FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD  
Government Services Building  
Board Chambers  
1769 East Moody Blvd. Bldg 2, Bunnell, Florida 32110  
MEETING  
DATE – JUNE 13, 2017  
TIME – 6:00 P.M.  

1. Roll Call.  
2. Pledge to the Flag.  
3. Approval of May 9, 2017 meeting minutes.  
4. Quasi-judicial requiring disclosure of ex parte communication:  
   Application #3073 – PUBLIC USE IN THE R-1 (RURAL RESIDENTIAL) AND PUD (PLANNED UNIT DEVELOPMENT) DISTRICTS – request for a passive park and beach access at 30 Bay Drive; Parcel Numbers: 17-10-31-0000-04090-0000, 20-10-31-0000-01010-0000 and 20-10-31-1750-00010-0020; Owner: Flagler County Board of County Commissioners / Applicant: Paul Ina, P.E.  
   Project # 20170040018  
   (TRC, PDB, BOCC)  
5. Quasi-judicial requiring disclosure of ex parte communication:  
   Application #3074 – SPECIAL EXCEPTION FOR A RESTAURANT IN THE R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT – request for a Special Exception at 5115 North Ocean Shore Boulevard (Lots 28, 29 and 30, Unit 2 Magnolia Manor, Map Book 5, Page 71, Public Records of Flagler County, Florida); Parcel Number: 40-10-31-4100-00000-0280; Owner: Shirley McCoy and Chester Lee Boggs / Applicant: William R. Odom.  
   Project # 20170400023  
   (TRC, PDB)  
6. Staff Comments.  
7. Board Comments.  
8. Public Comments – Each speaker will be allowed up to three minutes to address the Planning and Development Board on any item or topic not on the agenda.  
9. Adjournment
PLEASE TAKE NOTICE THAT INDIVIDUAL COMMISSIONERS OF THE BOARD OF COUNTY COMMISSIONERS MAY ATTEND THIS EVENT. THE COMMISSIONERS WHO ATTEND WILL NOT TAKE ANY ACTION OR TAKE ANY VOTE AT THIS MEETING. THIS IS NOT AN OFFICIAL MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY. THIS NOTICE IS BEING PROVIDED TO MEET THE SPIRIT OF THE SUNSHINE LAW TO INFORM THE PUBLIC THAT COMMISSIONERS MAY BE PRESENT AT THESE DISCUSSIONS.

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

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE PLANNING & ZONING DEPARTMENT AT (386) 313-4009 AT LEAST 48 HOURS PRIOR TO THE MEETING.
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MEMBERS PRESENT: Chairman Robert Dickinson, Arthur Barr, Michael Boyd, Michael Duggins, Laureen Kornel, and Mark Langello

MEMBERS ABSENT: Troy Dubose

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

BOARD COUNSEL: Kate Stangle, with Broad and Cassel

Chairman Dickinson called the meeting to order at 6:00 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 April 11, 2017 regular meeting
   Motion to approve made by Mr. Langello and seconded by Ms. Kornel.
   Approved unanimously

4. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3070 – APPLICATION FOR REZONING TO PUD (PLANNED UNIT DEVELOPMENT) request for rezoning from C-1 (Neighborhood Commercial) to PUD (Planned Unit Development); Parcel Number 27-11-31-4892-00000-00R0; Parcel size; 5.63 acres. Owner: Gurell Land Management, LLC; Applicant: Timothy J. Conner.

   Chairman Dickinson asked if there were any exparte communications none reported.

   Mr. Mengel made a statement that this meeting was not being broadcast on Flagler TV but it was being broadcast on Flagler YouTube in addition the video monitors are not working in the Board Chambers.

   Mr. Mengel Planning Director presented the staff report noting location, size and current zoning classification. He gave detailed historic information about this site and the proposed phased plan for the site. Mr. Mengel provided the staff recommendation as staff recommends that the
Planning & Development Board recommend the Board of County Commissioners, approval of Application #3070 a rezoning from C-1 (Neighborhood Commercial) to PUD (Planned Unit Development) District, finding that the requested change is consistent with the Comprehensive Plan and the Land Development Code.

Timothy J. Conner 4488 N. Oceanshore Blvd. Palm Coast Fl 32137 Applicant/ Agent stated this is a quality low impact development on Colbert Lane. What we are proposing is something compatible with the County’s uses that are already there as you have invested some money in the park, the trail head for Graham Swamp and the rail to trail facility I know your tourist and economic development wing is interested in eco-development. We are using this to duck tail into that mission the County is already engaged in and away from what this property may have been designed to be back in 2004. My client has done a tremendous amount of due diligence. We have a non jurisdiction determination letter from the Army Corps of Engineers as to the wetland impact; we know what we are going need to get a water management permit in order to get into the wetland part of the property. We put a lot of work into this to get where we are. We intend to keep as much of the canopy in place as possible in order to accommodate what we have asked for this 2 phase development. In phase 1 we would like to put in the road build the house as the primary residence and over time as we will get more familiar with the property we will be able to determine where the real heritage oaks are where the areas to be preserved are and work the 12 sites into that setting rather than mow that thing down and put in an RV park. We are not talking about Camp Town in Beverly Beach, we are not even talking about Gamble Rogers State Park we are talking about something that is much more environmentally friendly and more aesthetically pleasing. The road entrance as proposed will be a single entrance off of Colbert Lane we vision a gate with a 40 foot setback from the property line that puts the gate substantially back from Colbert Lane right-of-way there will be landscape in front of gate entrance and between the buffer of natural vegetation and beyond that other than the gate and the entrance apron, riding down Colbert Lane after this development is in place will be no different than it is today everything will be hidden from view. Behind the development we are completely wrapped by conservation area that was dedicated as part of Palm Coast Plantation development so there is nothing around us north, east or south. To the west on other side of Colbert Lane is conservation land and that has been preserved either by the Water Management District, Palm Coast or Flagler County so this parcel is surrounded by environmental set aside there are no residential structures close by so you won’t be able to see it the only way you would know it was there is if you literally flew over it with an airplane. We believe and our studies indicate that from the engineering that has been done noise would be non-existent to the neighboring community and there will be no other impacts that would be considered detrimental to the local residential area. We met with the Grand Haven CDD, at that time we thought we would have to annex into the city in order to get water and sewer for the project so we met our neighbors to see the reaction, the only negative reaction we got from the Grand Haven CDD was a gentleman in the audience was concerned that the speed limit on Colbert Lane would be
reduced. As you can see from the public reaction that is here tonight it is not something that is generating a lot of concern. It is zoned C-1(Neighborhood Commercial) right now it allows for bakeries, convenience store, hardware store, coin laundry, barber/beauty shops and pharmacy and all we would need to get is a development order and a building permit. I heard loud and clear from the Grand Haven people they don’t want any of that down on Colbert Lane but my client is interested in developing his property. So we talked to the development community through our engineering contacts and were told that it was not a corner so Walgreens doesn’t want it, and it is not located in an urban area so there are not many commercial uses that would be attracted to this site. Jim Cullis and Grand Haven are putting in commercial development already on the north end of Colbert in Palm Coast there are designs to develop the corners of 100 and Colbert Lane, There didn’t appear to be a community desire for neighborhood commercial type development nor did a developer desire the location so what we have left a Dollar General. We could get a Dollar General but I don’t think mowing down 5 acres for parking and bright lights is compatible with what you already have on Colbert Lane and I don’t think the neighborhood would like it either. So we are asking for approval of a planned development in 2 phases to allow for the residential structure to be built C.O.’d and occupied and a good boots on the ground understanding of what we got in natural features in place and allow us to come back and get a detailed engineered design back in front of the County for final development of the RV site. These will be pull through sites, they will pull through to the extent they will have parking pad, picnic table electric and water hookup but other than that we don’t envision disturbing the area much at all and if you think about it, this has the impact of 1 unit per half acre and that would be the residential impact but that is not the correct way of looking at it what we have is the impact of 1 residential unit on 5 ½ acres and 12 temporary parking sites that don’t take up much more than a car and a boat which people in the county are allowed to put in their front yards and they are temporary sites. This is a residential setting we are not allowing people to park their vehicles permanently. We are restricting it to transient use only no storage of vehicles, there will be no outside storage except for the owners storage of his own cars which is anticipated in the design of the site with a proposed garage to park his RV so that will be the only storage on site. So it won’t be a place where someone can come in set up, build a roof over it and use it as their winter home. It will be transient rental only and we envision at the level my client is going to charge for rental fees on a regular basis it is going to be high end RV, soccer moms and dads that can afford those kind of things, sports enthusiasts coming to the county to enjoy what we have, possibly families that are here for a lacrosse tournament or soccer tournament or some people that come to enjoy the water golfing and biking that is the market we are looking for not snow birds coming down and parking a RV that they can do in Beverly Beach.

Chairman Dickinson opened the Public Hearing seeing no one he closed the Public Hearing and opened Board comments.
Mr. Langello, questioned Mr. Mengel this 2 phase PUD I don’t recall where the first phase was a single family residence. Is there any issue if only phase 1 happened without phase 2. Would that create a problem? And is there a time limit for phase 2 to come on line.

Mr. Mengel, noted that we did talk internally and the applicant has not had time to respond about the concept. We have talked to Mr. Connor about this and what we would normally do is have some sort of bond or surety provided but you are talking about a subdivision and subdivision improvements so; we also understand what the owner has discussed as an outline. This parcel known as tract R had given all its density it was the donor parcel for the recipient parcel, no residential.

Mr. Langello stated the problem is there is residential and it may trip one extra unit that they had already given away.

Mr. Mengel responded yes.

Mr. Langello asked if we are still doing it anyway?

Mr. Mengel, yes but the manager caretaker residence is ancillary use for the commercial that is on the same parcel. The way to work those protections in you are hitting on just what we had talked about what if phase 1 happens and phase 2 never comes.

Mr. Langello asked if there is going to be a time line or any type of a trigger as Mr. Conner was saying he wants to go in there and take his time and figure out what is going on it could take 5 years it could take 25 years. So at what point does that trigger in the PUD and does that cause a problem.

Mr. Mengel stated that the ordinary language we would have is the 2 years suspense date or the 2 year milestone within the PUD. So, what we have talked about at least in the short run, is some of a kind of guarantee on the part of the owner to the County to say this is for that infrastructure of that portion that is yet to be done and if I don’t deliver on it then that can be held by the County maybe something in escrow.

Mr. Langello asked if that is something written into the PUD, or is it written into any site development order that may be issued.

Mr. Mengel responded at the moment is it written into the draft Ordinance of the PUD which you do not have the privilege of seeing at this point it is a concept we are trying to work through. But of the issue of if that the home happened only and phase 2 never did it is safe to
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say we would still like to have some more discussion with the owner and their agents and also
with County Attorney staff to come up with something.

Mr. Langello encouraged the applicant to have a sign.

Mr. Langello stated the right in and right out that concept is a bad idea if that isn’t released on
this as a matter of fact I think it is dangerous If it remains all the RVs that all have to head north,
they are going to go to the very next turnaround and try to make a big u-turn in the road. It is
safer if they make a turnout of the site. Is this not on a bend in the road and they could have a
left out from here hopefully when it goes to County Commissioners I hope they look at that
regard. They will probably have to put septic tanks in or septic disposal for all of those camp
sites because if it is high end they don’t want to have to keep their storage and that may be a
significant size for 12 units.

Jerry Finley, Finley Engineering Solutions, Inc. 3959 Nova Road Port Orange FL 32127 project
engineer we have had multiple conversations with the Health Department about this project. We
see it as the number of units we have in there and the cutoff, I believe it was 14 that they can
permit for water and septic for this project, one system for the whole project. So we have a
gravity sewer that will drain to a common septic tank for this whole project.

Mr. Langello asked so you had already planned on doing that.

Mr. Finley responded we haven’t designed it but we have the parameters for it.

Mr. Langello asked so the way that the drawing showed the lots being evenly space you may
have a septic in the middle of that or something.

Mr. Finley responded we envision gravity system just like in a subdivision. Gravity sewer man
holes or clean outs running to a pump with a septic tank and common drain field.

Mr. Langello asked will the PUD have any other restrictions that Mr. Connor was talking about
where there was just going to be a transient use no storage and different things was that the
language you were discussing with the owner.

Mr. Mengel responded we have addressed them at least in this initial draft of the Ordinance that
you have not had the benefit of looking at, but in very much keeping in line with what we
already have in the Land Development Code the 6 month limit on occupancy in any single space
within the park so that we are tracking that language we did have some feedback also from the
County Administrator about something that is timely for us a prohibition of ground fires and I
think we have talked some about that and I don’t think there is any particular pushback on that either but some aspects we want to have incorporated into the Ordinance.

Mr. Langello conceptually I like the project.

Mr. Mengel stated that the item presented here as the reclassification as best is considered a sketch plan so that what was written into your written petition so we are meeting that requirement 3.04.03 of the LDC. The PUD site development plan that is the engineered plan will be submitted. That is submitted to the TRC, Planning Board and the Board of County Commissioners and that would follow. So your initial step for the rezoning is that sketch plan and that is what we have now. It has been stated that lots of work has been done but it has not been put into a format of a site plan to meet our requirements of a PUD site plan. So, then what you will have accompanying this Ordinance is the sketch plan for the purposes of the rezoning to satisfy the requirements for the reclassification to Planned Unit Development. So you will see the site plan again.

Mr. Barr referenced the sanitary service and it being a septic system. Is there public water along Colbert Lane or will there be internal central water?

Mr. Finley responded there are problems to connect to the water lines, to connect you have to annex into the City of Palm Coast and it is a great distance this little 5 acre parcel and water is 2300 feet to the north and 2300 feet to the south where the 2 entrance roads are to Palm Coast Plantation that is where the water is, so you have to be running 10-12 inch water line 2300 feet to get to the property. We did talk to the Health Department they can permit it themselves without having to go to DEP for a water system for this size project

Mr. Barr asked if Palm Coast Plantation has annexed into the City of Palm Coast.

Mr. Mengel no, to the best I am aware they are requiring pre annexation agreements to be signed for every lot that is developed within Palm Coast Plantation.

Mr. Barr so they have City water.

Mr. Mengel yes City water and sewer.

Mr. Barr asked so is there any restraint on this property for requirements for future annexation? Is there a demand for that they are surrounded by city.

Mr. Mengel responded there may be that push from the City but absent the availability of the utilities it would be safe to say the owner would have a very strong argument given against that
annexation occurring because there would be no benefit. You can envision that possibility of this being an enclave being surrounded by the City at some point I would also say suppose some of which we already know that the powers that be at Palm Coast Plantation have been able to resist the effort by the City to this point and that efforts continue going so even with the pre annexation agreements being signed by each lot owner there have been no properties annexed at this point and annexation is not on the horizon.

Mr. Barr asked on a side issue Mr. Cullis’ Light House project where will they be getting their water and sewer?

Mr. Mengel responded they, along with Harbor View Marina, which is south of this project will get their utilities from City of Palm Coast and will likely have some pre annexation agreement and may or may not be required to annex.

Mr. Barr asked we know for certain Graham Swamp will remain in the County.

Mr. Mengel when the Water Management District controlled the property the Graham Swamp was annexed so it is actually in the City limits they are on the other side of Colbert Lane across the street from this property.

Mr. Barr asked so this is within their water service area where it goes down to SR100.

Mr. Mengel we had some discussion about it. If you go back to 2007 where we were negotiating that settlement agreement we believe we have an area here that is carved out that was to remain County but be served by the City for utilities that was part of that agreement but there still seems to be a requirement for pre annexation agreements on the part of the City consistent with what they would apply to this area that they serve, the unincorporated area that they serve.

Mr. Boyd I am like Mr. Langello I think the County should revisit the right in right out requirement.

Motion made to approve made by Mr. Boyd and seconded by Ms. Kornel

Chairman Dickinson I am comfortable with the project what I am uncomfortable with is the PUD Agreement that is in the process. It is important that the components that we talked about are covered in the PUD Agreement. Is it normal for us to look at a PUD project without at least a draft of the PUD Agreement for our review?

Mr. Mengel responded we are attempting to move away from the traditional PUD text agreement our challenge is how we do this. While we moved away from the traditional text...
agreement we then have incorporated restrictive language we wanted to into the Ordinance itself. What I can share at this point is there is a restriction on the use itself as the 12 sites along with the caretaker residence the transient nature the 6 month schedule out of the land development code a requirement on space size 30 feet of width a depth of 60 feet and those 12 spaces occupied no greater than 6 month duration by any single owner a restriction on ground fires a restriction or language that would forbid the sale or subletting of any space it would also prohibit the sale of the residence the caretaker residence that cannot be cut out from the property it must remain as one single project and also have that language that we are still trying to find out that surety will be there for us to make the improvement if Phase 2 doesn’t happen and it stops at Phase 1. That in its truest sense is all the points will be in the Ordinance. You can imagine one of the difficulties here is that while it is imposed here it is adopted by Flagler County BOCC as an Ordinance it is not necessarily something that gets the signature for the agreement of the applicant as much as the applicant submitted it to us as their initial rezoning request and they signify their consent through their submittal of the application so we will still have some negotiation where they would be able to comment and that is part of the reason you don’t have it here is we are still trying to work those things out with the pieces.

Chairman Dickinson asked if there was any other Board discussion. No reply

**Motion made to approve made by Mr. Boyd and seconded by Ms. Kornel**

**Motion carried unanimously**

5. Staff Comments

Mr. Langello asked about the Use of Owned Electronic Devices by Flagler County form he had received and felt that it does not apply to the Planning Board feeling that parts are a little ambiguous. He understood the County Administrator being concerned for a department head or anyone on the County staff going on the internet and doing something, but on a citizen’s advisory board it is a bit of over kill

Mr. Mengel, I think you are reading it in the right context think of it in the discharge of your official duties as a volunteer citizen board member with the county and if you keep that context take what applies in that situation and hold it to heart and don’t take what doesn’t.

Mr. Langello when I go on the internet to do my advertising for my company which is prohibited in here I shouldn’t be doing that. This document not necessarily designed for us and if you read pieces of it you have to read the whole thing and keep it in context the spirit of it. I just went to court this week against my insurance company and I won but it was one of these lawyer things pulling out little details like this particular thing did not say that and then I am
reading this and that is exactly what I am doing here I am agreeing to something that doesn’t apply.

6. Board Comments.
Mr. Barr stated I am concerned about the statement that you are removing text agreements to PUD’s and I think the implication was the ability towards specific guidance of the development within the Ordinance itself The PUD then I am losing track of what a PUD is. The PUD I grew up with is where all the details and all the controlling conditions are and it also gives the developer more flexibility and the ability to make changes. An Ordinance is controlled by County Government a more difficult avenue to make changes so what direction are you going?

Mr. Mengel commented could you please disclose that we did not talk about this before we came into the meeting so I did not prompt you to question or comment; to some degree I share your concern. What we are heading towards is this idea that PUDs are things that we have relied on where things don’t otherwise fit. I think in some areas it’s been correct. You may not all completely agree with it and I have definitely been able to talk about it on the opposite side of it also because I do see both sides. The PUD to me has the advantage they are wordy documents they are contractual documents there is a lot of obligations there is a of legalese in them but at the same time it is also something that the County depends on the developer to perform but they can go back and point and say the County thought this was important enough to be put into my agreement so beyond C&R’s beyond those things that the developer has the responsibility or they can incorporate some of those things that and giving the County the ability to amend or control or to work through it. I think our approach is a good one. I am happy with the idea and the concept where we are heading with this. I did leave out that we would start with a base zoning so what we would say is we have to have something that we can tie this piece of property to these PUDs going forward is so what is this use what is this spatial relationship. How are we dividing up these lots what is the closest zoning category we have to this development and then we would have a list of exceptions maybe it’s the setbacks so then we have all this applies except for this so here are those exceptions and the hope is that at least the effort is a noble one to make it easier for staff easier for the public to go through and look this is what this looks like in a snapshot I don’t have to read 30 pages to figure out my setbacks are 5 feet from the side lot lines.

Mr. Barr the idea behind the PUD allows development to be creative beyond what is in black and white in the Ordinance and it looks like you are kind of getting close to that line where you have Ordinances that you can do it unless it say you can’t do it or you can do it unless it says you can do it. So if you say you say you can’t unless it says you can do it that code is going to be 10 feet high. If it says you can do it unless you say you can’t do it then it is much simpler and that is the environment in which the PUD is created so I hope we are not going to that line
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where there are so many rules and regulations preexisting that the concept of the PUD disappears.

Mr. Mengel I would offer one criticism I agree with you the original approach in our preamble in our Land Development Code is that we had some public good that was coming out of the PUD and it was not something we would offer up as candy just because you didn’t like the zoning that we had in place and it was suppose to be that avenue to have that creativity and maybe you had them more often than not you had mixed uses. We saw most of them and a accurate criticism is we had increasingly more single use PUD’s where for whatever reason I just didn’t like the setbacks and there is not a whole lot of creativity going on there. There is not a whole lot of public good coming with it. It is just I don’t want to do what the zoning tells me I can do and break the glass and call my emergency and go forward to the Board. I do understand where you are heading with your comment. I think we will take it to heart. We are beginning the journey yet again a new Land Development Code update and we will have some reports on that also. We will provide your comments to the consultant.

Mr. Langello I agree with Mr. Barr I did have a conversation with Mr. Mengel last year about PUD’s. I thought you indicated to me that what the concept was the way the language was going to be written so you could look at a table of setbacks and uses and that would be easy for staff to look at. I didn’t know we were trying to push the PUD in another direction.

Ms. Sally Sherman, Deputy County Administrator, Growth Management Director, we are not pushing PUD’s in another direction. What has been happening for the last 9 years is 99 percent of the development that came forward came forward as a PUD that becomes very cumbersome to manage that is one thing our zoning code is not working. Our approach is PUD’s should have an underlying zoning where probably about 80 percent of the zoning regulations work and you need that difference that variance to about 20 percent about instead of 100 percent of it being totally different from any of your other standard zoning regulations so the approach we are looking at is an underlying zoning for example for a residential it is R-1 the setbacks are basically going to be 25 on the front 7.5 on the side and 30 on the rear for example but you may want to vary from that rear with your screen setbacks or even your rear yard setback you would have that opportunity to differ but you underlying zoning will still be R-1 so you won’t have a 25 to 30 page document that is different from your basic zoning regulations. If that is the direction we are going to continue then why have a Land Development Code or zoning regulations have.

Mr. Langello since I have been on this Board and I was on this Board before, in all the approvals you have given have been for a positive for the County you have not been giving them out like candy and letting the developers do whatever they wanted so I don’t think that result was bad. If the new direction or the new method is going to hamper a developer just because of some underlying regulation that they can’t get around, it may make this more
difficult. You may be destroying stuff just for the simple fact there have been so many so we are
going to slow it down. Hopefully that is not what is going to happen.

Chairman Dickinson so, the PUD Ordinance will reference a zoning category which they have
to work within with the exceptions of the following correct that saves 28 pages so that it is
going to susceptible to the R-1 district with the exception of the setback of 4 feet so is that the
Cliff note?

Mr. Mengel responded yes sir.

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

8. No Public Comments

9. Adjournment

Motion to adjourn at 7:01 p.m. made by Mr. Boyd

Drafted by: Wendy Hickey
Reviewed by: Gina Lemon
TO: Chairperson and Planning and Development Board Members

FROM: Planning and Zoning Department

DATE: June 13, 2017

SUBJECT: Application #3073 – Public Use for Bay Drive Park

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 Public Use for Bay Drive Park R-1 (Rural Residential) and PUD (Planned Unit Development) District.

II. Location and Legal Description: 30 Bay Drive Parcel numbers and 20-10-31-1750-00010-0020; 20-10-31-00000-01010-0000 & 17-10-31-0000-04090-0000.

III. Owner/Applicant: Flagler County Board of County Commissioners / Flagler County Engineering Department/Paul Ina P.E.

IV. Parcel Size: Combined parcel total acreage 17.12 acres

V. Existing Zoning & Future Land Use Classification:
Zoning: R-1 (Rural Residential) and PUD (Planned Unit Development) District
Future Land Use: Mixed Use: Low Intensity Low/Medium Density

VI. Future Land Use Map Classification / Zoning of Surrounding Land:
North: Mixed Use: Low Intensity Low/Medium Density / R-1 (Rural Residential) District
South: Mixed Use: Low Intensity/Low Medium Density / PUD (Planned Unit Development) District
East: Atlantic Ocean
West: Mixed Use: Low Intensity/Low Medium Density/ R-1(Rural Residential) and PUD (Planned Unit Development) District

VII. Land Development Code (LDC) Sections Affected: Section 3.06.05(B), Public and Semi-public Uses. Any public use may be permitted in any land use district provided that the request for such use is officially made to the Planning and Development Board by the public body or semipublic body desiring such use. The Planning and Development Board shall determine whether or not such requested use is consistent with the adopted comprehensive plan and whether the use is necessary or desirable to support projected community needs. Public
Uses and structures determined to be consistent with the comprehensive plan and necessary or desirable may be located in any land use district upon recommendation of the Planning and Development Board, based in part on the submittal of a site plan showing site alterations, improvements to be made, and proposed buffers and conceptual landscaping plans.

VIII. Report in Brief: This request is to develop a Park on properties the County acquired in 1986 through Special Warranty Deed that required the property be used as a public park specifically parcel 20-10-31-1750-00010-0020 and the remaining parcels in 2009 through a Warranty Deed. The park improvements will consist of a multi-use trail, an improved parking area, observation platform and dune crossover. Potable water service will be provided by the City of Palm Coast with sanitary sewer disposal through a connection to Sea Colony. This park will also serve as part of the Marineland Acres Phase I stormwater system.

The proposed park addition is consistent with the 2010-2035 Recreation and Open Space Element of the Flagler County Comprehensive Plan, specifically with the following Objective and Policy statements:

**Objective H.1.6:** Flagler County park and recreation facilities shall include vehicular, bicycle or pedestrian access facilities where appropriate, based on the natural resources, physical environment and financial feasibility for construction and maintenance. All Flagler County parks and recreation facilities will provide accessibility to disabled patrons in accordance with all federal requirements.

**Policy H.1.6.1:** Public parks and facilities shall be designed and constructed with public access that is compatible with the conservation, protection and enhancement of natural resources found on-site.

**Policy H.1.6.3:** All developed Flagler County parks shall continue to have adequate parking facilities and bicycle racks.

**Policy H.1.6.4:** Connectivity through sidewalks, bikeways and trails shall be provided to link residential areas, schools, community facilities and other parks and open spaces, subject to financial and physical constraints.

**Policy H.1.6.5:** Flagler County shall provide handicapped parking spaces and barrier-free access to all public recreation facilities.

IX. Public Use Analysis: The LDC requires that the Planning and Development Board review requests for Public Uses and provide their recommendation to the Board of County Commissioners for final decision. Guidance for recommendation by the Planning and Development Board is provided at LDC
Section 3.06.05(B) and outlined below. Planning Department staff has provided an analysis of the applicant’s submittal and its consistency with the text of the Land Development Code for consideration:

The permitted location of public or semi-public uses or structures shall be such as not to be injurious to the health, safety and welfare of the public and shall protect the existing character of the surrounding properties or neighborhoods.

Staff Analysis: The location of the park addition provides an expansion of the public access points to the beach along with the additional multi-use trail within the park itself. The vehicle parking will allow for off-street public parking for park users. The site plan provides passive park areas adjacent to the residential use along the perimeters of the property.

The planning board shall consider the impact of the proposed use on land development patterns, on important natural resources, and, where applicable, the cost effectiveness of service delivery.

Staff Analysis: The proposed improvements will maintain as much of the existing tree canopy as is practical on the subject property. As the Board is aware, the Sand Live Oaks were severely impacted by Hurricane Matthew, with many showing no signs of viable recovery. The proposed improvements will provide the public with an additional access point to the beach.

The planning board also shall determine whether the proposed use will impose any substantial detrimental effects on the living or working conditions in the neighborhood.

Staff Analysis: The proposed park will provide park amenities in the Hammock and add an additional public dune walkover location for beach enthusiasts.

If approved, the planning board shall specify any requirements or conditions in the form of natural buffers, screening, landscaping, limited access or limited hours of operation or other site development restrictions that may be imposed by the planning board to protect the health, safety and welfare of the public or surrounding property owners.

Staff Analysis: The overall layout plan demonstrates provisions of a minimum 25’ wide natural landscape buffer adjacent to the single family residential complimentary land use immediately adjacent to the subject property on the West. The proposed park improvements have been configured and will be installed with minimal impact to existing index trees. Landscaping and screening for the site will be through utilization of existing vegetation; however, due to the impacts from Hurricane Matthew, the need for additional
landscaping – particularly along the North parcel boundary – will be evaluated as the project advances. If possible and feasible, existing vegetation will be maintained.

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. **Recommendation and Suggested Motion:** The Planning Department recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of Application #3073 Public Use for Bay Drive Park (Parcel Numbers 20-10-31-1750-00010-020, 20-10-31-0000-01010-0000 and 17-10-31-0000-04090-0000).

**Attachments**

1. Application and supporting documents
2. Notification map, surrounding owner list and legal ad
3. TRC comments and Applicant response
4. Revised Site Plan
Aerial Map

Subject Property
Future Land Use Map
Zoning Map
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<td>KENNETH A &amp; PATRICIA A WAITY</td>
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<td>HAYDEE S GUEVARA</td>
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<tr>
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<td>JAMES M SR &amp; CHRISTINE M BRANNIGAN</td>
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<td>20-10-31-5365-00010-2150</td>
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<td>20-10-31-5365-00010-2390</td>
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<td>YONKERS, NY 10703</td>
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<td>TAMPA, FL 33606</td>
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<td>PONTE VEDRA BEACH, FL  32082</td>
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<td>20-10-31-5365-SC010-0000</td>
<td>SEA COLONY HOA, INC</td>
<td>P.O. BOX 534734</td>
<td>PALM COAST, FL  321354734</td>
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<tr>
<td>39-10-31-4250-00120-0130</td>
<td>HUGH W WASHINGTON</td>
<td>PO BOX 860282</td>
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<td>39-10-31-4250-00120-0140</td>
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<td>39-10-31-4250-00130-0010</td>
<td>MICHAEL &amp; DIANA KROBATSCH</td>
<td>731 CAMINO LAKES CIRCLE</td>
<td>BOCA RATON, FL  33486</td>
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<td>39-10-31-4250-00130-0020</td>
<td>EDWARD J &amp; PAMELA J ANZALONE</td>
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<td>DON &amp; MARY BURNS</td>
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<td>ASHVILLE, NC  28806</td>
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<td>39-10-31-4250-00130-0040</td>
<td>DANIEL &amp; JENNIFER ZUBERER</td>
<td>241 KING ARTHUR COURT</td>
<td>ST AUGUSTINE, FL  32086</td>
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<td>39-10-31-4250-00140-0130</td>
<td>MATTHEW T &amp; LAUREN E FALCEY</td>
<td>28 SURF DRIVE</td>
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</tr>
</tbody>
</table>

I hereby affirm mailed notice to each owner on May 9, 2017 for the Planning & Development Board meetin on 6/13/2017 at 6 PM.
# APPLICATION FOR PUBLIC USE

**FLAGLER COUNTY, FLORIDA**

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

Telephone: (386) 313-4009  Fax: (386) 313-4109

**Application/Project #: 3073/2017-0018**

### PROPERTY OWNER(S)

<table>
<thead>
<tr>
<th>Name(s):</th>
<th>Flagler County, Flagler County, and BOCC of Flagler County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>1769 E Moody Blvd, Bldg 2</td>
</tr>
<tr>
<td>City:</td>
<td>Bunnell</td>
</tr>
<tr>
<td>State:</td>
<td>Florida</td>
</tr>
<tr>
<td>Zip:</td>
<td>32110</td>
</tr>
<tr>
<td>Telephone Number</td>
<td>(386) 313-4001</td>
</tr>
<tr>
<td>Fax Number</td>
<td>(386) 313-4101</td>
</tr>
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### APPLICANT/AGENT

<table>
<thead>
<tr>
<th>Name(s):</th>
<th>Paul Ina, P.E.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>7400 Baymeadows Way, Suite 220</td>
</tr>
<tr>
<td>City:</td>
<td>Jacksonville</td>
</tr>
<tr>
<td>State:</td>
<td>Florida</td>
</tr>
<tr>
<td>Zip:</td>
<td>32256</td>
</tr>
<tr>
<td>Telephone Number</td>
<td>(904) 448-5300</td>
</tr>
<tr>
<td>Fax Number</td>
<td>(904) 448-0401</td>
</tr>
<tr>
<td>E-Mail Address:</td>
<td><a href="mailto:pina@stonejoca.com">pina@stonejoca.com</a></td>
</tr>
</tbody>
</table>

### SITE LOCATION (street address): 30 Bay Drive, Palm Coast, Florida 32137

### LEGAL DESCRIPTION:

(briefly describe, do not use "see attached")

South 320.19' of GS lot 1 (OR 1732/1035), part of GS lot 1 (OR 1732/1035), sec 20.61' Sea Colony Homeowners Assoc (OR 567/1913)

### Parcel # (tax ID #):

17-10-31-0000-04090-0000, 20-10-31-0000-01010-0000, and 20-10-31-1750-00010-0020

### Parcel Size:

8.53 acres, 4.41 acres, and 4.18 acres; total 17.12 acres

### Current Zoning Classification: R-1, R-1, and PUD

### Current Future Land Use Designation: Mixed Use : Low Intensity, Mixed Use : Low Intensity, and Recreation & Open Space

### Subject to A1A Scenic Corridor IDO? YES

### Description of Use:

Passive park and beach access

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

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

Date: 6APR2017

**OFFICIAL USE ONLY**

**PLANNING BOARD RECOMMENDATION/ACTION:**

*APPROVED WITH CONDITIONS [ ]

Signature of Chairman:_______________________________

Date: __________________________ *approved with conditions, see attached.

**BOARD OF COUNTY COMMISSIONERS ACTION:**

Approved [ ]

Signature of Chairman:_______________________________

Date: __________________________ *approved with conditions, see attached.
WARRANTY DEED

This WARRANTY DEED dated August 26, 2009 and effective August 28, 2009

Hudson Thompson Development LLC, a Delaware Limited Liability Company

whose post office address is:

30045 EAGLES CREST ROAD UNIT 2, MILTON, DE 19958

hereinafter called the GRANTOR, to

Flagler County, a political subdivision of the State of Florida

whose post office address is:

1769 E. MOODY BLVD, BLDG 2, BUNNELL, FL 32110.

hereinafter called the GRANTEE

(Wherever used herein the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assignees of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the GRANTOR, for and in consideration of the sum of $10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, alien, remises, releases, conveys and confirms unto the GRANTEE, all that certain land situated in Flagler County, Florida, viz:

A parcel of land lying and being in Flagler County, to wit: Being a part of Government Lot 4, of Section 17 and Government Lot 1 of Section 20, Township 10 South, Range 31 East, and more particularly described as follows: BEGINNING at the Southwesterly corner of Section 17, Township 10 South, Range 31 East, and running thence North 11 degrees 25 minutes 45 seconds West along the Westerly line of Section 17, a distance of 220.10 feet; thence North 88 degrees 14 minutes 15 seconds East, a distance of 1765.34 feet to the Westerly margin of the Atlantic Ocean; thence South 21 degrees 57 minutes 45 seconds East along the Westerly margin of the Atlantic Ocean, a distance of 344.25 feet; thence South 89 degrees 01 minutes 11 seconds West, 1854.76 feet to an intersection with the Westerly line of Section 20; thence North 11 degrees 25 minutes 45 seconds West along said Westerly line, a distance of 81.40 feet to the Point of Beginning of this description.

Grantor warrants this VACANT Property.

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year 2008 and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

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 signed and sealed these presents the date set forth above.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES:

AND THE GRANTOR hereby covenants with said GRANTEE that except as above noted, the GRANTOR is lawfully seized of said land in fee simple; that the GRANTOR has good right and lawful authority to sell and convey said land; that the GRANTOR hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

Signed in the presence of the following *TWO DIFFERENT* WITNESSES:

#1 Witness
Signature:
Print Name:

#2 Witness
Signature:
Print Name:

Hudso Thompson Development LLC, a Delaware Limited Liability Company

By: ROBERT CRAIG HUDSON, MANAGER

THE FOREGOING instrument was sworn and acknowledged before me on the 26th day of August, 2009 by: ROBERT CRAIG HUDSON, the Manager, HUDSON THOMPSON DEVELOPMENT, LLC, a Delaware Limited Liability Company, who is personally known to me or who has produced a DRIVER'S LICENSE as identification and who did take an oath.

(Notary Public)  
My Commission #  
Expires: 7-23-12  
Print Name: Robin A. Davis

Robin A. Davis  
Notary Public  
State of Delaware  
My Comm. Exp. 7-23-12
This WARRANTY DEED dated August 16, 2009 and effective August 28, 2009
Hudson Thompson Development LLC, a Delaware Limited
Liability Company
whose post office address is:
30045 EAGLES CREST ROAD UNIT 2, MILTON, DE 19958
hereinafter called the GRANTOR,
to
Flagler County, a political subdivision of the State of Florida
whose post office address is:
1769 E. MOODY BLVD, BLDG 2, BUNNELL, FL 32110.
hereinafter called the GRANTEE.

(Wherever used herein the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and
assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the GRANTOR, for and in consideration of the sum of $10.00 and other valuable considerations, receipt
whereof is hereby acknowledged, hereby grants, bargains, sells, alienates, assigns, releases, conveys and confirms unto the GRANTEE,
all that certain land situated in Flagler County, Florida, viz:

A parcel of land lying and being in Flagler County, to wit: Being a part of Government Lot 4, of Section 17 and Government
Lot 1 of Section 20, Township 10 South, Range 31 East, and more particularly described as follows: BEGINNING at the
Southwesterly corner of Section 17, Township 10 South, Range 31 East, and running thence North 11 degrees 25 minutes 45
seconds West along the Westerly line of Section 17, a distance of 220.10 feet; thence North 88 degrees 14 minutes 15 seconds
East, a distance of 1785.4 feet to the Westerly margin of the Atlantic Ocean; thence South 21 degrees 57 minutes 45 seconds
East along the Westerly margin of the Atlantic Ocean, a distance of 344.25 feet; thence South 89 degrees 01 minutes 11
seconds West, 1854.76 feet to an intersection with the Westerly line of Section 20; thence North 11 degrees 25 minutes 45
seconds West along said Westerly line, a distance of 81.4 feet to the Point of Beginning of this description.

Grantor warrants this VACANT Property.

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and
assessments for the year 2008 and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions
imposed by governmental authorities, if any.

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 signed and sealed these presents the date set forth above.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES:

AND THE GRANTOR, hereby covenants with said GRANTEE that except as above noted, the GRANTOR is lawfully seized of said
land in fee simple; that the GRANTOR has good right and lawful authority to sell and convey said land; that the GRANTOR hereby
fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

Signed in the presence of the following *TWO DIFFERENT* WITNESSES:

#1 Witness
Signature: __________________________
Print Name: ________________________
State of: ____________________________
County of: _______________ [ فعل: Sussex ]

#2 Witness
Signature: __________________________
Print Name: ________________________

THE FOREGOING INSTRUMENT was sworn and acknowledged before me on the 24th day of August, 2009 by: ROBERT CRAIG
HUDSON, THE MANAGER, OF HUDDIN THOMPSON DEVELOPMENT, LLC, A DELAWARE LIMITED LIABILITY
COMPANY, who is personally known to me or who has produced a DRIVER'S LICENSE as identification and who did take an
oath

(Notary Public)
My Commission # ____________________________
Expires: 7-23-12
Print Name: ______________________________

Robin A. Davis
Notary Public
State of Delaware
My Comm. Exp. 7-23-12
QUIT CLAIM DEED

THIS DEED made this 7th day of November, 1996, between THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, Grantor, and SEA COLONY HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, whose mailing address is P.O. Box 353016, Palm Coast, Florida 32151, Grantee:

WITNESSETH

THAT the Grantor, for and in consideration of the sum of Ten ($10.00) Dollars, and other good and valuable consideration to it in hand paid by the Grantee, receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to Grantee all that land in Flagler County, Florida, described as:

See Exhibit A attached hereto

SUBJECT to covenants, restrictions, agreements, declarations, assessments and easements of record, including easement access, if any, for water and sewer systems, drainage, gas, fuel, electric, telephone and similar utilities and community antenna television or cablevision systems, if any, as shown on the plat of record affecting the land or as otherwise of record; and

SUBJECT to the land being used as a natural landscape buffer between the Sea Colony common area and the public park which is north of and contiguous to the land. No improvements in addition to those shown on the Stephenson survey dated March 18, 1994 attached hereto as Exhibit B shall be permitted upon the land.

FURTHER SUBJECT to taxes for the year 1995 and thereafter, which Grantee assumes and agrees to pay.

RESERVING to Grantor easements for the installation, maintenance, repair and replacement of sewer, water and drainage mains and appurtenances in and over those portions of the land are shown on such easement areas of the aforesaid plat. Such sewer, water and drainage mains, appurtenances thereto and meters are not included in this conveyance.

The Grantor conveys only its interest in the property conveyed herein and does not warrant the title or represent any state of facts concerning the same.

IN WITNESS WHEREOF the Grantor has caused these presents to be executed in its name by The Board of County Commissioners acting by the Chairman of said Board the day and year aforesaid.

Witnesses

[Signature]
Lisa Bates

[Signature]
James A. Darby, Chairman

[Signature]
Cecilia Shepherd

Board of County Commissioners
Of Flagler County, Florida

(ACKNOWLEDGEMENT CONTINUED ON NEXT PAGE)
The foregoing instrument was acknowledged before me this 7th day of December, 1996 by James Darby and Syd Crosby, the Chairman and Clerk, respectively, of the BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, on behalf of the Board. They are known to me and did not take an oath.

Notary Public

My Commission Expires: 9/30/1997

Approved by Flagler County Commission on October 3, 1994
DESCRIPTION:
A PARCEL OF LAND BEING A PORTION OF DEAUVILLE BEACH.
ACCORDING TO THE PLAT RECORDED IN MAP BOOK 5, PAGE 73, OF THE
PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF BEGINNING, COMMENCE AT THE NORTHWEST CORNER OF
RESERVED PARCEL SC-6, SAID POINT ALSO BEING THE MOST NORTHERLY
CORNER OF RESERVED PARCEL SC-5, SAID PARCELS BEING SHOWN ON
SUBDIVISION PLAT OF SEA COLONY RECORDED IN MAP BOOK 27,
PAGES 30 - 39, OF THE PUBLIC RECORDS OF FLAGLER COUNTY; THENCE
SOUTH 68 DEGREES 29 MINUTES 55 SECONDS WEST ALONG THE
NORTHWESTERLY LINE OF SAID RESERVED PARCEL SC-5, A DISTANCE OF
290.01 FEET; THENCE SOUTH 31 DEGREES 06 MINUTES 24 SECONDS WEST A
DISTANCE OF 120.99 FEET TO A POINT ON THE EASTERN LINE OF
RESERVED PARCEL SC-1 ACCORDING TO THE AFOREMENTIONED PLAT OF SEA
COLONY; THENCE ALONG THE SAID RESERVED PARCEL SC-1 THE FOLLOWING
COURSES; NORTH 35 DEGREES 25 MINUTES 56 SECONDS WEST A DISTANCE
OF 15.00 FEET TO A POINT OF CURVATURE; THENCE 112.65 FEET ALONG
THE ARC OF A Curve TO THE RIGHT ( CONCAVE SOUTHEASTERLY ) HAVING
A CENTRAL ANGLE OF 64 DEGREES 32 MINUTES 37 SECONDS, A RADIUS OF
100.00 FEET, A CHORD BEARING OF NORTH 03 DEGREES 09 MINUTES
38 SECONDS WEST, AND A CHORD DISTANCE OF 106.79 FEET TO A POINT
OF REVERSE CURVATURE; THENCE 99.22 FEET ALONG THE ARC OF A Curve
TO THE LEFT ( CONCAVE NORTHEASTERLY ) HAVING A CENTRAL ANGLE OF
32 DEGREES 29 MINUTES 02 SECONDS, A RADIUS OF 175.00 FEET, A
CHORD BEARING OF NORTH 12 DEGREES 52 MINUTES 09 SECONDS EAST, AND
A CHORD DISTANCE OF 97.89 FEET; THENCE DEPARTING THE
AFOREMENTIONED RESERVED PARCEL SC-1 SOUTH 03 DEGREES 22
MINUTES 22 SECONDS EAST A DISTANCE OF 108.33 FEET; THENCE NORTH
68 DEGREES 29 MINUTES 55 SECONDS EAST A DISTANCE OF 331.01 FEET;
THENCE SOUTH 31 DEGREES 30 MINUTES 05 SECONDS EAST A DISTANCE OF
20.61 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 0.3000 ACRES, MORE OR LESS.

EXHIBIT A
SPECIAL WARRANTY DEED

THIS WARRANTY DEED, made this 1st day of July, 1985, between PALM COAST CONSTRUCTION COMPANY, a Florida corporation hereinafter called the GRANTOR, and BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, with its business mailing address at Flagler County Courthouse, Bunnell, Florida 32010, hereinafter called the GRANTEE:

WITNESS:

That the GRANTOR, for and in consideration of the sum of TEN ($10.00) DOLLARS, and other valuable considerations, receipt of which is hereby acknowledged, has granted, bargained and sold to the GRANTEE, its successors and assigns forever, the following described parcel of land, (hereinafter referred to as Land) to wit:

Exhibit A Attached

RESERVING AND EXCEPTING from the estate herein granted the following:

1. That the land shall be used solely for the public purpose herein described, to wit: As an emergency services site (fire station, ambulance, police, or facility functionally similar to these uses), which at the discretion of Grantee, may contain facilities suitable for additional incidental or accessory uses of the land for public meetings, activities, polling stations and other public functions commonly associated with, and appurtenant to the use of the land as an emergency facility site, so long as such uses are consistent with the Matanzas Shores Development Order (Resolution 85-2) adopted by Grantee on February 21, 1985.

2. That in the event Grantee is no longer able to use the land for the public purposes described in Paragraph (1) above, the Grantee will deed the property back to the Grantor by way of Special Warranty Deed.

3. That in the event of a reconveyance described in Paragraph (2) above, the parties shall mutually agree upon an alternate parcel or parcels of land equivalent in size to the recognized parcel, and shall arrange for the transfer of said land to Grantee by Special Warranty Deed.

4. That the Grantee will submit any plans for construction or improvements on the land to the Grantor's Architectural Review Committee for review; provided, however, that final approval of such plans by said Committee shall not be a prerequisite to construction or improvements upon the land.

THIS DEED is further SUBJECT TO:

(1) All existing and recorded restrictions, exceptions, reservations, easements, rights-of-way, conditions, and covenants of whatever nature.


(3) Any state of facts as would be disclosed by an accurate survey of the premises herein described.

(4) Taxes for the year 1986, and subsequent years;

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining, to have and hold the same in fee simple; And the GRANTOR does hereby warrant with the GRANTEE that he will warrant and defend the premises herein conveyed against the lawful claims and demands of all persons claiming by, through or under him, but against none other.

IN WITNESS WHEREOF the GRANTOR has caused this instrument to be executed in its name by its proper and duly authorized corporate officers, upon the date above given.

Signed, sealed and delivered in the presence of:

Palm Coast Construction Company

By: ]

Attorney: Robert Valin, Senator
Before me, a person authorized to take acknowledgements of deeds and other instruments, this day personally appeared **James E. Gardner** and **Robert L. Scott**, President and Secretary, respectively of **Palm Coast Construction Company**, a Florida corporation, to me known and known by me to be the persons who executed the foregoing Deed and they severally acknowledged to me that they executed it by authority and on behalf of that corporation and that the said Deed is the free act and deed of said corporation.

WITNESS my signature and official seal at **Palm Coast**, County of **Flagler**, and State of **Florida**, on **July 2**, 19**

[Signature]

Notary Public

My Commission Expires:

---

**Notary Public, State of Florida at Large**
**My Commission Expires Oct. 3, 19**

SIGNED THROUGH MURASKI-EDITION, INC.
LEGAL DESCRIPTION: ONE ACRE COUNTY SAFETY SITE AT SEA COLONY

A PARCEL OF LAND BEING A PORTION OF GOVERNMENT SECTION 39, TOWNSHIP 10 SOUTH, RANGE 31 EAST, SAID PARCEL BEING A PORTION OF THE VACATED PLAT OF "DEAUVILLE BEACH" AS RECORDED IN MAP BOOK 5, PAGE 73 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE BEING THE NORTHWEST CORNER OF GOVERNMENT SECTION 20, TOWNSHIP 10 SOUTH, RANGE 31 EAST; THENCE NORTH 11° 17' 23" WEST ALONG THE EASTERY LINE OF SAID GOVERNMENT SECTION 39, 39.96 FEET TO A POINT ON THE SOUHERLY RIGHT-OF-WAY OF BAY DRIVE (50' R/W) AS SHOWN ON THE PLAT "SECOND ADDITION TO MARINE LAND ACRES" AND RECORDED IN MAP BOOK 5, PAGE 61 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE LEAVING THE EASTERY LINE OF SAID GOVERNMENT SECTION 39, SOUTH 76° 23' 10" WEST ALONG SAID SOUTHERLY RIGHT-OF-WAY OF BAY DRIVE, SAID SOUTHERLY RIGHT-OF-WAY BEING COMMON AS THE NORTHERLY BOUNDARY OF SAID "DEAUVILLE BEACH" AND COMMON AS A PORTION OF THE "SUBDIVISION PLAT OF SEA COLONY" AS RECORDED IN MAP BOOK 27, PAGES 30 - 39 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA 1135.15 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION. SAID POINT BEING THE NORTHWEST CORNER OF SAID PLAT "SEA COLONY"; THENCE SOUTH 08° 13' 48" WEST ALONG THE WESTERY BOUNDARY OF SAID PLAT "SEA COLONY" 123.60 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG THE WESTERY BOUNDARY OF SAID PLAT "SEA COLONY", 52.61 FEET ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 08° 22' 26", A RADIUS OF 360.00 FEET, A CHORD BEARING SOUTH 04° 02' 35" WEST AND A CHORD DISTANCE OF 52.57 FEET; THENCE LEAVING THE WESTERY BOUNDARY OF SAID PLAT "SEA COLONY" SOUTH 76° 23' 10" WEST (ON A NON-TANGENT LINE) 263.32 FEET TO A POINT ON THE EASTERY LINE OF A PROPOSED 116.00 FOOT WIDE ADDITIONAL RIGHT-OF-WAY FOR STATE ROAD A-1-A (100.00'R/W EXISTING); THENCE NORTH 05° 22' 10" EAST ALONG SAID EASTERY LINE 174.30 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF SAID BAY DRIVE; THENCE NORTH 76° 23' 10" EAST ALONG SAID RIGHT-OF-WAY 268.55 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL CONTAINING 1.0000 ACRES, MORE OR LESS.

BEARINGS REFER TO THE TRANSVERSE MERCATOR GRID SYSTEM OF THE EAST ZONE OF FLORIDA.

EXHIBIT A
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: ENVIRONMENTAL HEALTH DEPT

1. An application for new septic system construction is required. System design flow estimated by proposed number of attendees (4gpd per person), and an additional 100gpd for the residence.

2. Septic tank and drainfield to be setback 75ft from Mean Annual Flood Line of stormwater pond, and setback 75ft from Mean High Water Line of Tidally influenced water.

3. If any part of the septic system is installed seaward of the Coastal Construction Control Line, a CCCL permit or exemption from The Department of Environmental Protection will be required prior to permit issuance.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

This office has no objection to the Public Use application.

With regard to the layout of the park, I would only add that there should be a back up added to the two areas with dead end parking.

Further comments will be forthcoming when the site plan application is submitted.

REVIEWING DEPARTMENT: ENVIRONMENTAL PLANNER

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

What About water supply at the End?

Is it going to connect to Rollin Dunes? I understand it is not cost effective to loop the water system to Rollins Dunes or too Sea Colony. With that being said, I dont want to depend on a stormwater pond for fire suppression of the bathrooms, the citizens vehicals that will be down in the parking lot, or all of the dead dry brush that was left after Hurrracaine Mathew. So with That being said. What is the plan for water for fire protection? What size water main is being brought
to the bathrooms?

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. Please provide measurements of proposed improvements ie: horse shoe and bocci courts, over looks etc.
2. Will all proposed parking be paved?
3. Will there be additional landscaping proposed beyond retianing the existing trees?
4. Fire truck turn around please provide detail and identify materials to be used for stabilization.
5. Will fencing be provided along edge of ponds if so pleased note on plan.
6. Truncated domes/ detecable warings will be required at all identified road crossings at entrance and internal to the park.

Additional comments will be made at time of site plan application.
Good morning Wendy,

We are expecting that the EOR will provide updated plans in the next week that will reflect the changes and clarifications requested at the TRC meeting. Please let me know if you need anything in addition to the 12 sets of plans.

Here is the requested statement about landscaping:

Hurricane Matthew overtopped the dunes and resulted in the inundation of the Bay Drive Park property. The elevated level of salt in the soil resulted in significant damage to the natural vegetation. Salt levels are likely still elevated and therefore additional damage is anticipated. The true extent of the damage and amount and placement of supplemental landscaping will not be able to be fully ascertained until enough rainfall has flushed the soil and soil salt levels have returned to normal.

Regards,

Alexander Spiller, P.E., P.G.
Project Administrator
Flagler County Engineering
1769 East Moody Blvd., Bldg. 2
Bunnell, Florida 32110
(386) 313-4051 Direct Line
aspiller@flaglercounty.org
TO: Chairman and Planning and Development Board Members  
FROM: Planning and Zoning Department  
DATE: June 13, 2017  
SUBJECT: Application #3074 – Special Exception for a Restaurant in the R/C (Residential/Limited Commercial) District  

I. Requested Action & Purpose: The request is for a Restaurant as a Special Exception in the R/C (Residential/Limited Commercial Use) District.

II. Location and Legal Description: 5115 North Oceanshore Boulevard; Lots 28, 29 and 30, Unit 2, Magnolia Manor as recorded at Plat Book 5, Page 71, Public Records of Flagler County, Florida; Parcel # 40-10-31-4100-00000-0280.

III. Owner: Shirley McCoy & Chester L. Boggs  
Applicant: William R. Odom

IV. Parcel Size: 19,400 square feet (0.45 acres) (minimum site size of 10,000 sq. ft. required in the R/C zoning district for application for a Special Exception)

V. Existing Zoning & Future Land Use Classification:  
Zoning: R/C (Residential/Limited Commercial Use) District  
Future Land Use: Mixed Use: Low Intensity

VI. Future Land Use Map Classification / Zoning of Surrounding Land:  
North: Mixed Use Low Intensity / R/C (Residential/Commercial) District  
East: Residential Low Density / MH-1 (Rural Mobile Home)  
South: Mixed Use Low Intensity / R/C (Residential/Commercial) District  
West: Mixed Use Low Intensity / R/C (Residential/Commercial) District

VII. Land Development Code Sections Affected: Flagler County Land Development Code (FCLDC) subsection 3.07.03(F), Special Exception Guidelines.

VIII. Report in Brief: The Applicant filed an application with the Planning and Zoning Department for a Special Exception for a restaurant within the R/C zoning district on April 18, 2017. The R/C zoning district provides that a Special Exception may allow the requested use, subject to Planning and Development Board public hearing and appropriate conditions.
In 2016, Shirley McCoy and Chester L Boggs acquired the subject parcel through Warranty Deed recorded at Official Records Book 2134, Page 1280, Public Records of Flagler County, Florida.

The subject property is developed with a 1,232 residential building built in 1982 and a carport built in 2004; both dates established through Flagler County Property Appraiser records. The home will be converted as part of this proposed Special Exception. The existing metal canopy/carport does not conform to current setback requirements in the R/C zoning district; and is setback approximately nine feet five inches from the rear property line and is considered existing non-conforming; its continued use will be limited through Section 3.02.04, Nonconformance, FCLDC.

The new proposed configuration of the building will consist of approximately:

- 204 sq. ft. residential area
- 200 sq ft. kitchen
- 289 sq. ft. of storage
- 203 sq ft. of seating
- 500 sq. ft. other area

The existing building will have to meet all minimum standards within the R/C zoning district and all appearance and development standards of the A1A Scenic Corridor Overlay as provided for in Section 3.06.11 of the FCLDC.

The Applicant met with the Technical Review Committee on May 17, 2015. Many of staff comments have been satisfactorily addressed by the Applicant in advance of the Planning and Development Board meeting.

This request was presented to the A1A Scenic PRIDE Committee on June 1, 2017. A copy of the Committee’s review letter is attached to this report.

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

**IX. Special Exception Guideline Analysis:** FCLDC subsection 3.07.03.F, the Planning and Development Board shall hear and decide upon requests for special exceptions as authorized by land classifications. The Board may approve, with conditions, requests which are in harmony with the intent and purpose of the regulations. In making its determination, the Board shall be guided by the following:

1. Ingress to and egress from the property shall provide for automotive and pedestrian safety and convenience, shall not unduly interfere with traffic flow and control, and shall provide access in case of fire or catastrophe.
Staff Analysis: Customer access to the property is proposed through an FDOT driveway connection to North Oceanshore Boulevard (State Road A1A) at this time it is under review with FDOT and based on emails received from Mr. Thomas Russ one driveway will be permitted, a request for a second driveway will be considered but not probable.

Together with the principal commercial driveway onto North Oceanshore, nonresidential sites must provide vehicular and pedestrian cross access at least 50 feet from the A1A right-of-way (subsection 3.06.11.E.4, FCLDC). For this use, staff proposes as a condition of approval of the Special Exception that should the parcel to the north develop with a commercial use (also subject to Special Exception approval) that a cross access easement will have to be provided in the location of the "second parking space on the north side of the parking lot as designated on the site plan, said easement being at least 15 feet in width so as to provide a single-drive lane between both parcels. Staff recognizes that this area will have minimal planting and a perimeter hedge screen that would be removed upon commercial development of the parcel to the north.

Any pedestrian/bicycle access would be provided from the existing multi-use greenway trail located along North Oceanshore Blvd., a bicycle rack is proposed within the parcel to facilitate access by users of the multi-use trail.

2. Off-street parking and loading areas shall be provided as required, shall take into account relevant factors in subsection 1, and shall be located as to minimize economic, noise, glare or odor effects on adjacent and nearby properties.

Staff Analysis: Parking has been provided as depicted on the conceptual site plan. The applicant has proposed shell parking. The Flagler County Land Development Code provides that within the A1A Scenic Corridor, uses with fewer than ten required parking spaces may be surfaced with shell or other porous surfaces; the Code allows alternative parking area surfaces – crushed stone, gravel, or shell material – to be used instead of concrete, paver block or asphalt (the surfaces required by subsection 3.06.04.B.2) where approved by the County Engineer, provided that the alternative surface is stable and will reduce dust and erosion (subsection 3.06.04.B.8, Flagler County Land Development Code). The use and acceptance of shell parking has become more prevalent within the Overlay District by reducing hardscape, reducing onsite stormwater retention requirements, and providing a more traditional, natural setting, especially where preservation of existing tree canopy is being sought.
3. Refuse and service areas shall be located with consideration for relevant factors in subsections 1. and 2. preceding.

**Staff Analysis:** The refuse collection container will be of smaller residential size instead of a commercial dumpster and as required will be screened with opaque material and vegetation along three sides to obscure the cans from public view. Section 3.06.11.C, FCLDC, requires that waste containers be screened with wall or fence with vegetative screening around it to include shrubs which will achieve a height of five feet within one year, planted with a spacing not exceeding five feet on center, or as an alternative, another form of vegetative screening that creates an effective visual screen.

4. The proposed use shall be compatible with the availability and location of utility services, whether public or private.

**Staff Analysis:** Utilities to this site are available from existing lines within the North Oceanshore Boulevard right-of-way and adjacent easements, with the exception of sewer, which will be accommodated by a private septic system permitted through Flagler County Environmental Health. Consistent with the requirement at subsection 3.06.11.G, FCLDC, utility service drops shall be installed underground and shall be done in a manner which protects index trees.

5. Screening and buffering shall be provided which preserves or improves compatibility and harmony of use and structure between the proposed use and adjacent and nearby properties, according to the type, dimensions and character of the proposed use.

**Staff Analysis:** The applicant has provided a proposed landscape plan which does not meet the minimum requirements of the FCLDC. Additional buffering of the vehicular use areas will be required prior to issuance of a building permit to reduce offsite visual and noise impacts within the A1A Scenic Corridor (subsection 6.01.03(1)E.1, FCLDC). For record purposes, the portion of the parcel with lot depth in excess of 100 feet has provided a front landscape buffer width of 32 feet, this buffer meets the requirements of subsection 5.01.04(5)(a)1a, FCLDC. Also for record purposes, staff acknowledges and has verified that the proposed restaurant use is an uncomplimentary land use adjacent to the existing residential property located on an adjoining parcel (subsection 5.01.04(6)(b1), FCLDC) and is required to provide additional landscaping a buffering along the rear property line.

6. Signs and exterior lighting, if any, shall maintain traffic safety and minimize glare and economic effects on adjacent and nearby properties.

**Staff Analysis:** Any signage and lighting will be reviewed through the Flagler
County site plan review process. Any proposed freestanding signage must not exceed 32 square feet in area or a height of six feet as prescribed for signage within the A1A Scenic Corridor at FCLDC Section 7.03.01. The sign location does not meet the minimum 20 foot setback for signs located within 50 of a driveway connection; the proposed sign is shown at 18 feet from the property line and must be adjusted to preserve the vision “sight triangle” for the driveway connection. Any proposed lighting will demonstrate compliance through building permit application with the County’s sea turtle lighting requirements at Section 6.05.05, FCLDC.

7. Required yards and open spaces shall be provided.

**Staff Analysis:** The proposed restaurant is depicted on the conceptual site plan at a setback of 62 feet from the North Oceanshore right-of-way and is in compliance with the Land Development Code. The existing detached metal canopy on the site is approximately nine feet five inches from the rear property line and as noted is considered existing non-conforming.

8. The height of structures shall be in harmony with that of adjacent and nearby uses and structures.

**Staff Analysis:** The existing building was constructed as a residence in 1982 and is consistent and complementary with the adjacent structures and uses nearby.

9. The economic effect of the proposed use on adjacent and nearby properties shall be positive.

**Staff Analysis:** The proposed restaurant use is complementary to the existing uses in the area and will be a welcome addition to the community.

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

 crossed out 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 special exception guidelines have been met and approve Application #3074, a Special Exception in the R/C zoning district for a restaurant at 5115 North Oceanshore Boulevard, subject to the following conditions:

1. This Special Exception runs with the land.
2. Approval is limited to the use as a restaurant:
   - sit down and take out only, without drive-through;
• with a maximum seating capacity (subject to provision of minimum off-street parking);
• with a maximum of twenty-five (25) percent of the seating capacity located outdoors or otherwise visually screened from adjacent right-of-ways; and
• allowing incidental consumption on premises of alcoholic beverages subject to issuance of State alcoholic beverage license.

3. All development to occur consistent with the submitted site plan, subject to changes approved by staff based on outstanding agency review comments.

4. Commercial traffic associated with this Special Exception will utilize the North Oceanshore Boulevard driveway, subject to issuance of a driveway permit by the Florida Department of Transportation.

5. Should the parcel to the north develop with a commercial use (also subject to Special Exception approval), a cross access easement shall be provided in the location of the "second parking space on the north side of the parking lot as designated on the site plan, said easement being at least 15 feet in width so as to provide a single drive lane between both parcels. Prior to completion of the development of the parcel to the north as a commercial use, the applicant, their successors, or assigns, shall remove any landscape buffer, fencing, or other impediment to this cross access easement and further provide onsite improvements so as to provide a physical roadway connection between the two parcels.

6. Utility service drops shall be installed underground and shall be done in a manner which protects index trees.

7. All refuse collection containers shall be screened from public view, with vegetative screening that includes shrubs which will achieve a height of five feet within one year, planted with a spacing not exceeding five feet on center, or as an alternative, another form of vegetative screening that creates an effective visual screen. At the applicant's discretion, smaller refuse collection and disposal containers may be used instead of a commercial dumpster so as to reduce the noise impacts to neighboring parcels resulting from servicing a commercial dumpster.

8. A sign permit will be required for any proposed signage, with a single freestanding (double-sided, monument type) sign to be permitted in the area depicted on the site plan and limited to no more than 32 square feet in area (as measured for any single sign face) and a maximum height of six feet.

9. Proposed lighting will demonstrate compliance through building permit application with the County's sea turtle lighting requirements.

10. The applicant shall not commence development until all other agency approvals and/or permits are issued.

XII. **Suggested Motion Language:** The Planning and Development Board finds that Application #3074, Special Exception for a restaurant in the R/C zoning district at 5115 North Oceanshore Boulevard, meets the Special Exception Guidelines and is therefore approved, subject to the following conditions:

1. This Special Exception runs with the land.
2. Approval is limited to the use as a restaurant:
   • sit down and take out only, without drive-through;
   • with a maximum seating capacity (subject to provision of minimum offstreet parking);
   • with a maximum of twenty-five (25) percent of the seating capacity located outdoors or otherwise visually screened from adjacent right-of-ways; and
   • allowing incidental consumption on premises of alcoholic beverages subject to issuance of State alcoholic beverage license.
3. All development to occur consistent with the submitted site plan, subject to changes approved by staff based on outstanding agency review comments.
4. Commercial traffic associated with this Special Exception will utilize the North Oceanshore Boulevard driveway, subject to issuance of a driveway permit by the Florida Department of Transportation.
5. Should the parcel to the north develop with a commercial use (also subject to Special Exception approval), a cross access easement shall be provided in the location of the "second parking space on the north side of the parking lot as designated on the site plan, said easement being at least 15 feet in width so as to provide a single drive lane between both parcels. Prior to completion of the development of the parcel to the north as a commercial use, the applicant, their successors, or assigns, shall remove any landscape buffer, fencing, or other impediment to this cross access easement and further provide onsite improvements so as to provide a physical roadway connection between the two parcels.
6. Subject to approval of a parking surface deviation by the Board of County Commissioners, the off-street parking area accessible from North Oceanshore Boulevard may be surfaced with crushed stone, gravel, or shell material subject to review and approval by the County Development Engineer, provided that the alternative surface is stable and will reduce dust and erosion. Required handicapped spaces must be paved as well as aisles and sidewalks to building entrances.
7. Utility service drops shall be installed underground and shall be done in a manner which protects index trees.
8. All refuse collection containers shall be screened from public view, with vegetative screening that includes shrubs which will achieve a height of five feet within one year, planted with a spacing not exceeding five feet on center, or as an alternative, another form of vegetative screening that creates an effective visual screen. At the applicant’s discretion, smaller refuse collection and disposal containers may be used instead of a commercial dumpster so as to reduce the noise impacts to neighboring parcels resulting from servicing a commercial dumpster.
9. A sign permit will be required for any proposed signage, with a single freestanding (double-sided, monument type) sign to be permitted in the area depicted on the site plan and limited to no more than 32 square feet in area (as measured for any single sign face) and a maximum height of six feet.
10. Proposed lighting will demonstrate compliance through building permit application with the County’s sea turtle lighting requirements.
11. The applicant shall not commence development until all other agency approvals and/or permits are issued.

Attachments
1. Notification list and map
2. Application and supporting documents
3. TRC comments
4. Correspondence
Map Series
Aerial Photograph
Future Land Use Map (FLUM)
Zoning Map
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<td>MARY ANN REILLY</td>
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<td>BOCA RATON</td>
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<td>APPLICANT</td>
<td>WILLIAM R ODOM</td>
<td>30 CAROLINA HWY</td>
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I hereby affirm mailed notice to each owner on May 24, 2017 for the Planning & Development Board Meeting on June 13, 2017 at 6 pm

Wendy Hickey, Planner

Hasler
05/24/2017
US POSTAGE
$00.00
ZIP 32110
011D11646866

2
**APPLICATION FOR SPECIAL EXCEPTION**

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

Application/Project #: 26143/2017040023

<table>
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<tr>
<th>PROPERTY OWNER(S)</th>
<th>Name(s): Shirley McCoy, Chester Lee Bassi</th>
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<tr>
<td>Mailing Address:</td>
<td>46 Teaberry Ln 590 Little Kenaucka Blvd</td>
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<tr>
<td>City:</td>
<td>Elizabeth</td>
</tr>
<tr>
<td>State:</td>
<td>WV</td>
</tr>
<tr>
<td>Zip:</td>
<td>26143</td>
</tr>
<tr>
<td>Telephone Number</td>
<td>(304) 275-1189 (304) 275-8900 Email</td>
</tr>
<tr>
<td>Fax Number:</td>
<td>Address:</td>
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<tr>
<th>APPLICANT/AGENT</th>
<th>Name(s): William R. Olm</th>
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<tr>
<td>Mailing Address:</td>
<td>30 Carolina Hwy</td>
</tr>
<tr>
<td>City:</td>
<td>Palm Coast</td>
</tr>
<tr>
<td>State:</td>
<td>FL</td>
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<td>Zip:</td>
<td>32137</td>
</tr>
<tr>
<td>Telephone Number</td>
<td>612-810-4035 Fax Number</td>
</tr>
<tr>
<td>Email Address</td>
<td><a href="mailto:rodie4@gmail.com">rodie4@gmail.com</a></td>
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<table>
<thead>
<tr>
<th>SITE LOCATION (street address):</th>
<th>S 115 N. Ocean Shore Blvd</th>
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<tr>
<td>LEGAL DESCRIPTION: (briefly describe, do not use “see attached”):</td>
<td>Myndia Maine Unit 2 6th 28, 79, 30</td>
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<td>Parcel # (tax ID #):</td>
<td>40-10-31-24000000-0280</td>
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<tr>
<td>Parcel Size:</td>
<td>11,400 39 ft</td>
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<td>Current Zoning Classification:</td>
<td>R C</td>
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<td>Current Future Land Use Designation:</td>
<td>MO</td>
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<tr>
<td>Subject to A1A Scenic Corridor IDO?:</td>
<td>YES</td>
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Requested Use: Restaurant

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

3/30/17

**OFFICIAL USE ONLY**

PLANNING BOARD RECOMMENDATION/ACTION: APPROVED [ ]
APPROVED WITH CONDITIONS [ ]
DENIED [ ]

Signature of Chairman: ____________________________ Date: ____________________________

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. 08/14

Page 1 of 1
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 #: 2074/2017040823

William R. Odom is hereby authorized to act on behalf of Shirley McCoy and Chester Lee Boggs, 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

___________________________
Shirley McCoy

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

___________________________
Signature of Owner

___________________________
Chester Lee Boggs

___________________________
Printed Name of Owner

Address of Owner: ____________________________

1. 46 Teaberry Ln  2. 590 Little Kanawha Blvd.

Mailing Address

___________________________  ____________________________
City  State  Zip

___________________________
Telephone Number (incl. area code)

1. (304) 275-1139  2. (304) 275-8900

STATE OF ____________________________

COUNTY OF ____________________________

The foregoing was acknowledged before me this 15th day of February 2017 by Shirley McCoy and Chester Lee Boggs who is/are personally known to me/ or who has produced Drivers License as identification, and who (did) / (did not) take an oath.

___________________________
Signature of Notary Public

http://www.flaglercounty.org/doc/dpt/centprod/landdev/ownerperm.html

Revised 5/08
Personal Representative's Deed

This Indenture made this 31st day of May, 2016 between SHIRLEY MCCOY, as PERSONAL REPRESENTATIVE OF THE ESTATE OF CORA JEAN BOGGS, DECEASED, whose post office address is 46 Teaberry Lane, Elizabeth, West Virginia 26143, as GRANTOR and Shirley McCoy, whose address is 46 Teaberry Lane, Elizabeth, West Virginia 26143 and Chester Lee Boggs, whose address is 590 Little Kanawha Blvd., Elizabeth, West Virginia 26143 as GRANTEES.

WITNESSETH:

That the GRANTOR, by virtue of the power and authority thereto given in and by Last Will and Testament of Cora J. Boggs, Deceased and in consideration of the sum of Ten Dollars ($10.00) to be paid by the GRANTEE, the receipt of which is hereby acknowledged, has granted, bargained, sold, released, conveyed, and confirmed and by these presents does grant, bargain, sell, alien, remise, release, convey, and confirm unto the GRANTEE, its successors forever, the following described land, situate, lying and being in the County of Flagler and State of Florida:

Lots 28, 29 and 30, Unit 2, Magnolia Manor, as per plat in plat book 5 page 71, public records of Flagler County, Florida on file in the office of the Clerk of the Circuit Court, Flagler County, Florida.

together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or appertaining; and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, both in law and equity, which the Testator had in his lifetime, and at the time of his decease, and which the GRANTORS have, individually and by virtue of the said Last Will and Testament, or otherwise, of, in, and to the above granted premises, and every part and parcel thereof, with the appurtenances.

To have and to hold all and singular the above granted premises, together with the appurtenances and every part thereof, unto the GRANTEES, its successors or assigns forever.

Reference is hereby made to the Letters of Administration dated January 29, 2016 filed in the Probate Division, in and for Flagler County, Florida in the matter of the Estate of Cora Jean Boggs, Deceased, file number: 2015 CP 279 and this Deed is given pursuant to said proceedings.

Grantor warrants that at the time of this conveyance, the subject property is not homestead real property within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property.

Subject to taxes for 2016 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

And said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.
In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

[Signature]
Witness Name: JUDELLA ADELAU

[Signature]
Witness Name: LASHON YOUNG

Shirley McCoy, Personal Representative of the Estate of Cora Jean Boggs, Deceased

State of West Virginia
County of Wirt

The foregoing instrument was acknowledged before me this 31st day of May, 2016 by Shirley McCoy, as Personal Representative of the Estate of Cora Jean Boggs, Deceased, who [ ] is personally known to me or [ ] has produced a driver's license as identification.

[Notary Seal]

Vicki Nestor
Notary Public

Printed Name: Vicki Nestor
My Commission Expires: March 8, 2023
Rodie's Place

I live in the Hammock and will be owner/operator of Rodie's Place. 5115 N. Oceanshore Blvd a ½ acre lot with 150 feet of A1A frontage and a 1,200 square foot cement block building will be converted into a single room residence and a small restaurant serving breakfast and lunch to the people that live, work and vacation in the Hammock. The structure will be getting a facelift both inside and out. The natural setting will be maintained and enhanced meeting and exceeding the Scenic A1A criteria. I am working with CPH to provide engineering guidance in CAD, surveys, septic design and engineering, parking design and working with DOT to meet all of those criteria.
June 1, 2017

Mr Adam Mengel
Flagler County Director of Planning and Zoning
1769 E Moody Blvd, Bldg 2
Bunnell, FL 32110

re:  5115 North Oceanshore Blvd - Special Exception for a Restaurant in an R/C District

Dear Mr Mengel,

At the May 26, 2017, meeting of Scenic A1A PRIDE Mr Randy Odom returned to present his Proposed Plan for a restaurant at the above location. He was confident that he would adhere to all Code requirements.

With this in mind, the Board Members voted to support Mr Odom's Proposed Plan as presented, as long as it meets County Code in all respects. However, while his parking may meet Code standards, there was concern that the parking might be inadequate.

Yours sincerely,

Dennis Clark, Chair
SCENIC A1A PRIDE

cc. Mr Randy Odom

SCENIC A1A PRIDE - RIVER & SEA SCENIC HIGHWAY
5784 N. OCEANSHORE BLVD, PALM COAST, 32137
May 4, 2017

Adam Mengel
Flagler County Director of Planning and Zoning
1769 E Moody Blvd, Bldg 2
Bunnell, FL 32110

re: 5115 N. Oceanshore Blvd - special exception for a restaurant in R/C district

Dear Adam,

At the April 28 meeting of Scenic A1A PRIDE, Mr. Randy Odom made a verbal presentation of his plans to convert the existing house at 5115 North Oceanshore Blvd into a breakfast/lunch restaurant. He stated that the property was zoned R/C and he will be reviewing his plans with Flagler County in May. Mr. Odom plans to meet all Scenic Corridor requirements but was not prepared to share a site plan or tree survey with the group. The Board members ask that he return with his plans after the Flagler County review.

Mr. Odom suggested that since this property has been idle for so many years that it would be good to have it brought up to code and create another food service along the highway.

Sincerely,

Dennis Clark, Chair
SCENIC A1A PRIDE

Cc: Randy Odom (rodie4@gmail.com)
Gina Lemon (glemon@flaglercounty.org)
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. Please provide a proposed landscaping plan.
2. Will there be a sign for the business if so, please identify the proposed location on the site plan.
3. What is the proposed seating for the restaurant?
4. Will the proposed patio area on the north side of the property be covered?
5. What material will be used for the proposed parking area?
6. Will the existing carport in the rear of the property remain?
7. Driveway access must be applied for and permitted through FDOT.
8. Based on the interior plan provided, there is no access route shown between behind the counter and the customer seating area without exiting the building.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

This office has no comments regarding the special exception.

REVIEWING DEPARTMENT: FIRE INSPECTOR

Fire Suppression and hood vent for stove?

Additional comments may be generated at the meeting.
REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1. An application for new septic system construction is required. Estimated sewage flow will be based on 40gpd/per seat for a full service restaurant or 20 gpd/per seat for restaurant using single service articles.

2. Aluminum carport with concrete may need to be removed to prove room for system installation or to obtain required unobstructed area.

3. Authorized lot flow for this property is 1100 gpd if utilizing public water system.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No Comments at this time
Thanks Tommy, I appreciate that. Where do I find the application package. This is the first I heard of this.

Randy

On May 23, 2017 2:37 PM, "Russ, Thomas" <Thomas.Russ@dot.state.fl.us> wrote:

Randy,

I will be happy to work with you and your E.O.R. and provide review comments to give you feedback on your project. Once FDOT has received your application package submittal information, I will look over the site plan access point and all roadway features. This review should flow smoothly and I’m sure we can work out a good driveway to serve your project.

Thank again,

Tommy

Thomas Russ

FDOT / D5 - Deland Operations.

1650 N. Kepler Rd, Deland, Fl. 32724

Office: 386-740-3404

Cell: 386-279-5443

thomas.russ@dot.state.fl.us

Thank you Tommy, for the email. I will do whichever driveway approach your dept feels is best. The circle approach is what CPH felt gave the best visibility and better traffic flow on A1A for traffic from both north and south.

Thanks again,

Randy Odom
On May 22, 2017 4:51 PM, "Russ, Thomas" <Thomas.Russ@dot.state.fl.us> wrote:

Randy,

I do recall discussing the driveway to 5115 N. Oceanshore Blvd/ SR-A1A. The Department will work you on the driveway access connection to the property. The spacing for a single driveway access would meet the requirement, but two access points could have safety concerns. The driveway position and lay-out will need to be reviewed how vehicles enter & exit the site safely as this is a 2 lane roadway.

Thank you,

Tommy

Thomas Russ

FDOT / D5 - Deland Operations.

1650 N. Kepler Rd, Deland, Fl. 32724

Office: 386-740-3404

Cell: 386-279-5443

thomas.russ@dot.state.fl.us

From: Randy Odom [mailto:rodie4@gmail.com]
Sent: Monday, May 22, 2017 3:29 PM
To: Russ, Thomas
Subject: 5115 N Ocean Shore Blvd

Hi Tom,

You and I spoke a few weeks back regarding the above property and you then called Jason Kellogg at CPH regarding the DOT's perspective as he shared the engineered drawings with you. You told me that you weren't sure if I would be able to have a circle driveway, but you knew I would be able to meet the DOT requirements.

I had my TRC last week and the question of DOT came up and I indicated the above conversation. Adam asked if you could send him an email to that affect as I am in front of the county board on 6/13 and he would like the form (?) or at least an email from you for that meeting.

Please cc me on the email to Adam

Randy Odom

612-810-4035
Landscape Plan:  L-1

Legend:

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Affordable Lawn & Landscaping, Inc.