional Property. We are processing the rezoning application at this time based on the submitted application. A sketch depicting the Additional Property should be included with the rezoning.

2. Among the changes needed to the submitted draft PUD Development Agreement, the 2014 PUD permitted development of 725 units, not 749; if possible, the PUD agreement text should be submitted in Word format to facilitate edits and comments by the County.

3. An amendment to the PUD Site Development Plan appears to also be needed; this will likely be submitted at the same time as the PUD Development Agreement amendment application inclusive of the Additional Property and the Remaining Property.

REVIEWING DEPARTMENT:  DEVELOPMENT ENGINEERING

Please verify that the additional property is to the north of the Eagle Lakes Subdivision Phase I.

Adjacent Property Owners - There are lots in the Eagle Lakes Subdivision Phase I subdivision that are not included in the application and the owners names are not on the list. Clarify

Provide a Boundary Survey of the entire site.

Provide Owners affidavit of approval for parcels that are included in the application and are not owned by Venture 8, LLC.

Why aren't the HOA parcels included in this application. Clarify.

Additional comments may be forthcoming with further submittals.

REVIEWING DEPARTMENT:  COUNTY ATTORNEY

No comments at this time.
THE NEWS-JOURNAL
Published Daily and Sunday
Daytona Beach, Volusia County, Florida

State of Florida,
County of Volusia

Before the undersigned authority personally appeared

Cynthia Anderson

who, on oath says that she is ........................................

LEGAL COORDINATOR

of The News-Journal, a daily and Sunday newspaper, published at Daytona Beach in Volusia County, Florida; the attached copy of advertisement, being a ........................................

PUBLIC NOTICE

L 2261776

in the Court, was published in said newspaper in the issues.............

SEPTEMBER 22, 2017

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me

This 22ND of SEPTEMBER

A.D. 2017

[Signature]

OSCARA LYNN KEESEE
Notary Public - State of Florida
Commission # GC 115276
My Comm. Expires Jul 15, 2021
Registered through National Notary Assn.

NOTICE OF REZONING

Pursuant to Section 2.07.00, Flagler County Land Development Code, and Chapter 125, Florida Statutes, the Flagler County Board of County Commissioners hereby provide notice of consideration of Application #0058 submitted by Michael D. Chumiento III, Esq., an applicant for property owned by Venture II, L.L.C. and possible adoption of an Ordinance titled similar to:

"AN ORDEAIANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING THE ZONING CLASSIFICATION OF A TOTAL OF 1802 ACRES, MORE OR LESS, LOCATED ON THE WEST SIDE OF OLD RINGS ROAD, PARCEL NUMBER 22-63-31-0120-0100-0101, FROM AC (AGRICULTURE) TO PUD (PLANNED UNIT DEVELOPMENT) DISTRICT, PROVIDING FOR FINDINGS AND PROVIDING FOR AN EFFECTIVE DATE.

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

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD - October 10, 2017 at 6:00 p.m. or as soon thereafter, as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida.

All interested persons are urged to attend the public hearing and be heard. Any party wishing to express their opinion may attend, telephone 386-313-4009 or write to: Flagler County Planning Department, 1769 E. Moody Blvd, Building 2, Bunnell, FL 32110 or email to mmpine@flaglercounty.org. Copies of the proposal, 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, Bldg. 3, Bunnell, Florida 32110.

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.

L2261776, Sep. 22, 2017"
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<td>DAYTONA BEACH, FL 32115</td>
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I hereby affirm mailed notice to each owner on September 22, 2017 for the Planning & Development Board Meeting on October 10, 2017 at 6pm

Hasler
09/22/2017
US POSTAGE
ZIP 32110
011D11646886

Wendy Hickey, Planner

Page 1
TO: Chairman and Planning and Development Board Members

FROM: Planning and Zoning Department

DATE: November 14, 2017

SUBJECT: Application #3102 – SPECIAL USE FOR A TELECOMMUNICATION TOWER IN THE PALM COAST PSP (PUBLIC/SEMIPUBLIC) DISTRICT

I. Requested Action & Purpose: This request is quasi-judicial in nature (not legislative) and does require disclosure of ex parte communication. The request is for a Special Use for a telecommunication tower in the City of Palm Coast PSP (Public/Semipublic) District.

II. Location and Legal Description: 2355 Matanzas Woods Parkway; subject parcel lying North of Matanzas Woods Parkway and East of Interstate 95 within Section 26, Township 10 South, Range 30 East, Flagler County, Florida; within Parcel #26-10-30-0000-01020-0010.

III. Owner: Flagler County

IV. Parcel Size: 41.58+/- acres; tower area of 0.23 acres (10,000 s.f.)

V. Existing Zoning and Land Use Classification:
   Zoning: City of Palm Coast PSP (Public/Semipublic) District
   Land Use: City of Palm Coast Greenbelt and Conservation

VI. Future Land Use Map Classification/Zoning of Surrounding Land:
   North: City of Palm Coast Greenbelt and Conservation/Palm Coast EST-2 District
   South: Matanzas Woods Parkway; City of Palm Coast Institutional, Greenbelt and Conservation/Palm Coast PSP and PRS District
   East: City of Palm Coast Mixed Use, Institutional, Greenbelt and Conservation/Palm Coast EST-2 and PSP District
   West: Interstate 95; City of Palm Coast Institutional/Palm Coast PSP District

VII. Land Development Code Sections Affected: Section 3.06.05 Public, Semi-Public and Special Uses and specifically Subsection 3.06.05(F) “Special siting criteria for telecommunication towers”.

VIII. Report in Brief: The request is to locate a self-supporting telecommunication tower that will principally accommodate the County’s emergency radio system on the subject property. The County proposes to develop a 100 foot by 100 foot area enclosed by an 8-foot high fence and landscaping within the subject property,
which will accommodate the compound area. The subject parcel is a total of 41.58 acres in size and is undeveloped woodlands, with the tower compound area located in the southern portion of the parcel. The parent parcel is irregular in shape with just over 1,000 feet of frontage along Matanzas Woods Parkway.

A guyed tower is currently developed on this parcel; however, the existing tower does not meet the storm-hardening requirements for the County's emergency communications system. Additionally, other users are present on the existing tower that do permit the optimal positioning of the County's equipment so as to maximize signal strength: a new tower would give the County first-position placement on the tower without existing conflicts from other providers.

This self-supporting tower will not exceed 250 feet in overall height above grade, capped with a 25-foot lightning rod. The 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:
IX. **Standards for Review:** 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 all other zoning districts other than residential districts to no more than 250 feet in height if constructed for up to two (2) users and no more than 300 feet in height if constructed for three (3) 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.

At 250 feet and anticipating as many as six (6) potential wireless service or communications providers, the overall tower height does not exceed the LDC’s height limit standard.
2. Proximity of the tower to residential structures and residential district boundaries;

Analysis: The closest residential zoning and uses is to the West on the West side of Interstate 95, approximately 1,500 feet from the proposed tower site.

3. Nature of uses on adjacent and nearby properties;

Analysis: Adjacent parcels are for the most part government owned and either developed as public uses or presently undeveloped.

4. Surrounding topography;

Analysis: The subject property is relatively flat.

5. Surrounding tree coverage and foliage;

Analysis: The parcel is wooded along its perimeter, and more sparsely wooded throughout the parcel. Where possible, existing index trees and existing understory vegetation should be maintained; if maintained in sufficient quantity, staff recommends that the addition of a perimeter landscape buffer around the base of the tower be eliminated.

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

Analysis: The tower is self-supporting with a three-sided tripod configuration, but has not been described as a lattice tower. The tower will not be guyed, and camouflaging the tower is not feasible. FAA lighting requirements have not been determined at this time, although lighting is not anticipated to be required. 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 noncontrasting blue or gray finish. Staff has recommended, consistent with previous County Commission tower approvals, that an applicant may opt to instead paint the first 50 feet a brown (“Java”) color at their option.

7. Proposed ingress and egress; and

Analysis: While not specifically identified at this point, access will be provided from Matanzas Woods Parkway. The access will likely use the
existing driveway and access for the existing tower. If a new access will be needed, a driveway permit will be necessary prior to construction.

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 the parcel and intended first user of the tower is seeking this Special Use approval to ensure optimal coverage for emergency communications. Since the existing guyed tower is within 5,000 feet of the proposed tower, a variance to the minimum separation requirement between towers is needed and will be considered separately under Application #3114.

TRC review
This application was not reviewed by the Technical Review Committee.

This agenda item is:
- X quasi-judicial, requiring disclosure of ex-parte communication; or
- _____ legislative, not requiring formal disclosure of ex-parte communication.

**X. Staff Recommendation:** Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3102, a Special Use for a 250 foot self-support telecommunication tower to be located on Parcel Number 26-10-30-0000-01020-0010 at 2355 Matanzas Woods Parkway, subject to:

a. issuance of a variance for the 5,000 foot minimum tower separation requirement;
b. tower to accommodate up to six (6) wireless service or communication providers/users;
c. issuance of FAA Determination of No Hazard to air navigation, with tower lighting provided subject to FAA requirements;
d. contractor to attempt to preserve index trees on site throughout site development;
e. elimination of the perimeter landscape buffer surrounding the fenced compound;
f. use of the existing driveway from Matanzas Woods Parkway or, if another access is proposed, issuance of a driveway permit prior to the commencement of construction; and
g. 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 noncontrasting blue or gray finish or galvanized finish.
XI. **Suggested Motion:** The Planning and Development Board recommends to the Board of County Commissioners approval of Application #3102, a Special Use for a 250 foot self-support telecommunication tower to be located on Parcel Number 26-10-30-0000-01020-0010 at 2355 Matanzas Woods Parkway, subject to:

a. issuance of a variance for the 5,000 foot minimum tower separation requirement;
b. tower to accommodate up to six (6) wireless service or communication providers/users;
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d. contractor to attempt to preserve index trees on site throughout site development;
e. elimination of the perimeter landscape buffer surrounding the fenced compound;
f. use of the existing driveway from Matanzas Woods Parkway or, if another access is proposed, issuance of a driveway permit prior to the commencement of construction; and
g. 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 noncontrasting blue or gray finish or galvanized finish.

**Attachments**

1. Application and supporting documents
2. Public notice
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I hereby affirm that mailed notice was sent to each property owner on this list on 11/1/17 advising of Planning Board public hearing for Application #3102.

[Signature]
# 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 #: 3102/2017**

## PROPERTY OWNER(S)

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## APPLICANT/AGENT

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## SITE LOCATION (street address):

2355 MATANZAS WOODS PWKY

## LEGAL DESCRIPTION:

BGN 3340.35 S OF NE SEC CRNR

## Parcel #: (tax ID #):

26-10-30-0000-01020-0010

## Parcel Size:

41.580 AC

## Current Zoning Classification:

PCP (Public/ Semi Public) City of Palm Coast

## Current Future Land Use Designation:

Greenbelt & Conservation

## Subject to A1A Scenic Corridor IDO?

[ ] YES  [x] NO

**Description of Use:** Communications Tower Facility

---

**Signature of Owner(s) or Applicant/Agent**

If Owner Authorization form attached

**Date:** 11/9/17

---

**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.

Rev. 05/08
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.

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 interoperability 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 and OmniCom Consulting Group has 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
TO: Chairman and Planning and Development Board Members
FROM: Planning and Zoning Department
DATE: November 14, 2017
SUBJECT: Application #3114 – VARIANCE IN THE PALM COAST PSP (PUBLIC/SEMIPUBLIC) DISTRICT

I. Requested Action & Purpose: This request is quasi-judicial in nature (not legislative) and does require disclosure of ex parte communication. The request is for a variance associated with the proposed Special Use for a telecommunications tower considered separately under Application #3102 in the City of Palm Coast PSP (Public/Semipublic) District. The requested variance is for relief of 4,700 feet from the required 5,000 foot minimum separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d)).

II. Related Application: Application #3102 – Special Use for Telecommunication Tower

III. Location and Legal Description: 2355 Matanzas Woods Parkway; subject parcel lying North of Matanzas Woods Parkway and East of Interstate 95 within Section 26, Township 10 South, Range 30 East, Flagler County, Florida; within Parcel #26-10-30-0000-01020-0010.

IV. Owner: Flagler County

V. Parcel Size: 41.58+/- acres; tower area of 0.23 acres (10,000 s.f.)

VI. Existing Zoning and Land Use Classification:
Zoning: City of Palm Coast PSP (Public/Semipublic) District
Land Use: City of Palm Coast Greenbelt and Conservation

VII. Future Land Use Map Classification/Zoning of Surrounding Land:
North: City of Palm Coast Greenbelt and Conservation/Palm Coast EST-2 District
South: Matanzas Woods Parkway; City of Palm Coast Institutional, Greenbelt and Conservation/Palm Coast PSP and PRS District
East: City of Palm Coast Mixed Use, Institutional, Greenbelt and Conservation/Palm Coast EST-2 and PSP District
West: Interstate 95; City of Palm Coast Institutional/Palm Coast PSP District
VIII. Land Development Code Sections Affected: Section 3.07.03.E., Variance Guidelines, Section 3.06.05.F.(8)(m), Variances for telecommunication towers, and Section 3.06.05.F.(8), Performance Standards for telecommunication towers.

IX. Report in Brief: This request is for relief from the required minimum performance standards as listed in the LDC for new telecommunication towers. The applicant has provided as part of their submittal a narrative statement of justification for relief from the cited standards.

X. Variance Criteria 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 (summarized here, with the full text attached) 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 response: There is a particular exceptional condition pertaining to the particular property in question being that this is the closest County owned property to fulfill the planned coverage and replacement of the Flagler County Public Safety Communication Network wireless facility that can support the proposed self-support tower structure. To maximize the effectiveness of the County’s Public Safety Communication Network and minimize the cost to the residents of Flagler County this unique feature needs to be exploited. Without granting the requested Variances, the owner will be deprived of providing this important use on this property, and the County would suffer an unnecessary hardship by depriving the general public of needed cost effective emergency service.

   Staff analysis: The lone criterion of the uniqueness of this parcel is its County ownership, together with its relative proximity to a necessary antenna location. This parcel is not particularly unique so as to warrant a variance for parcel characteristics alone. The reduction in the separation between towers is necessary because the County desires a tower that through its design and construction meets current hurricane-force wind standards and where the County can take advantage of its first-position on the tower for optimal coverage and signal strength.

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 response:** These conditions that require the applicant to seek Variances were not created by the affirmative actions of the applicant but rather by the precise specific needs of the County Public Safety Communication Network to maintain proper, safe, and economical communication systems throughout this portion of the County.

**Staff analysis:** This variance request is necessary because of the County’s intent to develop a telecommunications tower on this parcel proximate to the existing guyed tower.

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 response:** The Variances, if granted, would cause to promote the public health, welfare, and safety, as well as the morals of the community. The proposed development, if approved through the issuance of the needed Variances would uphold the intent of the County’s Wireless Ordinance, the purpose of which is to enhance public health, safety, and welfare.

**Staff analysis:** Approval of the requested variance would provide for improved public safety communications.

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

**Applicant response:** The proposed use is permitted by Article 3 of the FCLDC. Given the above facts, the Applicant respectfully requests the County’s approval of the required County Special Use Permit with applicable variances.

**Staff analysis:** The requested variance does not permit a use that would otherwise be prohibited within the City’s PSP (Public/Semipublic) zoning district. As to whether the Special Use should precede the variance, both application requests are interrelated and one cannot be approved without the approval of the other.

The variances, if denied, may be appealed to the Board of County Commissioners, which is ultimately tasked with approving the special use application after consideration of the application and supporting materials, staff’s recommendation, and the recommendation of the Planning and Development Board.

The proposed telecommunication tower would otherwise be a permissible use in any zoning district following Special Use approval.
This application was not reviewed by the Technical Review Committee.

This agenda item is:

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

**XI. Staff Recommendation:** Staff recommends that the Planning and Development Board find that based on the testimony and evidence presented that all variance guidelines have been met and approve Application #3114 for relief of 4,700 feet from the required 5,000 foot minimum separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d)).

**XII. Suggested Motion Language:** The Planning and Development Board finds that based on the testimony and evidence presented that all variance guidelines have been met and approve Application #3114 for relief of 4,700 feet from the required 5,000 foot minimum separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d)).

**Attachments**
1. Application and supporting documents
2. Public notice
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<thead>
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<td>Jacksonville, FL 32216</td>
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<td>State of Florida Dept. of Transportation</td>
<td>719 S. Woodland Blvd; R/W Records Mgmt; MS 551</td>
<td>DeLand, FL 32720-6834</td>
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<td>1769 E. Moody Blvd, Bldg 2, Ste 302</td>
<td>Bunnell, FL 32110</td>
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<td>Palm Coast, FL 32164</td>
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</tbody>
</table>

I hereby affirm that mailed notice was sent to each property owner on this list on 11/1/22 advising of Planning Board public hearing for Application #3114.

[Signature]
# APPLICATION FOR VARIANCE

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

<table>
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| City: Bunnell  
State: Florida  
Zip: 32110 |
| Telephone Number 386-313-4009  
Fax Number 386-313-4109 |

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<th>APPLICANT/AGENT</th>
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| City: Bunnell  
State: Florida  
Zip: 32110 |
| Telephone Number 386-313-4009  
Fax Number 386-313-4109 |

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<td>LEGAL DESCRIPTION: BGN 3340.35 S OF NE SEC CRNR</td>
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<tr>
<td>Parcel # (tax ID #): 226-10-30-0000-01020-0010</td>
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<td>Parcel Size: 41.580</td>
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<td>Current Zoning Classification: PCP (Public/Semi Public) City of Palm Coast</td>
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<td>Current Future Land Use Designation: Greenbelt &amp; Conservation</td>
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<tr>
<td>Subject to A1A Scenic Corridor ID0? YES</td>
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</table>

**Relief Requested:** Communications Tower Facility

---

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

**Signature of Chairman:**  
Date: 11/9/17  

**OFFICIAL USE ONLY**

**PLANNING BOARD RECOMMENDATION/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. 09/16**
PROJECT-VARIANCE DESCRIPTION

2355 MATANZAS WOODS PKWY

WIRELESS TELECOMMUNICATION FACILITY

The proposed development is comprised of the construction, operation, and maintenance of a wireless telecommunication co-location facility for the purpose of providing Public Safety Communication Network service for the residents of the Flagler County.

The proposed wireless telecommunication facility will be designed for the co-location of up to six (6) wireless service or communication providers/users. This will enable additional Carriers to provide wireless service within this portion of the County without the need to construct additional tower structures.

The proposed facility includes a not to exceed 250’ self-support tower structure with a 25’ lightning rod within a 41.580 Acre +/- lease parcel containing an 100’ x 100’ gravel compound enclosed by an 8’ chain link fence with necessary landscaping, if required, on all four sides of the fenced compound. Additional construction activities include a gravel access road and the installation of electrical and telephone/communications services. Please note that the proposed development is an unmanned facility, all structures are non-habitable, and as such, potable water, sanitary sewer, and solid waste services are not required.

The proposed development is situated in a County (008600) Land Use area, and has been sited to facilitate the County’s needed antenna relocation.

The Applicant is seeking a Variance to permit the separation of the proposed self-support tower structure to a another communications tower of approximately 300 feet instead of the 5000 foot separation required by FCLDC, Section 3.06.05.(F)(8)(d) Table 1.

The Flagler County Public Safety Communication Network has demonstrated need for this facility through a certificate of need statement. The proposed improvements will benefit the residents of Flagler County by preserving the general health, safety, and welfare of the residents of the County.

The proposed facility awaits a determination of ‘no hazard’ to air traffic by the FAA; the proposed tower structure will also be engineered to fall within the Parent Tract given a catastrophic failure.

In accordance with FCLDC, Section 3.03.03(E), and in support of our Variance requests as enumerated above, we submit the following findings of fact:

A. There is a particular exceptional condition pertaining to the particular property in question being that this is the closest County owned property to fulfill the planned coverage and replacement of the Flagler County Public Safety Communication Network wireless facility that can support the proposed self-support tower structure. To maximize the effectiveness of the County’s Public Safety Communication Network and minimize the cost to the residents of Flagler County this unique feature needs to be exploited. Without granting the requested Variances, the owner will be deprived of providing this important use on this property, and the County would suffer an unnecessary hardship by depriving the general public of needed cost effective emergency service.
B. These conditions that require the applicant to seek Variances were not created by the affirmative actions of the applicant but rather by the precise specific needs of the County Public Safety Communication Network to maintain proper, safe, and economical communication systems throughout this portion of the County.

C. The Variances, if granted, would cause to promote the public health, welfare, and safety, as well as the morals of the community. The proposed development, if approved through the issuance of the needed Variances would uphold the intent of the County’s Wireless Ordinance, the purpose of which is to enhance public health, safety, and welfare.

D. The proposed use is permitted by Article 3 of the FCLDC. Given the above facts, the Applicant respectfully requests the County’s approval of the required County Special Use Permit with applicable variances.
TO: Chairman and Planning and Development Board Members  
FROM: Planning and Zoning Department  
DATE: November 14, 2017  
SUBJECT: Application #3103 – SPECIAL USE FOR A TELECOMMUNICATION TOWER IN THE AC (AGRICULTURE) DISTRICT

I. Requested Action & Purpose: This request is quasi-judicial in nature (not legislative) and does require disclosure of ex parte communication. The request is for a Special Use for a telecommunication tower in the AC (Agriculture) District.

II. Location and Legal Description: 7570 County Road 304; subject parcel lying northwest of County Road 304 and East of State Road 11 within Section 30, Township 13 South, Range 30 East, Flagler County, Florida; within Parcel #30-13-30-0000-02040-0040.

III. Owner: Flagler County

IV. Parcel Size: 5.00 +/- acres; tower area of 0.23 acres (10,000 s.f.)

V. Existing Zoning and Land Use Classification:
Zoning: AC (Agriculture) District  
Land Use: Agriculture & Timberlands

VI. Future Land Use Map Classification/Zoning of Surrounding Land:
North: Agriculture & Timberlands/AC (Agriculture) district
South: County Road 304; Agriculture & Timberlands/AC (Agriculture) district (City of Bunnell across County Road 304)
East: Agriculture & Timberlands/AC (Agriculture) district
West: Agriculture & Timberlands/AC (Agriculture) district

VII. Land Development Code Sections Affected: Section 3.06.05 Public, Semi-Public and Special Uses and specifically Subsection 3.06.05(F) “Special siting criteria for telecommunication towers”.

VIII. Report in Brief: The request is to locate a self-supporting telecommunication tower that will principally accommodate the County’s emergency radio system on the subject property. The County proposes to develop a 100 foot by 100 foot area enclosed by an 8-foot high fence and landscaping within the subject property, which will accommodate the compound area. The subject parcel is a total of 5.00 acres in size and is a former residential parcel developed with a doublewide mobile
home, with the tower compound area located in the northern portion of the parcel. The parent parcel is triangular in shape with just over 900 feet of frontage along County Road 304.

A lattice tower is currently developed just to the West of this parcel; however, the existing tower does not meet the storm-hardening requirements for the County’s emergency communications system. Additionally, other users are present on the existing tower that do permit the optimal positioning of the County’s equipment so as to maximize signal strength: a new tower would give the County first-position placement on the tower without existing conflicts from other providers.

This self-supporting tower will not exceed 350 feet in overall height above grade, capped with a 25-foot lightning rod. The 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:
IX. **Standards for Review:** 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 all other zoning districts other than residential districts to no more than 250 feet in height if constructed for up to two (2) users and no more than 300 feet in height if constructed for three (3) 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.

At 350 feet and anticipating as many as six (6) potential wireless service or communications providers, the overall tower height exceeds the LDC’s height limit standard. A variance has been separately requested through Application #3115.
2. Proximity of the tower to residential structures and residential district boundaries;

*Analysis:* The closest residential use is 860 feet to the West on the East side of State Road 11, with the adjoining parcel line approximately 150 feet from the proposed tower site. A variance is needed to reduce the separation of the tower from the adjacent residentially-developed parcel, reducing the separation from 700 feet (200% of the 350 foot tower height) to 150 feet, a 550 foot variance, requested through Application #3115.

3. Nature of uses on adjacent and nearby properties;

*Analysis:* Adjacent parcels are developed pasture and low-density residential.

4. Surrounding topography;

*Analysis:* The subject property is relatively flat.

5. Surrounding tree coverage and foliage;

*Analysis:* The parcel is wooded along its South parcel line. Where possible, existing index trees and existing understory vegetation should be maintained; if maintained in sufficient quantity, staff recommends that the addition of a perimeter landscape buffer around the base of the tower be reduced, with landscaping needed only where existing vegetation is not sufficient to buffer the equipment area.

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

*Analysis:* The tower is self-supporting with a three-sided tripod configuration, but has not been described as a lattice tower. The tower will not be guyed, and camouflaging the tower is not feasible. FAA lighting requirements have not been determined at this time, although lighting is not anticipated to be required. 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 noncontrasting blue or gray finish. Staff has recommended, consistent with previous County Commission tower approvals, that an applicant may opt to instead paint the first 50 feet a brown (“Java”) color at their option.

7. Proposed ingress and egress; and
**Analysis:** While not specifically identified at this point, access will be provided from County Road 304. The access will likely use the existing driveway and access for the home. If a new access will be needed, a driveway permit will be necessary prior to construction.

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 the parcel and intended first user of the tower is seeking this Special Use approval to ensure optimal coverage for emergency communications. Since the existing lattice tower is within 5,000 feet of the proposed tower, a variance to the minimum separation requirement between towers is needed and will be considered separately under Application #3115.

**TRC review**
This application was not reviewed by the Technical Review Committee.

This agenda item is:

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

**X. Staff Recommendation:** Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3103, a Special Use for a 350 foot self-support telecommunication tower to be located on Parcel Number 30-13-30-0000-02040-0040 at 7570 County Road 304, subject to:

a. issuance of variances for:
   1. the 5,000 foot minimum tower separation requirement;
   2. the 700 foot separation from residentially zoned/developed parcels; and
   3. the 75 foot increase in tower height;

b. tower to accommodate up to six (6) wireless service or communication providers/users;

c. issuance of FAA Determination of No Hazard to air navigation, with tower lighting provided subject to FAA requirements;

d. contractor to attempt to preserve index trees on site throughout site development;

e. reduction of the perimeter landscape buffer surrounding the fenced compound, with the landscaped buffer to be provided where existing vegetation is not sufficient to buffer the equipment area at the base of the tower;
f. use of the existing driveway from County Road 304 or, if another access is proposed, issuance of a driveway permit prior to the commencement of construction; and

g. 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 noncontrasting blue or gray finish or galvanized finish.

XI. Suggested Motion: The Planning and Development Board recommends to the Board of County Commissioners approval of Application #3103, a Special Use for a 350 foot self-support telecommunication tower to be located on Parcel Number 30-13-30-0000-02040-0040 at 7570 County Road 304, subject to:

a. issuance of variances for:

1. the 5,000 foot minimum tower separation requirement;
2. the 700 foot separation from residentially zoned/developed parcels; and
3. the 75 foot increase in tower height;

b. tower to accommodate up to six (6) wireless service or communication providers/users;

c. issuance of FAA Determination of No Hazard to air navigation, with tower lighting provided subject to FAA requirements;

d. contractor to attempt to preserve index trees on site throughout site development;

e. reduction of the perimeter landscape buffer surrounding the fenced compound, with the landscaped buffer to be provided where existing vegetation is not sufficient to buffer the equipment area at the base of the tower;

f. use of the existing driveway from County Road 304 or, if another access is proposed, issuance of a driveway permit prior to the commencement of construction; and

g. 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 noncontrasting blue or gray finish or galvanized finish.

Attachments
1. Application and supporting documents
2. Public notice
Future Land Use
<table>
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<th>Property Owner</th>
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<td>30-13-30-0000-01010-0000</td>
<td>Richard Daniel Cody</td>
<td>8276 County Road 304</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>30-13-30-0000-01010-0050</td>
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<td>8276 County Road 304</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>30-13-30-0000-02030-0020</td>
<td>Alex J. Melvin, Trustee</td>
<td>4216 Dewitt Ave</td>
<td>Mattoon, IL 61938</td>
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<td>Bunnell, FL 32110</td>
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<td>30-13-30-0000-02040-0050</td>
<td>Derek Fraser Trust &amp; Janet Hinman Trust</td>
<td>1800 Old Moody Blvd</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>30-13-30-0000-03090-0000</td>
<td>Kendrick Dewitt Cody</td>
<td>Post Office Box 2304</td>
<td>Bunnell, FL 32110</td>
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</tbody>
</table>

I hereby affirm that mailed notice was sent to each property owner on this list on [1/1/2023] advising of Planning Board public hearing for Application #3103.
### 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 #: 3103/2017/10010**

#### Property Owner(s)
- **Name(s):** Flagler County
- **Mailing Address:** 1769 E. Moody Blvd, Bldg #2
- **City:** Bunnell  **State:** Florida  **Zip:** 32110
- **Telephone Number** 386-313-4009  **Fax Number** 386-313-4109

#### Applicant/Agent
- **Name(s):** Flagler County
- **Mailing Address:** 1769 E. Moody Blvd., Bldg #2
- **City:** Bunnell  **State:** Florida  **Zip:** 32110
- **Telephone Number** 386-313-4009  **Fax Number** 386-313-4109

#### Subject Property
- **Site Location (street address):** 7570 County Road 304
- **Legal Description:** NE 1/4 DESC AS POR NW CRNR OF 1/4
- **Parcel # (tax ID #):** 30-13-30-0000-02040-0040
- **Parcel Size:** 5,000 AC
- **Current Zoning Classification:** AC (Agriculture)
- **Current Future Land Use Designation:** Agriculture / Timberlands
- **Subject to A1A Scenic Corridor IDO?**  **YES**  **NO**
- **Description of Use:** Communications Tower Facility

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

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**Official Use Only**

**Planning Board Recommendation/Action:**
*APPROVED [ ]  *APPROVED WITH CONDITIONS [ ]  DENIED [ ]

**Signature of Chairman:**

---

**Date:** 11/14/17
*approved with conditions, see attached.

**Board of County Commissioners Action:**
*APPROVED [ ]  *APPROVED WITH CONDITIONS [ ]  DENIED [ ]

**Signature of Chairman:**

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**Date:** 11/14/17
*approved with conditions, see attached.

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**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.

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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.

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 interoperability 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 and OmniCom Consulting Group has 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
TO: Chairman and Planning and Development Board Members

FROM: Planning and Zoning Department

DATE: November 14, 2017

SUBJECT: Application #3104 – SPECIAL USE FOR A TELECOMMUNICATION TOWER IN THE BUNNELL P (PUBLIC) DISTRICT

I. Requested Action & Purpose: This request is quasi-judicial in nature (not legislative) and does require disclosure of ex parte communication. The request is for a Special Use for a telecommunication tower in the City of Bunnell P (Public) District.

II. Location and Legal Description: 655 Justice Lane; subject parcel lying East of Old Haw Creek Road and West of U.S. Highway 1 being a part of Block D of the Bunnell Development Company subdivision (as recorded in Map Book 1, Page 1, Public Records of Flagler County, Florida) within Section 15, Township 12 South, Range 30 East, Flagler County, Florida; within Parcel #15-12-30-0650-000D0-0060.

III. Owner: Flagler County Board of County Commissioners

IV. Parcel Size: 61.83+/- acres; tower area of 0.23 acres (10,000 s.f.)

V. Existing Zoning and Land Use Classification:

Zoning: Bunnell P (Public) District
Land Use: Bunnell PUB (Public)

VI. Future Land Use Map Classification/Zoning of Surrounding Land:

North: Bunnell SF-LOW (Single Family – Low Density)/Bunnell ND
South: Agriculture & Timberlands/AC (Agriculture) district (City of Bunnell South of Jail)
East: Bunnell SF-LOW (Single Family – Low Density)/Bunnell R-1 District
West: Bunnell SF-LOW (Single Family – Low Density)/Bunnell ND

VII. Land Development Code Sections Affected: Section 3.06.05 Public, Semi-Public and Special Uses and specifically Subsection 3.06.05(F) “Special siting criteria for telecommunication towers”.

VIII. Report in Brief: The request is to locate a self-supporting telecommunication tower that will principally accommodate the County’s emergency radio system on the subject property. The County proposes to develop a 100 foot by 100 foot area enclosed by an 8-foot high fence and landscaping within the subject property,
which will accommodate the compound area. The subject parcel is a total of 61.83 acres in size and is the former Sheriff’s Operations Center, with the tower compound area located in the southeastern portion of the parcel, East of the former Operations Center building. The parent parcel is irregular in shape with just over 900 feet of frontage along Old Haw Creek Road.

No existing towers are proximate to the proposed tower.

This self-supporting tower will not exceed 250 feet in overall height above grade, capped with a 25-foot lightning rod. The 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:
IX. **Standard for Review:** 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 all other zoning districts other than residential districts to no more than 250 feet in height if constructed for up to two (2) users and no more than 300 feet in height if constructed for three (3) 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.

   At 250 feet and anticipating as many as six (6) potential wireless service or communications providers, the overall tower height does not exceed the LDC’s height limit standard.
2. Proximity of the tower to residential structures and residential district boundaries;

**Analysis:** The closest residential uses are over 1,000 feet to the East and West.

3. Nature of uses on adjacent and nearby properties;

**Analysis:** Adjacent parcels are undeveloped, consisting primarily of poorly-drained piney flatwoods.

4. Surrounding topography;

**Analysis:** The subject property is relatively flat.

5. Surrounding tree coverage and foliage;

**Analysis:** The parcel is wooded along its perimeter boundaries. Where possible, existing index trees and existing understory vegetation should be maintained; if maintained in sufficient quantity, staff recommends that the addition of a perimeter landscape buffer around the base of the tower be reduced, with landscaping needed only where existing vegetation is not sufficient to buffer the equipment area.

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

**Analysis:** The tower is self-supporting with a three-sided tripod configuration, but has not been described as a lattice tower. The tower will not be guyed, and camouflaging the tower is not feasible. FAA lighting requirements have not been determined at this time, although lighting is not anticipated to be required. 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 noncontrasting blue or gray finish. Staff has recommended, consistent with previous County Commission tower approvals, that an applicant may opt to instead paint the first 50 feet a brown (“Java”) color at their option.

7. Proposed ingress and egress; and

**Analysis:** While not specifically identified at this point, access will be provided from Justice Lane.
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 the parcel and intended first user of the tower is seeking this Special Use approval to ensure optimal coverage for emergency communications. No suitable existing towers are proximate or otherwise available to meet the County’s requirements.

**TRC review**
This application was not reviewed by the Technical Review Committee.

This agenda item is:
___X___ quasi-judicial, requiring disclosure of ex-parte communication; or
______ legislative, not requiring formal disclosure of ex-parte communication.

X. **Staff Recommendation:** Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3104, a Special Use for a 250 foot self-support telecommunication tower to be located on Parcel Number 15-12-30-0650-000D0-0060 at 655 Justice Lane, subject to:

a. tower to accommodate up to six (6) wireless service or communication providers/users;
b. issuance of FAA Determination of No Hazard to air navigation, with tower lighting provided subject to FAA requirements;
c. contractor to attempt to preserve index trees on site throughout site development;
d. reduction of the perimeter landscape buffer surrounding the fenced compound, with the landscaped buffer to be provided where existing vegetation is not sufficient to buffer the equipment area at the base of the tower; and
e. 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 noncontrasting blue or gray finish or galvanized finish.

XI. **Suggested Motion:** The Planning and Development Board recommends to the Board of County Commissioners approval of Application #3104, a Special Use for a 250 foot self-support telecommunication tower to be located on Parcel Number 15-12-30-0650-000D0-0060 at 655 Justice Lane, subject to:

a. tower to accommodate up to six (6) wireless service or communication providers/users;
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c. contractor to attempt to preserve index trees on site throughout site development;
d. reduction of the perimeter landscape buffer surrounding the fenced compound, with the landscaped buffer to be provided where existing vegetation is not sufficient to buffer the equipment area at the base of the tower; and
e. 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 noncontrasting blue or gray finish or galvanized finish.

Attachments
1. Application and supporting documents
2. Public notice
MAP SERIES
Property Appraiser Aerial
Future Land Use
Zoning
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<th>Property Owner</th>
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<td>Flagler County Board of County Commiss</td>
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<td>Bunnell, FL 32110</td>
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<td>14-12-30-0650-000C0-0230</td>
<td>Gerardo &amp; Maria Malagisi</td>
<td>15 Coconut Court</td>
<td>Palm Coast, FL 32137</td>
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<td>23-12-30-0650-000B0-0000</td>
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I hereby affirm that mailed notice was sent to each property owner on this list on 2/24/23 advising of Planning Board public hearing for Application #3104.
# APPLICATION FOR SPECIAL USE

**FLAGLER COUNTY, FLORIDA**

1769 E. Moody Blvd, Suite 165  
Bunnell, FL 32110  
Telephone: (386) 313-4009  
Fax: (386) 313-4109

Application/Project #: 3104/20171001

<table>
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<tbody>
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<td>SITE LOCATION (street address): 655 JUSTICE LN</td>
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<td>LEGAL DESCRIPTION: BUNNELL DEV CO SUBD BLOCK D TRACTS 8 THRU 14</td>
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<td>Parcel #: 15-12-30-0650-0000D0-0060</td>
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<td>Parcel Size: 61.830 AC</td>
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<td>Current Zoning Classification: P (Public) City of Bunnell</td>
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<td>Current Future Land Use Designation: Public</td>
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<td>Subject to A1A Scenic Corridor ID?</td>
<td>YES</td>
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</table>

**Description of Use:** Communications Tower Facility - Existing Tower to be Removed

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

**Date:** 11/9/17

**OFFICIAL USE ONLY**

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<tr>
<th>PLANNING BOARD RECOMMENDATION/ACTION:</th>
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Signature of Chairman: ________________________________  

Date: ________________________________ *approved with conditions, see attached.

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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.

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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
TO: Chairman and Planning and Development Board Members
FROM: Planning and Zoning Department
DATE: November 14, 2017
SUBJECT: Application #3115 – VARIANCES IN THE AC (AGRICULTURE) DISTRICT

I. Requested Action & Purpose: This request is quasi-judicial in nature (not legislative) and does require disclosure of ex parte communication. The request is for variances associated with the proposed Special Use for a telecommunications tower considered separately under Application #3103 in the AC (Agriculture) District. The requested variances are:
   a. 4,150 feet from the required minimum 5,000 foot separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d));
   b. 550 feet from the required minimum 700 foot separation from a residentially zoned property (FCLDC, Section 3.06.05.F(8)(c)); and
   c. 75 foot increase from the maximum tower height of 300 feet (FCLDC, Section 3.06.05.F(8)(g)2.c.).

II. Related Application: Application #3103 – Special Use for Telecommunication Tower

III. Location and Legal Description: 7570 County Road 304; subject parcel lying northwest of County Road 304 and East of State Road 11 within Section 30, Township 13 South, Range 30 East, Flagler County, Florida; within Parcel #30-13-30-0000-02040-0040.

IV. Owner: Flagler County

V. Parcel Size: 5.00+/- acres; tower area of 0.23 acres (10,000 s.f.)

VI. Existing Zoning and Land Use Classification:
   Zoning: AC (Agriculture) District
   Land Use: Agriculture & Timberlands

VII. Future Land Use Map Classification/Zoning of Surrounding Land:
   North: Agriculture & Timberlands/AC (Agriculture) district
   South: County Road 304; Agriculture & Timberlands/AC (Agriculture) district (City of Bunnell across County Road 304)
   East: Agriculture & Timberlands/AC (Agriculture) district
   West: Agriculture & Timberlands/AC (Agriculture) district
VIII. **Land Development Code Sections Affected:** Section 3.07.03.E., *Variance Guidelines*, Section 3.06.05.F.(8)(m), *Variances* for telecommunication towers, and Section 3.06.05.F.(8), *Performance Standards* for telecommunication towers.

IX. **Report in Brief:** This request is for relief from the required minimum performance standards as listed in the LDC for new telecommunication towers. The applicant has provided as part of their submittal a narrative statement of justification for relief from the cited standards.

X. **Variance Criteria 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 (summarized here, with the full text attached) 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 response:** There is a particular exceptional condition pertaining to the particular property in question being that this is the closest County owned property to fulfill the planned coverage and replacement of the Flagler County Public Safety Communication Network wireless facility that can support the proposed self-support tower structure. To maximize the effectiveness of the County’s Public Safety Communication Network and minimize the cost to the residents of Flagler County this unique feature needs to be exploited. Without granting the requested Variances, the owner will be deprived of providing this important use on this property, and the County would suffer an unnecessary hardship by depriving the general public of needed cost effective emergency service.

   **Staff analysis:** The lone criterion of the uniqueness of this parcel is its County ownership, together with its relative proximity to a necessary antenna location. This parcel is not particularly unique so as to warrant a variance for parcel characteristics alone. The reduction in the separation between towers is necessary because the County desires a tower that through its design and construction meets current hurricane-force wind standards and where the County can take advantage of its first-position on the tower for optimal coverage and signal strength.

   The variance for separation from existing residences is needed because of the home located to the West, which is located North of the existing lattice
tower. This home is already affected by the existing tower; the addition of another tower to the East would arguably be of minimal additional impact.

As for tower height, the additional height is needed for coverage in this area: as stated previously, the higher tower height allows for a higher antenna mount and greater coverage.

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 response:** These conditions that require the applicant to seek Variances were not created by the affirmative actions of the applicant but rather by the precise specific needs of the County Public Safety Communication Network to maintain proper, safe, and economical communication systems throughout this portion of the County.

   **Staff analysis:** This variance request is necessary because of the County's intent to develop a telecommunications tower on this parcel proximate to the existing lattice tower, the existing home to the West, and the increased tower height over the maximum height as provided in the LDC.

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 response:** The Variances, if granted, would cause to promote the public health, welfare, and safety, as well as the morals of the community. The proposed development, if approved through the issuance of the needed Variances would uphold the intent of the County’s Wireless Ordinance, the purpose of which is to enhance public health, safety, and welfare.

   **Staff analysis:** Approval of the requested variances would provide for improved public safety communications.

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

   **Applicant response:** The proposed use is permitted by Article 3 of the FCLDC. Given the above facts, the Applicant respectfully requests the County’s approval of the required County Special Use Permit with applicable variances.

   **Staff analysis:** The requested variances do not permit a use that would otherwise be prohibited within the AC (Agriculture) zoning district. As to whether the Special Use should precede the variance, both application
requests are interrelated and one cannot be approved without the approval of the other.

The variances, if denied, may be appealed to the Board of County Commissioners, which is ultimately tasked with approving the special use application after consideration of the application and supporting materials, staff’s recommendation, and the recommendation of the Planning and Development Board.

The proposed telecommunication tower would otherwise be a permissible use in any zoning district following Special Use approval.

TRC review
This application was not reviewed by the Technical Review Committee.

This agenda item is:
___X___ quasi-judicial, requiring disclosure of ex-parte communication; or
_____ legislative, not requiring formal disclosure of ex-parte communication.

XI. **Staff Recommendation:** Staff recommends that the Planning and Development Board find that based on the testimony and evidence presented that all variance guidelines have been met and approve Application #3115 for relief of:
   a. 4,150 feet from the required minimum 5,000 foot separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d));
   b. 550 feet from the required minimum 700 foot separation from a residentially zoned property (FCLDC, Section 3.06.05.F(8)(c)); and
   c. 75 foot increase from the maximum tower height of 300 feet (FCLDC, Section 3.06.05.F(8)(g)2.c.).

XII. **Suggested Motion Language:** The Planning and Development Board finds that based on the testimony and evidence presented that all variance guidelines have been met and approve Application #3115 for relief of:
   a. 4,150 feet from the required minimum 5,000 foot separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d));
   b. 550 feet from the required minimum 700 foot separation from a residentially zoned property (FCLDC, Section 3.06.05.F(8)(c)); and
   c. 75 foot increase from the maximum tower height of 300 feet (FCLDC, Section 3.06.05.F(8)(g)2.c.).

**Attachments**
1. Application and supporting documents
2. Public notice
<table>
<thead>
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<th>ParcelId</th>
<th>Property Owner</th>
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<th>City, State, Zip</th>
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<td>8276 County Road 304</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>30-13-30-0000-01010-0050</td>
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<td>Bunnell, FL 32110</td>
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<td>Alex J. Melvin, Trustee</td>
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<td>Mattoon, IL 61938</td>
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<tr>
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<td>Bunnell, FL 32110</td>
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<tr>
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<td>Bunnell, FL 32110</td>
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<tr>
<td>30-13-30-0000-02040-0050</td>
<td>Derek Fraser Trust &amp; Janet Hinman Trust</td>
<td>1800 Old Moody Blvd</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>30-13-30-0000-03090-0000</td>
<td>Kendrick Dewitt Cody</td>
<td>Post Office Box 2304</td>
<td>Bunnell, FL 32110</td>
</tr>
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</table>

I hereby affirm that mailed notice was sent to each property owner on this list on 1/1/2023 advising of Planning Board public hearing for Application #3115.

[Signature]
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 #: 3115/2017/0015

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<td>SITE LOCATION (street address): 7570 County Road 304</td>
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<td>Parcel # (tax ID #:): 30-13-30-0000-02040-0040</td>
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<td>Parcel Size: 5.000 AC</td>
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<td>Current Future Land Use Designation: Agriculture/Timberlands</td>
</tr>
<tr>
<td>Subject to A1A Scenic Corridor IDO?</td>
</tr>
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</table>

Relief Requested: Communications Tower Facility

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

Date: 11/9/17

**OFFICIAL USE ONLY**

PLANNING BOARD RECOMMENDATION/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. 09/16
PROJECT-VARIANCE DESCRIPTION

7570 COUNTY RD 304

WIRELESS TELECOMMUNICATION FACILITY

The proposed development is comprised of the construction, operation, and maintenance of a wireless telecommunication co-location facility for the purpose of providing Public Safety Communication Network service for the residents of the Flagler County.

The proposed wireless telecommunication facility will be designed for the co-location of up to six (6) wireless service or communication providers/users. This will enable additional Carriers to provide wireless service within this portion of the County without the need to construct additional tower structures.

The proposed facility includes a not to exceed 350’ self-support tower structure with a 25’ lightning rod within a 5.000 Acre +/- lease parcel containing an 100’ x 100’ gravel compound enclosed by an 8’ chain link fence with necessary landscaping, if required, on all four sides of the fenced compound. Additional construction activities include a gravel access road and the installation of electrical and telephone/communications services. Please note that the proposed development is an unmanned facility, all structures are non-habitable, and as such, potable water, sanitary sewer, and solid waste services are not required.

The proposed development is situated in a Mobile Home (000200) Land Use area, and has been sited to facilitate the County’s needed antenna relocation.

The Applicant is seeking a Variance to permit the separation of the proposed self-support tower structure to a another communications tower of approximately 850 feet instead of the 5000 foot separation required by FCLDC, Section 3.06.05.(F)(8)(d) Table 1. A Variance to permit the separation of the proposed self-support tower structure to a residentially zoned property line of approximately 150 feet instead of the 700 foot separation required by FCLDC, Section 3.06.05.(F)(8)(c) Table 1. A Variance is requested to permit a total height of 375 feet in place of the 300’ as required by FCLDC, Section 3.06.05(F)(8)(g).

The Flagler County Public Safety Communication Network has demonstrated need for this facility through a certificate of need statement. The proposed improvements will benefit the residents of Flagler County by preserving the general health, safety, and welfare of the residents of the County.

The proposed facility awaits a determination of ‘no hazard’ to air traffic by the FAA; the proposed tower structure will also be engineered to fall within the Parent Tract given a catastrophic failure.

In accordance with FCLDC, Section 3.03.03(E), and in support of our Variance requests as enumerated above, we submit the following findings of fact:

A. There is a particular exceptional condition pertaining to the particular property in question being that this is the closest County owned property to fulfill the planned coverage and replacement of the Flagler County Public Safety Communication Network wireless facility that can support the proposed self-support tower structure. To maximize the effectiveness of the County’s Public Safety Communication Network and minimize the cost to the residents of Flagler County this unique feature needs to be
exploited. Without granting the requested Variances, the owner will be deprived of providing this important use on this property, and the County would suffer an unnecessary hardship by depriving the general public of needed cost effective emergency service.

B. These conditions that require the applicant to seek Variances were not created by the affirmative actions of the applicant but rather by the precise specific needs of the County Public Safety Communication Network to maintain proper, safe, and economical communication systems throughout this portion of the County.

C. The Variances, if granted, would cause to promote the public health, welfare, and safety, as well as the morals of the community. The proposed development, if approved through the issuance of the needed Variances would uphold the intent of the County’s Wireless Ordinance, the purpose of which is to enhance public health, safety, and welfare.

D. The proposed use is permitted by Article 3 of the FCLDC. Given the above facts, the Applicant respectfully requests the County’s approval of the required County Special Use Permit with applicable variances.
Flagler County Government
Planning and Zoning Department
Staff Report

TO: Chairman and Planning and Development Board Members
FROM: Planning and Zoning Department
DATE: November 14, 2017
SUBJECT: Application #3105 – SPECIAL USE FOR A TELECOMMUNICATION TOWER IN THE R-1 (RURAL RESIDENTIAL) AND PUD (PLANNED UNIT DEVELOPMENT) DISTRICT

I. Requested Action & Purpose: This request is quasi-judicial in nature (not legislative) and does require disclosure of ex parte communication. The request is for a Special Use for a telecommunication tower in the R-1 (Rural Residential) and PUD (Planned Unit Development) District.

II. Location and Legal Description: 1600 South Old Dixie Highway; subject parcel lying South of Old Dixie Highway within Blocks C and D of the Bunnell Development Company subdivision (recorded at Map Book 1, Page 1, Public Records of Flagler County, Florida) in Section 3, Township 13 South, Range 31 East, Flagler County, Florida; within Parcel #03-13-31-0650-000C0-0050.

III. Owner: Flagler County, Florida

IV. Parcel Size: 24.11 +/- acres; tower area of 0.23 acres (10,000 s.f.)

V. Existing Zoning and Land Use Classification:
Zoning: R-1 (Rural Residential) and PUD (Planned Unit Development) District
Land Use: CN (Conservation), RLDRE (Residential Low Density: Rural Estate), MUL (Mixed Use: Low Intensity), and A&T (Agriculture & Timberlands)

VI. 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: CN (Conservation)/AC (Agriculture) District
East: CN (Conservation), RLDRE (Residential Low Density: Rural Estate), MUL (Mixed Use: Low Intensity), and A&T (Agriculture & Timberlands)/R-1 (Rural Residential) and PUD (Planned Unit Development) District
West: MUL (Mixed Use: Low Intensity)/AC (Agriculture) District
VII. **Land Development Code Sections Affected:** Section 3.06.05 Public, Semi-Public and Special Uses and specifically Subsection 3.06.05(F) “Special siting criteria for telecommunication towers”.

VIII. **Report in Brief:** The request is to locate a self-supporting telecommunication tower that will principally accommodate the County’s emergency radio system on the subject property. The County proposes to develop a 100 foot by 100 foot area enclosed by an 8-foot high fence and landscaping within the subject property, which will accommodate the compound area. The subject parcel is a total of 24.11 acres in size and is developed as the Plantation Bay water and sewer plant parcel, with the tower compound area located in the southern portion of the parcel. The parent parcel is rectangular in shape with just over 800 feet of frontage along Old Dixie Highway.

This self-supporting tower will not exceed 250 feet in overall height above grade, capped with a 25-foot lightning rod. The 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:
IX. **Standards for Review:** 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 all other zoning districts other than residential districts to no more than 250 feet in height if constructed for up to two (2) users and no more than 300 feet in height if constructed for three (3) 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.

   At 250 feet and anticipating as many as six (6) potential wireless service or communications providers, the overall tower height does not exceed the LDC’s height limit standard.
2. Proximity of the tower to residential structures and residential district boundaries;

**Analysis:** The closest residential use is 1,000 feet to the North on the North side of Old Dixie Highway. No variance for the separation requirement is needed; however, this property owner has discussed the tower application with staff, requesting that the tower be shifted to the South and West further away from his home due to possible health effects from emitted microwave radiation. County staff has advised this property owner that moving the tower is not possible because the proposed tower will be located on a County-owned parcel, with parcels to the South and West owned by Plantation Bay. This property owner has submitted correspondence – attached at Attachment #3 – supporting his position for the Board’s review.

3. Nature of uses on adjacent and nearby properties;

**Analysis:** Adjacent parcels are primarily wooded, interspersed with wetlands.

4. Surrounding topography;

**Analysis:** The subject property is relatively flat.

5. Surrounding tree coverage and foliage;

**Analysis:** The parcel is wooded along its North and West parcel lines. Where possible, existing index trees and existing understory vegetation should be maintained; if maintained in sufficient quantity, staff recommends that the addition of a perimeter landscape buffer around the base of the tower be eliminated.

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

**Analysis:** The tower is self-supporting with a three-sided tripod configuration, but has not been described as a lattice tower. The tower will not be guyed, and camouflaging the tower is not feasible. FAA lighting requirements have not been determined at this time, although lighting is not anticipated to be required. 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 noncontrasting blue or gray finish. Staff has recommended, consistent with previous County Commission tower approvals, that an
applicant may opt to instead paint the first 50 feet a brown ("Java") color at their option.

7. Proposed ingress and egress; and

Analysis: While not specifically identified at this point, access will be provided from South Old Dixie Highway using the existing driveway.

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 the parcel and intended first user of the tower is seeking this Special Use approval to ensure optimal coverage for emergency communications. No suitable existing towers are proximate or otherwise available to meet the County’s requirements.

TRC review
This application was not reviewed by the Technical Review Committee.

This agenda item is:
[ ] X quasi-judicial, requiring disclosure of ex-parte communication; or
[ ] _____ legislative, not requiring formal disclosure of ex-parte communication.

X. Staff Recommendation: Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3105, a Special Use for a 250 foot self-support telecommunication tower to be located on Parcel Number 03-13-31-0650-000C0-0050 at 1600 South Old Dixie Highway, subject to:

a. tower to accommodate up to six (6) wireless service or communication providers/users;
b. issuance of FAA Determination of No Hazard to air navigation, with tower lighting provided subject to FAA requirements;
c. contractor to attempt to preserve index trees on site throughout site development;
d. elimination of the perimeter landscape buffer surrounding the fenced compound; and
e. 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 noncontrasting blue or gray finish or galvanized finish.

XI. Suggested Motion: The Planning and Development Board recommends to the Board of County Commissioners approval of Application #3105, a Special Use for
a 250 foot self-support telecommunication tower to be located on Parcel Number 03-13-31-0650-000C0-0050 at 1600 South Old Dixie Highway, subject to:

a. tower to accommodate up to six (6) wireless service or communication providers/users;
b. issuance of FAA Determination of No Hazard to air navigation, with tower lighting provided subject to FAA requirements;
c. contractor to attempt to preserve index trees on site throughout site development;
d. elimination of the perimeter landscape buffer surrounding the fenced compound; and
e. 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 noncontrasting blue or gray finish or galvanized finish.

Attachments
1. Application and supporting documents
2. Public notice
3. Citizen correspondence
Future Land Use
Zoning
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<td>Flagler County Florida</td>
<td>1769 E Moody Blvd, Bldg 2</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>03-13-31-0650-00080-0080</td>
<td>Paul David and Jill Marie Johnson</td>
<td>1621 S. Old Dixie Hwy</td>
<td>Bunnell, FL 32110</td>
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<td>04-13-31-0650-000D0-0030</td>
<td>Clara S. Townsend, et al Attn Tax Dept</td>
<td>100 Professional Center Dr</td>
<td>Brunswick, GA 31525</td>
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<td>03-13-31-0650-000C0-0040</td>
<td>WL Residential Land, LLC</td>
<td>2379 Beville Rd</td>
<td>Daytona Beach, FL 32119</td>
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I hereby affirm mailed notice was sent to each property owner on 11/1/2017 for the Planning & Development Board Meeting on 11/14/2017
**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 #: 3105/2017/110012

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<tr>
<td>Subject to A1A Scenic Corridor IDO?</td>
<td>YES</td>
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**Description of Use:** Communications Tower Facility

__________________________  11/9/17
Signature of Owner(s) or Applicant/Agent  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.  
Rev. 05/08

Page 1 of 14
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.

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 interoperability 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 and OmniCom Consulting Group has 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
To: Flagler County Planning and Zoning Board c/o Adam Mengel

From: Paul and Jill Johnson, 1621 S. Old Dixie Hwy; Bunnell

RE: Special Use zoning application for Proposed telecommunication tower at 1600 S. Old Dixie Hwy

Date: November 9, 2017

My wife Jill and I have lived in Flagler County at 1621 S. Old Dixie Highway since 2002. Our residence is located across the street from the subject property 1600 S. Old Dixie Highway. I received a letter regarding the special use application for zoning for a telecom tower that is planned to support multiple microwave cellular repeater antennae.

In the process of researching the effects of living in close proximity to this technology, I have discovered studies that have found detrimental effects associated with living in proximity to cellular microwave radiating antennae.

The research papers references are attached in the file “EMF References.pdf”. As a partial summary, these research papers illustrate:

1. Up to 900% Increased incidence of new cancer tumors when living less than 500 meters (1640 feet) from a cell tower
2. Increased death rate due to cancer (35%) when living close to a cell tower
3. An trend for increasing incidence of cancer the longer an individual is exposed (3 to 7 years cancer risk goes up by a factor of 4)
4. Many other neurobiologic consequences including:
   a. Insomnia
   b. Anxiety
   c. Depression
   d. Brain fog
   e. Dizziness and vertigo
   f. Frequent illnesses
   g. HPA axis dysfunction (also known as adrenal fatigue)
   h. Hormone imbalances
   i. Sperm damage and infertility
5. Effects are stated to be worse for children under the age of 18, or for the elderly
6. Effects also increase as exposure levels and duration increase.

The U.S. standards for EMF exposure limits adopted in 1999 are based on a 50 year old FCC declaration that “microwave radiation that does not heat you up (as in a microwave oven) is not harmful”. This declaration has been shown scientifically to be false. In recent years the number of studies showing detrimental effects from EMF exposure has grown at a rate that seems to be only rivaled by the exponential growth of the telecom industry itself.

Because of the multiple apparent dangers associated with residing in close proximity to a telecommunications tower, I request that the Special Use zoning change be denied and a different location be selected that places the tower further from residential areas.

Respectfully,

/s/ Paul and Jill Johnson
For Reference – Some Studies Showing Cell Tower Health Impacts

"Epidemiological Evidence for a Health Risk from Mobile Phone Base Stations"
--Analysis of 4 studies were from Germany, and 1 each from Austria, Egypt, France, Israel, Poland, Spain
--7 studies showed altered neurobehavioral effects near cell towers
--3 studies showed increased cancer incidence
--Effects occurred <500 meters from cell towers

blog.cat/gallery/17983/17983-97698.pdf
--the proportion of newly developing cancer cases is significantly higher among patients who live within 400 meters of a cell phone transmitter.
--relative risk of getting cancer increased by 200% after 5 years operation of the transmitter
--early age of cancer diagnosis

Similarly found that within 350 meters of cell phone antennas there was:
--300% increased incidence of cancer among men and women
--900% cancer increase among women alone
-->4x risk of cancer after 3-7 yrs exposure <350 meters
--early age of cancer diagnosis

Inhabitants living nearby mobile phone base stations were shown to be at risk for developing neuropsychiatric problems (headache, memory changes, dizziness, tremors, depressive symptoms, sleep disturbance), and some changes in the performance of neurobehavioral functions. Exposed inhabitants exhibited a significantly lower performance than controls in one of the tests of attention and short-term auditory memory [Paced Auditory Serial Addition Test (PASAT)]. Also, the inhabitants opposite the station exhibited a lower performance in the problem-solving test (block design) than those under the station.

--Found a significant relationship between some cognitive symptoms and measured power density; highest for headaches. Perceptual speed increased, while accuracy decreased insignificantly with increasing exposure levels. There was no significant effect on sleep quality.

Dode et al, “Mortality by neoplasia and cellular telephone base stations in the Belo Horizonte municipality, Minas Gerais state, Brazil”, Science of the Total Environment, Volume 409, Issue 19, 1 September 2011, Pages 3649-3665

ElectromagneticHealth.org
Cancer deaths in center of city:
--within 100m 4.342/1000 (35% increase if within 100 meters)
-- >1000m 3.212/1000


Santini et al. found significant health effects on people living within 300 meters of mobile phone base stations. Fatigue, sleep disturbance, headaches, concentration problems, depression, memory problems, irritability, cardiovascular problems, hearing disruption, skin problems, dizziness, etc.

-- Showed significant decrease in volunteers’ ACTH, cortisol, thyroid hormones, prolactin for young females, and testosterone levels from RF exposures from both mobiles and cell towers.

Levitt & Lai, “Biological Effects from Exposure to Electromagnetic Radiation Emitted by Cell Tower Base Stations and Other Antenna Arrays”, Environmental Reviews, 2010
-- Over 100 citations, approximately 80% of which showed biological effects near towers
-- Built case for ‘setbacks’ and need for new exposure guidelines reflecting multiple and cumulative exposures

Sage & Pall, January 2014, Presentation to Washington State - Symptoms and RF levels in Various Cell Tower Studies

<table>
<thead>
<tr>
<th>Study</th>
<th>RFR Level</th>
<th>Reported Health Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natarajan (2003)</td>
<td>0.5-4.1uW/cm²</td>
<td>Fatigue, headaches, sleeping problems</td>
</tr>
<tr>
<td>Thomas (1996)</td>
<td>0.6-4.0uW/cm²</td>
<td>Headaches, sleep, attention difficulties,</td>
</tr>
<tr>
<td>Heathman (2010)</td>
<td>0.00-0.05uW/cm²</td>
<td>Cardiac mortality, cardiovascular</td>
</tr>
<tr>
<td>Thomas (2010)</td>
<td>0.00-0.05uW/cm²</td>
<td>Enzymes, heart rate, cardiac</td>
</tr>
<tr>
<td>Maddy (2010)</td>
<td>0.00-0.05uW/cm²</td>
<td>Heat, cardiovascular problems,</td>
</tr>
<tr>
<td>Harte (2002)</td>
<td>0.00-0.05uW/cm²</td>
<td>Sleep disturbances,</td>
</tr>
<tr>
<td>Knoll (2009)</td>
<td>0.00-0.05uW/cm²</td>
<td>Headaches, sleep, attention problems,</td>
</tr>
<tr>
<td>Batchey (2013)</td>
<td>0.05-4.1uW/cm²</td>
<td>Headaches, sleep, cardiovascular</td>
</tr>
<tr>
<td>Osterfield (2004)</td>
<td>0.05-4.1uW/cm²</td>
<td>Headaches, sleep, cardiovascular</td>
</tr>
<tr>
<td>Zwienske (2003)</td>
<td>0.15-4.1uW/cm²</td>
<td>Headaches, sleep, cardiovascular</td>
</tr>
<tr>
<td>Avdara (2012)</td>
<td>0.5-4.1uW/cm²</td>
<td>Headaches, sleep, cardiovascular</td>
</tr>
</tbody>
</table>


--- Notes by Grahame Blackwell: Found significant effects on wellbeing, according to a number of internationally-recognised criteria (including headaches, muscle fatigue/pain, dizziness etc) from 3G mast emissions well below accepted ‘safety’ levels (less than 1/25,000th of ICNIRP guidelines). Those who had previously been noted as ‘electrosensitive’ under a scheme in that country were shown to have more pronounced ill-effects, though others were also shown to experience significant effects.

**Oberfeld, Portoles, Navarro et al, “The Microwave Syndrome—Further Aspects of a Spanish Study”,** Public Health Department Salzburg, Austria, University Hospital La Fe, Valencia, Spain, Department of Applied Physics, University Valencia, Spain, Foundation European Bioelectromagnetism (FEB) Madrid, Spain, Presented at an International Conference in Kos (Greece), 2004

--- Notes by Grahame Blackwell: This study found significant ill-health effects in those living in the vicinity of two GSM mobile phone base stations. They observed that: “The strongest five associations found are depressive tendency, fatigue, sleeping disorder, difficulty in concentration and cardiovascular problems.” As their conclusion the research team wrote: “Based on the data of this study the advice would be to strive for levels not higher than 0.02 V/m for the sum total, which is equal to a power density of 0.0001 μW/cm² or 1 μW/m², which is the indoor exposure value for GSM base stations proposed on empirical evidence by the Public Health Office of the Government of Salzburg in 2002.”

**Usfie, Israel (as shown in Documentary “Full Signal”).** Cancer cases only found in vicinity of new cell towers with very few exceptions. See the film to hear about the study which was conducted by a local doctor who noticed increasing cancers following installation of cell towers on a ridge line in the city. [www.FullSignalMovie.com](http://www.FullSignalMovie.com)

**Naila Study, Germany (November 2004).** Report by researchers (five medical doctors)

“Following the call by Wolfram König, President of the Bundesamt für Strahlenschutz (Federal Agency for radiation protection), to all doctors of medicine to collaborate actively in the assessment of the risk posed by cellular radiation, the aim of our study was to examine whether people living close to cellular transmitter antennas were exposed to a heightened risk of taking ill with malignant tumors. The basis of the data used for the survey were PC files of the case histories of patients between the years 1994 and 2004. While adhering to data protection, the personal data of almost 1,000 patients were evaluated for this study, which was completed without any external financial support. It is intended to continue the project in the form of a register.

The result of the study shows that the proportion of newly developing cancer cases was significantly higher among those patients who had lived during the past ten years at a distance of up to 400 meters from the cellular transmitter site, which has been in operation since 1993, compared to those patients living further away, and that the patients fell ill on average 8 years earlier. In the years 1999-2004, i.e. after five years’ operation of the transmitting installation, the relative risk of getting cancer had trebled for the residents of the area in the proximity of the installation compared to the inhabitants of Naila outside the area.”
Key Cell Phone Radiation Research Studies

Joel M. Moskowitz, Ph.D.
Director
Center for Family and Community Health
School of Public Health
University of California, Berkeley


Tumor risk review papers


Also see Long-Term Cell Phone Use Increases Brain Tumor Risk

Tumor risk studies


Acoustic neuroma risk and cell phone use studies

Also see: http://www.saferemr.com/2016/05/should-cellphones-have-warning-labels_23.html

Breast cancer


Brain tumor incidence trends


Mechanisms

Ruediger (2009) Genotoxic effects of RF EMF. http://1.usa.gov/1gLuX3


Pall (2013) EMFs act via activation of voltage-gated calcium channels to produce beneficial or adverse effects. http://1.usa.gov/VulZLm


Reproductive Health Effects


Electromagnetic Hypersensitivity

See: http://www.saferemr.com/2014/10/electromagnetic-hypersensitivity_30.html

Exposure


Blood-Brain Barrier Studies


Other


Recent Studies (Updated 8/7/2017)


Flagler County Government
Planning and Zoning Department
Staff Report

TO: Chairman and Planning and Development Board Members

FROM: Planning and Zoning Department

DATE: November 14, 2017

SUBJECT: Application #3106 – SPECIAL USE FOR A TELECOMMUNICATION TOWER IN THE AC (AGRICULTURE) DISTRICT

I. Requested Action & Purpose: This request is quasi-judicial in nature (not legislative) and does require disclosure of ex parte communication. The request is for a Special Use for a telecommunication tower in the AC (Agriculture) District.

II. Location and Legal Description: 245 County Road 305; subject parcel lying South of Highway 100 West and East of County Road 305 within Section 10, Township 12 South, Range 29 East, Flagler County, Florida; within Parcel #10-12-29-0000-01040-0021.

III. Owner: Flagler County

IV. Parcel Size: 25.48+/- acres; tower area of 0.23 acres (10,000 s.f.)

V. Existing Zoning and Land Use Classification:
   Zoning: AC (Agriculture) District
   Land Use: A&T (Agriculture & Timberlands)

VI. Future Land Use Map Classification/Zoning of Surrounding Land:
   North: Highway 100 West; A&T (Agriculture & Timberlands) and IN (Industrial)/AC (Agriculture) District
   South: A&T (Agriculture & Timberlands)/AC (Agriculture) District (City of Bunnell)
   East: A&T (Agriculture & Timberlands)/AC (Agriculture) District (City of Bunnell)
   West: County Road 305; IN (Industrial)/AC (Agriculture) District

VII. Land Development Code Sections Affected: Section 3.06.05 Public, Semi-Public and Special Uses and specifically Subsection 3.06.05(F) "Special siting criteria for telecommunication towers".

VIII. Report in Brief: The request is to locate a self-supporting telecommunication tower that will principally accommodate the County’s emergency radio system on the subject property. The County proposes to develop a 100 foot by 100 foot area enclosed by an 8-foot high fence and landscaping within the subject property, which will accommodate the compound area. The subject parcel is a total of 25.48
acres in size and was a sod farm, with the tower compound area located in the southeastern portion of the parcel. The parent parcel is L-shaped with approximately 700 feet of frontage on Highway 100 and 1,200 feet of frontage along County Road 305.

A lattice tower is currently developed approximately 1,200 feet West of this parcel; however, the existing tower does not meet the storm-hardening requirements for the County’s emergency communications system. Additionally, other users are present on the existing tower that do permit the optimal positioning of the County’s equipment so as to maximize signal strength: a new tower would give the County first-position placement on the tower without existing conflicts from other providers.

This self-supporting tower will not exceed 350 feet in overall height above grade, capped with a 25-foot lightning rod. The 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:
IX. **Standards for Review:** 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 all other zoning districts other than residential districts to no more than 250 feet in height if constructed for up to two (2) users and no more than 300 feet in height if constructed for three (3) 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.

At 350 feet and anticipating as many as six (6) potential wireless service or communications providers, the overall tower height exceeds the LDC’s height limit standard. A variance has been separately requested through Application #3116.
2. Proximity of the tower to residential structures and residential district boundaries;

*Analysis:* The closest residential zoning and uses is to the North on the South side of Highway 100, with the home at approximately 500 feet from the proposed tower site and its parcel line approximately 200 feet from the tower site. A variance is needed to reduce the separation of the tower from the adjacent residentially-developed parcel, reducing the separation from 700 feet (200% of the 350 foot tower height) to 200 feet, a 500 foot variance, requested through Application #3116.

3. Nature of uses on adjacent and nearby properties;

*Analysis:* Adjacent parcels are developed as croplands.

4. Surrounding topography;

*Analysis:* The subject property is relatively flat.

5. Surrounding tree coverage and foliage;

*Analysis:* Due to its prior use as a sod farm, the subject parcel lacks tree coverage.

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

*Analysis:* The tower is self-supporting with a three-sided tripod configuration, but has not been described as a lattice tower. The tower will not be guyed, and camouflaging the tower is not feasible. FAA lighting requirements have not been determined at this time, although lighting is not anticipated to be required. 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 noncontrasting blue or gray finish. Staff has recommended, consistent with previous County Commission tower approvals, that an applicant may opt to instead paint the first 50 feet a brown (“Java”) color at their option.

7. Proposed ingress and egress; and

*Analysis:* While not specifically identified at this point, access will be provided from County Road 305. The access will likely use the existing
driveway and access for the former sod farm. If a new access will be needed, a driveway permit will be necessary prior to construction.

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 the parcel and intended first user of the tower is seeking this Special Use approval to ensure optimal coverage for emergency communications. Since the existing lattice tower is within 5,000 feet of the proposed tower, a variance to the minimum separation requirement between towers is needed and will be considered separately under Application #3116.

TRC review
This application was not reviewed by the Technical Review Committee.

This agenda item is:

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

X. Staff Recommendation: Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3106, a Special Use for a 350 foot self-support telecommunication tower to be located on Parcel Number 10-12-29-0000-01040-0021 at 245 County Road 305, subject to:

a. issuance of variances for:
   1. the 5,000 foot minimum tower separation requirement;
   2. the 700 foot separation from residentially zoned/developed parcels; and
   3. the 75 foot increase in tower height;

b. tower to accommodate up to six (6) wireless service or communication providers/users;

c. issuance of FAA Determination of No Hazard to air navigation, with tower lighting provided subject to FAA requirements;

d. perimeter landscape buffer surrounding the fenced compound to be provided to buffer the equipment area at the base of the tower;

e. use of the existing driveway from County Road 305 or, if another access is proposed, issuance of a driveway permit prior to the commencement of construction; and

f. 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 noncontrasting blue or gray finish or galvanized finish.
XI. **Suggested Motion:** The Planning and Development Board recommends to the Board of County Commissioners approval of Application #3106, a Special Use for a 350 foot self-support telecommunication tower to be located on Parcel Number 10-12-29-0000-01040-0021 at 245 County Road 305, subject to:

a. issuance of variances for:
   1. the 5,000 foot minimum tower separation requirement;
   2. the 700 foot separation from residentially zoned/developed parcels; and
   3. the 75 foot increase in tower height;

b. tower to accommodate up to six (6) wireless service or communication providers/users;

c. issuance of FAA Determination of No Hazard to air navigation, with tower lighting provided subject to FAA requirements;

d. perimeter landscape buffer surrounding the fenced compound to be provided to buffer the equipment area at the base of the tower;

e. use of the existing driveway from County Road 305 or, if another access is proposed, issuance of a driveway permit prior to the commencement of construction; and

f. 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 noncontrasting blue or gray finish or galvanized finish.

**Attachments**

1. Application and supporting documents
2. Public notice
Future Land Use
<table>
<thead>
<tr>
<th>ParcelId</th>
<th>Property Owner</th>
<th>Address</th>
<th>City, State, Zip</th>
</tr>
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<tbody>
<tr>
<td>04-12-29-0000-03060-0000</td>
<td>Strickland Sod Farm, Inc.</td>
<td>Post Office Box 1998</td>
<td>Bunnell, FL 32110</td>
</tr>
<tr>
<td>03-12-29-0000-04040-0000</td>
<td>Strickland Sod Farm, Inc.</td>
<td>Post Office Box 1998</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>10-12-29-0000-01040-0010</td>
<td>John Matthew &amp; Jaime P. Seay</td>
<td>Post Office Box 1151</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>10-12-29-0000-01030-0000</td>
<td>WW Deen Properties, LLC</td>
<td>4715 W Fairview Hts</td>
<td>Tampa, FL 33616</td>
</tr>
<tr>
<td>09-12-29-0000-20010-0000</td>
<td>Old Dixie Cattle Company, LLC</td>
<td>Post Office Box 354768</td>
<td>Palm Coast, FL 32135-4768</td>
</tr>
<tr>
<td>10-12-29-0000-01040-0021</td>
<td>Eva J. Richardson</td>
<td>31 Leidel Drive</td>
<td>Palm Coast, FL 32137</td>
</tr>
<tr>
<td>10-12-29-0000-01040-0020</td>
<td>HSBC Bank C/O Aldridge/Pite LLP</td>
<td>1615 S Congress Ave, Ste 200</td>
<td>Del Ray Beach, FL 33445</td>
</tr>
</tbody>
</table>

I hereby affirm mailed notice to each property owner on 11/1/17 for the Planning & Development Board meeting on November 14, 2017.

[Signature]
**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 #: 3106/2017110013

| PROPERTY OWNER(S) | | |
|-------------------|------------------|
| Name(s): Flagler County | Mailing Address: 1769 E. Moody Blvd, Bldg #2 |
| City: Bunnell | State: Florida |
| Telephone Number: 386-313-4009 | Fax Number: 386-313-4109 |

| APPLICANT/AGENT | | |
|-----------------|------------------|
| Name(s): Flagler County | Mailing Address: 1769 E. Moody Blvd., Bldg #2 |
| City: Bunnell | State: Florida |
| Telephone Number: 386-313-4009 | Fax Number: 386-313-4109 |

| SITE LOCATION (street address): | 245 COUNTY RD 305 |
| LEGAL DESCRIPTION: (briefly describe, do not use "see attached") | POR BEING THE NW CRNR OF SEC 10 |
| Parcel # (tax ID #): | 10-12-29-0000-01040-0021 |
| Parcel Size: | 25.480 AC |
| Current Zoning Classification: | AC (Agriculture) District |
| Current Future Land Use Designation: | Agriculture & Timberlands |
| Subject to A1A Scenic Corridor IDO? | NO |

Description of Use: Communications Tower Facility

**OFFICIAL USE ONLY**

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

Date 11/9/17

PLANNING BOARD RECOMMENDATION/ACTION: *APPROVED WITH CONDITIONS*

Signature of Chairman: ____________________________

Date: ____________________________ *approved with conditions, see attached.

BOARD OF COUNTY COMMISSIONERS ACTION: *APPROVED WITH CONDITIONS*

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. 05/08

Page 1 of 14
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.

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 interoperability 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 and OmniCom Consulting Group has 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
This Instrument Prepared By,
And Once Recorded, Return To:

Jason B. Burnett
GrayRobinson, P.A.
50 N. Laura Street, Suite 1100
Jacksonville, FL 32202

Parcel Identification Number:

AS PER THE SETTLEMENT AGREEMENT IN ADVISORY CASE NO. 3:14-AP-371-PMG BEFORE THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF FLORIDA

QUIT CLAIM DEED

THIS QUIT CLAIM DEED made this 3rd day of January, 2016, by Eva J. Richardson, a married woman (the “Grantor”), who address is 31 Leidel Drive, Palm Coast, FL 32137, in favor of Robert Altman, the duly qualified and acting Chapter 7 Trustee in bankruptcy of Robert Michael Mitchell, Sr., Debtor, pending in the United States Bankruptcy Court, Middle District of Florida, Case No. 3:13-bk-2575-PMG (the “Grantor”), whose post office address is 5256 Silver Lake Drive, Palatka, FL 32177-8524.

(Whenever used herein the terms “Grantor” and “Grantee” include all the parties to this instrument and the heirs, legal representatives, successors and assigns of individuals).

WITNESSETH, that the Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00), and other good and valuable considerations to said Grantor in hand paid by the said Grantee, the receipt, adequacy and sufficiency whereof is hereby conclusively acknowledged, does hereby remise, release and quit-claim unto Grantee, and Grantee’s heirs, legal representatives, successors and assigns forever, the following described property, situate, lying and being in Flagler County, Florida, to wit:

A parcel of land located in section 10, township 12 south, range 29 east being more particularly described as follows: A point of reference being the NW corner of section 10, township 12 south, range 29 east, thence south 00 degree 24’ 32” E a distance of 100.01 feet to the south right-of-way of State Road 100 (100 ROW) feet. Thence north 88 degrees 53’ 07” east a distance of 50.00’ to the point of beginning of this description. Thence continuing north 88 degrees by 53’07” east, a distance of 672.00 feet. Thence south 00 degrees 23’ 31” east, a distance of 726.396 feet, thence north 88 degrees by 53’ 07” east a distance 599.72 feet. Thence south 00 degrees 23’ 31” east a distance of 490.378 feet. Thence south 88 degrees 58’ 02” west a distance of 1271.32 feet. Thence north 00 degrees 24’ 32” west a distance of 1214.95 feet to the point of beginning of this description. Less and

THIS QUIT CLAIM DEED IS BEING DELIVERED TO TRANSFER AND CONVEY TO GRANTEE ALL OF GRANTOR’S RIGHT, TITLE AND INTEREST IN THE PROPERTY, AND IS BEING DELIVERED WITHOUT CONSIDERATION. THE PROPERTY IS UNENCUMBERED PROPERTY. ACCORDINGLY ONLY MINIMUM DOCUMENTARY STAMP TAXES ARE DUE IN CONNECTION WITH THIS QUIT CLAIM DEED. SEE F.A.C. RULE 12B-4.014
except ROW of State Road 100 and County Road 305 containing 25.4888 acres.

This property is not the homestead of the grantor, nor any of the grantor's immediate family, nor contiguous thereto. The Grantor resides at 31 Leidel Drive, Palm Coast, FL 32137.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

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

In Witness Whereof, Grantor has hereunto affixed his hand and seal to this Deed and the day and year first above written.

Signed, sealed and delivered in your presence:

[Signatures]

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me this 3rd day of January, 2016, by Eva J. Richardson. She is (personally known to me) or has produced ________________ (type of identification) as identification.

Suzanne Marie Horton
NOTARY PUBLIC, STATE OF FLORIDA

(Print, Type or Stamp Commissioned Name of Notary Public)
I. **Requested Action & Purpose:** This request is quasi-judicial in nature (not legislative) and does require disclosure of ex parte communication. The request is for **variances** associated with the proposed Special Use for a telecommunications tower considered separately under Application #3106 in the AC (Agriculture) District. The requested variances are:
   a. 2,600 feet from the required minimum 5,000 foot separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d));
   b. 500 feet from the required minimum 700 foot separation from a residentially zoned property (FCLDC, Section 3.06.05.F(8)(c)); and
   c. 75 foot increase from the maximum tower height of 300 feet (FCLDC, Section 3.06.05.F(8)(g)2.c.).

II. **Related Application:** Application #3106 – Special Use for Telecommunication Tower

III. **Location and Legal Description:** 245 County Road 305; subject parcel lying South of Highway 100 West and East of County Road 305 within Section 10, Township 12 South, Range 29 East, Flagler County, Florida; within Parcel #10-12-29-0000-01040-0021.

IV. **Owner:** Flagler County

V. **Parcel Size:** 25.48 +/- acres; tower area of 0.23 acres (10,000 s.f.)

VI. **Existing Zoning and Land Use Classification:**
   Zoning: AC (Agriculture) District
   Land Use: A&T (Agriculture & Timberlands)

VII. **Future Land Use Map Classification/Zoning of Surrounding Land:**
   North: Highway 100 West; A&T (Agriculture & Timberlands) and IN (Industrial)/AC (Agriculture) District
   South: A&T (Agriculture & Timberlands)/AC (Agriculture) District (City of Bunnell)
VIII. Land Development Code Sections Affected: Section 3.07.03.E., Variance Guidelines, Section 3.06.05.F.(8)(m), Variances for telecommunication towers, and Section 3.06.05.F.(8), Performance Standards for telecommunication towers.

IX. Report in Brief: This request is for relief from the required minimum performance standards as listed in the LDC for new telecommunication towers. The applicant has provided as part of their submittal a narrative statement of justification for relief from the cited standards.

X. Variance Criteria 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 (summarized here, with the full text attached) 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 response: There is a particular exceptional condition pertaining to the particular property in question being that this is the closest County owned property to fulfill the planned coverage and replacement of the Flagler County Public Safety Communication Network wireless facility that can support the proposed self-support tower structure. To maximize the effectiveness of the County’s Public Safety Communication Network and minimize the cost to the residents of Flagler County this unique feature needs to be exploited. Without granting the requested Variances, the owner will be deprived of providing this important use on this property, and the County would suffer an unnecessary hardship by depriving the general public of needed cost effective emergency service.

Staff analysis: The lone criterion of the uniqueness of this parcel is its County ownership, together with its relative proximity to a necessary antenna location. This parcel is not particularly unique so as to warrant a variance for parcel characteristics alone. The reduction in the separation between towers is necessary because the County desires a tower that through its design and construction meets current hurricane-force wind standards and where the County can take advantage of its first-position on the tower for optimal coverage and signal strength.
The variance for separation from existing residences is needed because of the home located to the North, which had formerly been under common ownership with this parcel.

As for tower height, the additional height is needed for coverage in this area: as stated previously, the higher tower height allows for a higher antenna mount and greater coverage.

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 response: These conditions that require the applicant to seek Variances were not created by the affirmative actions of the applicant but rather by the precise specific needs of the County Public Safety Communication Network to maintain proper, safe, and economical communication systems throughout this portion of the County.

Staff analysis: This variance request is necessary because of the County’s intent to develop a telecommunications tower on this parcel proximate to the existing lattice tower, the existing home to the North, and the increased tower height over the maximum height as provided in the LDC.

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 response: The Variances, if granted, would cause to promote the public health, welfare, and safety, as well as the morals of the community. The proposed development, if approved through the issuance of the needed Variances would uphold the intent of the County’s Wireless Ordinance, the purpose of which is to enhance public health, safety, and welfare.

Staff analysis: Approval of the requested variances would provide for improved public safety communications.

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

Applicant response: The proposed use is permitted by Article 3 of the FCLDC. Given the above facts, the Applicant respectfully requests the County’s approval of the required County Special Use Permit with applicable variances.

Staff analysis: The requested variances do not permit a use that would otherwise be prohibited within the AC (Agriculture) zoning district. As to
whether the Special Use should precede the variance, both application requests are interrelated and one cannot be approved without the approval of the other.

The variances, if denied, may be appealed to the Board of County Commissioners, which is ultimately tasked with approving the special use application after consideration of the application and supporting materials, staff’s recommendation, and the recommendation of the Planning and Development Board.

The proposed telecommunication tower would otherwise be a permissible use in any zoning district following Special Use approval.

TRC review
This application was not reviewed by the Technical Review Committee.

This agenda item is:

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

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

XI. **Staff Recommendation:** Staff recommends that the Planning and Development Board find that based on the testimony and evidence presented that all variance guidelines have been met and approve Application #3116 for relief of:

a. 2,600 feet from the required minimum 5,000 foot separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d));

b. 500 feet from the required minimum 700 foot separation from a residentially zoned property (FCLDC, Section 3.06.05.F(8)(c)); and

c. 75 foot increase from the maximum tower height of 300 feet (FCLDC, Section 3.06.05.F(8)(g)2.c.).

XII. **Suggested Motion Language:** The Planning and Development Board finds that based on the testimony and evidence presented that all variance guidelines have been met and approve Application #3116 for relief of:

a. 2,600 feet from the required minimum 5,000 foot separation from another telecommunications tower (FCLDC, Section 3.06.05.F(8)(d));

b. 500 feet from the required minimum 700 foot separation from a residentially zoned property (FCLDC, Section 3.06.05.F(8)(c)); and

c. 75 foot increase from the maximum tower height of 300 feet (FCLDC, Section 3.06.05.F(8)(g)2.c.).
<table>
<thead>
<tr>
<th>ParcelId</th>
<th>Property Owner</th>
<th>Address</th>
<th>City, State, Zip</th>
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<tr>
<td>04-12-29-0000-03060-0000</td>
<td>Strickland Sod Farm, Inc.</td>
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<td>Bunnell, FL 32110</td>
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<td>Bunnell, FL 32110</td>
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<tr>
<td>10-12-29-0000-01040-0010</td>
<td>John Matthew &amp; Jaime P. Seay</td>
<td>Post Office Box 1151</td>
<td>Bunnell, FL 32110</td>
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<tr>
<td>10-12-29-0000-01030-0000</td>
<td>WW Deen Properties, LLC</td>
<td>4715 W Fairview Hts</td>
<td>Tampa, FL 33616</td>
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<tr>
<td>09-12-29-0000-02010-0000</td>
<td>Old Dixie Cattle Company, LLC</td>
<td>Post Office Box 354768</td>
<td>Palm Coast, FL 32135-4768</td>
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<tr>
<td>10-12-29-0000-01040-0021</td>
<td>Eva J. Richardson</td>
<td>31 Leidel Drive</td>
<td>Palm Coast, FL 32137</td>
</tr>
<tr>
<td>10-12-29-0000-01040-0020</td>
<td>HSBC Bank C/O Alderidge/Pite LLP</td>
<td>1615 S Congress Ave, Ste 2</td>
<td>Del Ray Beach, FL 33445</td>
</tr>
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I hereby affirm that mailed notice was sent to each property owner on this list on 1/1/17 advising of Planning Board public hearing for Application #3116.
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 #: 3116 /2017/10/01

PROPERTY OWNER(S)
Name(s): Flagler County
Mailing Address: 1769 E. Moody Blvd, Bldg #2
City: Bunnell State: Florida Zip: 32110
Telephone Number 386-313-4009 Fax Number 386-313-4109

APPLICANT/AGENT
Name(s): Flagler County
Mailing Address: 1769 E. Moody Blvd, Bldg #2
City: Bunnell State: Florida Zip: 32110
Telephone Number 386-313-4009 Fax Number 386-313-4109
E-Mail Address:

SUBJECT PROPERTY
SITE LOCATION (street address): 245 COUNTY RD 305
LEGAL DESCRIPTION:
(briefly describe, do not use “see attached”)
POR BEING THE NW CRNR OF SEC 10
Parcel # (tax ID #):
10-12-29-0000-01040-0021
Parcel Size:
25.480 AC
Current Zoning Classification:
AC (Agriculture)
Current Future Land Use Designation
Agriculture/ Timberlands
Subject to A1A Scenic Corridor IDO?
☑ NO

Relief Requested: Communications Tower Facility

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

Date: 11/9/17

**OFFICIAL USE ONLY**

PLANNING BOARD RECOMMENDATION/ACTION: *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. 09/16
PROJECT-VARIANCE DESCRIPTION
245 COUNTY RD 305
WIRELESS TELECOMMUNICATION FACILITY

The proposed development is comprised of the construction, operation, and maintenance of a wireless telecommunication co-location facility for the purpose of providing Public Safety Communication Network service for the residents of the Flagler County.

The proposed wireless telecommunication facility will be designed for the co-location of up to six (6) wireless service or communication providers/users. This will enable additional Carriers to provide wireless service within this portion of the County without the need to construct additional tower structures.

The proposed facility includes a not to exceed 350’ self-support tower structure with a 25’ lightning rod within a 25.480 Acre +/- lease parcel containing an 100’ x 100’ gravel compound enclosed by an 8’ chain link fence with necessary landscaping, if required, on all four sides of the fenced compound. Additional construction activities include a gravel access road and the installation of electrical and telephone/communications services. Please note that the proposed development is an unmanned facility, all structures are non-habitable, and as such, potable water, sanitary sewer, and solid waste services are not required.

The proposed development is situated in a Single Family (000100) Land Use area, and has been sited to facilitate the County’s needed antenna relocation.

The Applicant is seeking a Variance to permit the separation of the proposed self-support tower structure to a another communications tower of approximately 2400 feet instead of the 5000 foot separation required by FCLDC, Section 3.06.05.(F)(8)(d) Table 1. A Variance to permit the separation of the proposed self-support tower structure to a residentially zoned property line of approximately 200 feet instead of the 700 foot separation required by FCLDC, Section 3.06.05.(F)(8)(c) Table 1. A Variance is requested to permit a total height of 375 feet in place of the 300’ as required by FCLDC, Section 3.06.05(F)(8)(g).

The Flagler County Public Safety Communication Network has demonstrated need for this facility through a certificate of need statement. The proposed improvements will benefit the residents of Flagler County by preserving the general health, safety, and welfare of the residents of the County.

The proposed facility awaits a determination of ‘no hazard’ to air traffic by the FAA; the proposed tower structure will also be engineered to fall within the Parent Tract given a catastrophic failure.

In accordance with FCLDC, Section 3.03.03(E), and in support of our Variance requests as enumerated above, we submit the following findings of fact:

A. There is a particular exceptional condition pertaining to the particular property in question being that this is the closest County owned property to fulfill the planned coverage and replacement of the Flagler County Public Safety Communication Network wireless facility that can support the proposed self-support tower structure. To maximize the effectiveness of the County’s Public Safety Communication Network and minimize the cost to the residents of Flagler County this unique feature needs to be
exploited. Without granting the requested Variances, the owner will be deprived of providing this important use on this property, and the County would suffer an unnecessary hardship by depriving the general public of needed cost effective emergency service.

B. These conditions that require the applicant to seek Variances were not created by the affirmative actions of the applicant but rather by the precise specific needs of the County Public Safety Communication Network to maintain proper, safe, and economical communication systems throughout this portion of the County.

C. The Variances, if granted, would cause to promote the public health, welfare, and safety, as well as the morals of the community. The proposed development, if approved through the issuance of the needed Variances would uphold the intent of the County’s Wireless Ordinance, the purpose of which is to enhance public health, safety, and welfare.

D. The proposed use is permitted by Article 3 of the FCLDC. Given the above facts, the Applicant respectfully requests the County’s approval of the required County Special Use Permit with applicable variances.