1. Roll Call.

2. Pledge to the Flag.

3. Approval of December 12, 2017 and January 9, 2018 meeting minutes.

4. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3098 – APPLICATION FOR REZONING – request for Rezoning from AC (Agriculture) to PUD (Planned Unit Development) and Amendment of the Eagle Lakes Planned Unit Development (PUD) Development Agreement for the Eagle Lakes Phase 2 PUD. Parcel Number 22-12-31-0000-01010-0011; 202.2+-/ acres in the subject parcel, with 611.2+-/ acres in Phase 2. Owner: Venture 8, LLC/Applicant: Michael D. Chiumento III, Esq., Chiumento Dwyer Hertel Grant, P.L.
   Project #2017090008 (TRC, PDB, BCC)

5. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3123 – APPLICATION FOR SPECIAL USE IN THE I-PUD (INDUSTRIAL PLANNED UNIT DEVELOPMENT) DISTRICT – request for Special Use for a potable water well (raw water supply) located on a 0.73+-/ acre easement within the subject parcel lying West of Seminole Woods Parkway, South of the Flagler Executive Airport and North of the Iroquois Waterway. Parcel Number: 17-12-31-0650-000A0-0013; 40.71+-/ acres. Owners: City of Flagler Beach and JTL Grand Landings Development, LLC/Applicant: Kevin A. Lee, P.E., QLH.
   Project #2017120047 (TRC, PDB, BCC)
6. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3124 – APPLICATION FOR SPECIAL EXCEPTION FOR BUSINESS AND PROFESSIONAL OFFICES, PROFESSIONAL CONSULTANTS, AND MEDICAL AND DENTAL OFFICES IN THE R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT at 5182 N. Oceanshore Boulevard. Parcel Number: 40-10-31-0010-00040-0090; 0.92 +/- acres. Owner: Exile on Main St, LLC/Applicant: Jay Livingston, Esq.
   Project # 2017120048
   (TRC, PDB)

7. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3125 – APPLICATION FOR SETBACK VARIANCES IN THE R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT – request for relief from the required 40’ front setback and the required 10’ right side yard setback for an existing commercial building and an existing shed and relief from the required setback for an existing freestanding sign at 5182 N. Oceanshore Boulevard. Parcel Number: 40-10-31-0010-00040-0090; 0.92 +/- acres. Owner: Exile on Main St, LLC/Applicant: Jay Livingston, Esq.
   Project # 2017120049
   (TRC, PDB)

8. Staff Comments.

9. Board Comments.

10. 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.

11. Adjournment

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

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

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

MEMBERS ABSENT: Laureen Kornel, excused,

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

BOARD COUNSEL: Kate Stangle, with Broad and Cassel

Chairman Dickinson called the meeting to order

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 November 14, 2017 regular meeting.

   Motion to approve as amended made by Mr. Langello and seconded by Mr. Barr.
   Motion approved unanimously.

4. Legislative not requiring disclosure of ex parte communication:
   Application #3109 – APPLICATION FOR FUTURE LAND USE MAP AMENDMENT LESS THAN TEN ACRES – request for a Future Land Use Map Amendment for less than ten acres from MUL (Mixed Use: Low Intensity, Low- to Medium-density) to CHI (Commercial: High Intensity). Parcel Number 40-10-31-4050-00000-0270; 0.58 +/- acres. Owner: Rhonda J. West / Applicant: Hammock Enterprises, LLC.

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

   Melissa Tincher E.I., Alann Engineering Group, Inc 880 Airport Road, Ormond Beach 32174, representing the applicant gave a brief overview of the proposed project.

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

Raymond Cleech, 4 Holly Street Spoke against the project he is concerned about using the residential road in the rear of the property, also concerned about the garbage.

Vincent Nagy, 4 Palmetto Road, spoke against the project he is concerned about the noise level, traffic and the value of his property.

James Garcia, 19 Magnolia Road, spoke against the project he is concerned about traffic

Julie Dutton, 4 Magnolia Road, spoke against the project is concerned about the traffic.

Magnolia Road, spoke against the project and is concerned about traffic and the size of the lot.

Donald Bateman, 8 Magnolia Road, spoke against the project concerned about access to the residential street, trash, lighting, noise and odors from the proposed brewery.

Scott Wunderle, 9 Holly Road, spoke against the project concerned about the parking, traffic and odors from the brewery.

Stewart Smith, 7 Magnolia Road, spoke against the project concerned about the lighting, noise, parking and traffic on the residential street.

Ludmila Haustova, 5 Holly Road spoke against the project concerned about noise, trash and traffic and parking on the residential road.

Dennis Clark, 5784 North Oceanshore Boulevard, supports the concept of the use but not the rezoning. Mr. Clark provided a handout to the Board which is found at the end of these minutes as attachment “A”.

Chairman Dickinson closed the public hearing and asked staff and applicant rebuttal.

Mr. Mengel, Responded to the citizens comments, noting that no commercial traffic will be allowed on the residential road. He also responded to the trash, odor and noise and lighting concerns.

Kimberly Buck P.E., Allan Engineering Group, Inc. 880 Airport Road, Ormond Beach, 32174, responded to the citizen comments, noting that there will be minimal noise, and lighting will be low level.
Josh Parker, 202 Tallahassee Street, Carrabelle, Florida 32322, Brewer for the proposed project, discussed the brewing process and the proposed size of the operation.

Brent Bruns, Hammock Enterprises LLC, 102 Yacht Harbor Drive Suite 161, Palm Coast, 32137, He gave a brief overview of the proposed business model and his reasoning behind it.

Mr. Langello, asked if there was an Odor Ordinance. If there was another way through either a Special Exception or Variance to allow for the outdoor seating so as not to rezone to C-2.

Mr. Mengel, responded no to both questions.

Mr. Langello, asked if by putting a cover over the seating that would alleviate the situation? The other concern is the parking.

Mr. Barr, is there a minimum lot width in Scenic A1A? Or in the R/C zoning district?

Mr. Mengel, there is no minimum lot width within the Scenic A1A Corridor. There is in the R/C district it is 80 feet.

Mr. Barr, so this lot is non-conforming.

Mr. Mengel, there is no minimum for lot frontage there is for lot width measured at the front setback line.

Mr. Barr, asked with a land use change and a rezone does any grandfathering go away.

Mr. Mengel, responded grandfathered is grandfathered.

Mr. Connor, what is the maximum seating capacity based on the proposed 400 square foot area.

Mr. Bruns, no more than 40 people based on the septic system. We are restricted also by parking.

Mr. Connor, the access to Live Oak is for emergency services only?

Mr. Mengel that is the intention only emergency vehicles.

Mr. Connor, wanted to clarify that there is no other way under our Land Development Code to accommodate this use. And asked if there any other way to accommodate this use without taking it to C-2.
Mr. Mengel, responded this is the only way to accommodate this use.

Mr. Langello, thinks there is a better way than going through this land use change and rezoning

Chairman Dickinson, asked if there was a more creative way to come to the maximum 25 % outdoor seating requirement.

Chairman Dickinson, asked for a motion

Motion to deny made by Mr. Langello seconded by Mr. Boyd.
Application denied 5-1 with Mr. Lombardo dissenting.

5. Quasi-judicial requiring disclosure of ex parte communication:
Application #3110 – APPLICATION FOR REZONING TO C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT – request for Rezoning from R/C (Residential/Limited Commercial) to C-2 (General Commercial and Shopping Center). Parcel Number 40-10-31-4050-00000-0270; 0.58 +/- acres. Owner: Rhonda J. West / Applicant: Hammock Enterprises, LLC.

Chairman Dickinson called for disclosure of exparte communications.

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

Chairman Dickinson opened the public hearing.

Gail Nagy, 4 Palmetto Road, spoke against the rezoning and is concerned about the C-2 zoning.

Dennis Clark, 5784 North Oceanshore Boulevard, referenced a hand out of his concerns which is attached to these minutes as attachment “A” stating the only thing he did not address was tree preservation.

Scott Wunderle, 9 Holly Road, spoke against the rezoning.

Julie Dutton, 4 Magnolia Road, spoke against the rezoning.

Ludmila Haustova, 5 Holly Road, spoke against the rezoning.

Raymond Cleech, 4 Holly Street spoke against the rezoning.
Draft

1. Carol Bateman, 8 Magnolia Road spoke against the rezoning.

2. Donald Bateman, 8 Magnolia Road spoke against the rezoning.

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

4. Mr. Langello, concerned about the parking and the what could happen with the C-2

5. Mr. Conner, asked if we are to make zoning recommendation based on our Land Use Map

6. Ms. Stangle, yes

7. Chairman Dickinson asked for a motion.

8. Motion to deny made by Mr. Langello seconded by Mr. Boyd.


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

Application #3112 – APPLICATION FOR SITE DEVELOPMENT PLAN IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for review of site development plan for Iris at Hunters Ridge. Parcel Numbers 21-14-31-0000-01010-0030, 21-14-31-0000-01010-0070, 21-14-31-0000-01010-0080, 21-14-31-0000-01010-0130 and 21-14-31-0000-01010-0000; 22.03+/- acres. Owner/Applicant: U.S. Capital Alliance, LLC.

10. Chairman Dickinson called for disclosure of ex parte communications.

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

12. Cole Buck E.I., Alann Engineering Group, Inc 880 Airport Road, Ormond Beach 32174,

13. representing the applicant gave a brief overview of the proposed project.

14. Chairman Dickinson opened the public hearing.

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

16. Mr. Langello asked if capacity has been looked at.
Mr. Mengel responded that this was looked at during the view of the Development of Regional Impact.

Motion to approve made by Mr. Boyd seconded by Mr. Barr. Motion carried unanimously.

7. Quasi-judicial requiring disclosure of ex parte communication:
Application #3111 – APPLICATION FOR PRELIMINARY PLAT IN A PUD (PLANNED UNIT DEVELOPMENT) – request for review of a Preliminary Plat in the PUD for Iris at Hunters Ridge. Parcel Numbers 21-14-31-0000-01010-0030, 21-14-31-0000-01010-0070, 21-14-31-0000-01010-0080, 21-14-31-0000-01010-0130 and 21-14-31-0000-01010-0000; 22.03 +/- acres. Owner/Applicant: U.S. Capital Alliance, LLC.

Chairman Dickinson called for disclosure of exparte communications.

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

Chairman Dickinson opened the public hearing.

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

Motion to approve made by Mr. Boyd seconded by Mr. Langello. Motion carried unanimously.

8. Staff Comments:
Mr. Mengel thanked the Board for the year and Happy Holidays, and welcomed the new members.

9. Board Comments:
Mr. Langello, Thanked staff for their work

10. Public Comments: None

11. Adjournment

Motion to adjourn made by Mr. Boyd at 8:24 p.m.

Minutes drafted by Wendy Hickey.
Minutes reviewed by Adam Mengel.
MEMBERS PRESENT: Chairman Robert Dickinson, Arthur Barr, Michael Boyd, Timothy Conner, Laureen Kornel, Mark Langello and Anthony Lombardo

MEMBERS ABSENT: none

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

BOARD COUNSEL: Kate Stangle, with Broad and Cassel

Chairman Dickinson called the meeting to order.

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. Election of Chair
   Mr. Mengel opened the floor to nominations for Chair,
   Ms. Kornel nominated Mr. Langello and nomination was seconded by Mr. Boyd.
   Approved unanimously.

4. Election of Vice-Chair
   Mr. Mengel opened the floor to nominations for Vice-Chair,
   Mr. Langello nominated Mr. Connor and nomination was seconded by Mr. Boyd.
   Approved unanimously.

5. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3117 – APPLICATION FOR REZONING TO AC (AGRICULTURE) DISTRICT – request for Rezoning from PUD (Planned Unit Development) to AC (Agriculture) at 1255 County Road 2007. Parcel Number 04-13-29-5550-00050-0010; 60.77+/- acres. Owner/Applicant: Peter and Karen Palmer.

These minutes are unofficial until adopted by the Planning and Development Board.
Chairman Langello asked for exparte disclosures, none provided.

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

Chairman Langello opened the Public Hearing.

Chairman Langello closed the Public Hearing and asked for Board comments.

Mr. Barr asked if this was part of a larger PUD

Mr. Mengel this is the PUD in its entirety.

Motion to approve made by Mr. Boyd seconded by Ms. Kornel.
Motion carried unanimously

6. Quasi-judicial requiring disclosure of ex parte communication:
Application #3119 – APPLICATION FOR REVIEW – SITE DEVELOPMENT PLAN APPROVAL FOR AN EXISTING SPECIAL USE IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT – request for Site Development plan approval for system improvements to the Plantation Bay Water Treatment Facility at 1600 Old Dixie Highway; Parcel Number 03-13-31-0650-000C0-0050; Owner/Applicant: Flagler County; Agent: Mark A. Ralph, P.E., with McKim and Creed, Inc.

Chairman Langello asked for exparte disclosures, none provided.

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

Chairman Langello opened the Public Hearing.

Chairman Langello closed the Public Hearing and asked for Board comments.

Motion to approve made by Ms. Kornel seconded by Mr. Dickinson.
Motion carried unanimously

7. Quasi-judicial requiring disclosure of ex parte communication:
Application #3122 – SPECIAL EXCEPTION FOR A RESTAURANT IN THE R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT – request for a Special Exception for a restaurant at 5047 North Oceanshore Boulevard. Parcel Number 40-10-31-4050-00000-0270; 0.58 +/- acres. Owner/Applicant: Brent Bruns with Hammock Enterprises, LLC; Agent: Kim Buck, P.E., with Alann Engineering Group.

These minutes are unofficial until adopted by the Planning and Development Board.
Chairman Langello asked for exparte disclosures,

Mr. Barr, stated that he had a brief conversation with the applicant’s representative Ms. Buck during a VCRD/FCRD meeting.

Mr. Connor, stated that he spoke briefly with a member of the audience before the meeting.

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

1. This Special Exception runs with the land.
2. Approval is limited to the use as a restaurant:
   a. sit down and take out only, without drive-through;
   b. with a maximum seating capacity subject to the lesser of:
      1. provision of minimum off-street parking consistent with the adopted Flagler County Land Development Code, currently requiring a minimum of one (1) space for each fifty (50) square feet of gross seating area, plus one (1) space for each employee per shift; or
      2. as limited by the Flagler County Environmental Health Department based on permitted onsite sewage disposal system (OSDS) treatment capacity;
   c. with a maximum of forty (40) seats located outdoors or otherwise visually screened from adjacent right-of-ways; and
   d. through an onsite brewery, allowing incidental production and consumption on premises of alcoholic beverages subject to issuance of a 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. Emergency egress to Live Oak Road will be provided through a locked gate at the East parcel line.
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, 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. Signs shall be limited as follows:
   a. The existing sign may be utilized provided that a permit is issued for a face change (change of copy). Any modification beyond a face change of the existing sign will require issuance of a variance due to the encroachment of this sign into the minimum twenty (20) foot front setback for signs within fifty (50) feet of a driveway intersection.
   b. Any new proposed signage will require a permit demonstrating compliance with the minimum setback requirements from the adopted Flagler County Land Development Code, with a single freestanding (double-sided, monument type) sign to be permitted 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.

Melissa Tincher E.I., Alann Engineering Group, Inc 880 Airport Road, Ormond Beach 32174, representing the applicant gave a brief overview of the project addressing some of the previous noted concerns of the community.

Brent Bruns, Hammock Enterprises LLC, 102 Yacht Harbor Drive Suite 161, Palm Coast, 32137, applicant/owner, discussed parking plans.

Chairman Langello opened the Public Hearing.

Gene Nagy 4 Palmetto Road, spoke against the project is concerned about noise, odor and parking.

Donald Bateman, 8 Magnolia Road, spoke against the project concerned about noise, odor and parking safety, access to residential street and will septic system affect the wells in the area.
Angela Miniagi, 635 North Orange Street, owns property directly north of the subject parcel. Spoke against the project based on parking, traffic and safety.

Stewart Smith, 7 Magnolia Road, spoke against the project for himself as well as his neighbor Molly Gilmer 9 Magnolia Road whom was not able to attend the meeting and concerned about odor and parking and access to residential street.

Scott Wunderle, 9 Holly Road, spoke against the project concerned about parking and safety

William Harrell, 12 Holly Road, spoke against the project concerned about safety and noise.

Angela Miniagi, 635 North Orange Street, owns property directly north of the subject parcel. Spoke of concerns about delivery trucks access the property.

Chairman Langello closed the Public Hearing and asked for Board comments.

Mr. Barr, asked how beer production brewery is addressed in the R/C zoning district?

Mr. Mengel, responded the R/ C zoning allows for the incidental sale of alcoholic beverages and is silent to production specific to R/C the way it has been presented to us is that it is ancillary to the restaurant and only available to the restaurant, and subordinate to the restaurant.

Mr. Bruns, responded the odor will be minimal the tanks are very small, more people will be drinking wine.

Ms. Tincher, Addressing the public questions, noting that this type of brewery is an upscale trend it is not going to generate a lot of noise, it is not in the same realm as JT’s any music would be smaller scale than a Bar and Grill on site; to address delivery trucks the current capacity is 10 tables if we had no employees that is not going to generate excessive parking, anything that comes in here will increase traffic. Based on the septic system there are setback requirements to wells which is 75’ and we will meet all those requirements and the septic will be completely redone.

Mr. Barr, asked Staff condition one states this Special Exception runs with the land can this Special Exception run with the property owner?

Mr. Mengel, stated that he believes we have done that in the past so, is within the Board prerogative to make that change so that it is specific to the applicant and their representations and presentations to the Board.
Mr. Barr, stated he was comfortable with that condition.

Mr. Dickinson asked for summarization of the diner calculation.

Mr. Mengel, stated that the outside seating capacity up to 40 and the inside being mirrored for inclement weather only so you would not have a choice you would be outside unless the weather was cold or rainy. Based on the septic tank capacity would be capped at 40 per day.

Mr. Dickinson, stated so at any given time they are serving about 40 diners. There was reference to an 8 foot fence, and what is the character of the gate? Is there a technical term for different sized Brewery’s?

Mr. Mengel, stated the fence was a condition of the previous Special Exception.

Mr. Bruns, responded that it is a double swing solid wood gate. The brewery is the smallest micro-brewery allowed by the Alcohol Beverage Commission. One barrel with a brew 2-3 times per week, for consumption only on site.

Mr. Dickinson, asked for an explanation of the code compliance for the benefit of the Board and how this would get monitored.

Mr. Mengel, there will be no new structures proposed and the outdoor seating as shown on the site plan which will move through the Special Exception. The monitoring of the conditions will be based on complaints we receive and we will be monitoring the site for the offsite parking. It will be in the applicants’ best interest to police A1A parking and keep that from happening and keeping within the parameters of the parking and the roll containers and the screening of the refuse area and any sign modification, any lighting provided and any other condition the Board adds. Violations will be watched by those adjacent to this as well as competitors will be addressed through Code Enforcement, our goal is compliance.

Mr. Dickinson concurs with Mr. Barr and feels the Special Exception run with the applicant and not the land.

Mr. Barr stated he would like to add a condition that there be no augmented sound system.

Mr. Bruns, I don’t think that would be possible the music proposed is romantic slow music. I think it is the noise level and not the type of instrument. I idea is for soft music and not how the entertainer provides it. It is not a bar scene it is a dinner scene and that is the type of music provided.
Mr. Mengel, we would say amplified sound, alternatively I would a decibel level that cannot be
enforced by us. Or a quiet hour such as no external music after a certain hour such as 9 or 9:30pm.

Mr. Bruns, stated 9:00 is acceptable.

Ms. Kornel, asked per the Land Development Code what is the parking requirement for 40 seat
restaurant.

Mr. Mengel, responded it is based on 1 per every 50 square feet of area plus 1 for every employee
on shift. That is the minimum off street parking requirement.

Ms. Kornel, asked if staff was comfortable with the parking proposed.

Mr. Mengel, we do have some concerns.

Ms. Kornel, stated that if outdoor entertainment is proposed as part of the Special Exception then
it should be distinctly outlined in the conditions of approval.

Mr. Mengel, agreed and would add and that operation graphically displayed on the site plan.

Ms. Kornel, stated her concern about having entertainment abutting residential with only a
privacy fence as a buffer and asked if there was any discussion of having a wall instead of a fence?

Mr. Mengel, responded that it was not discussed with the applicant.

Ms. Kornel, stated that there is a code requirement that A1A Pride reviews certain applications,
is Special Exception one of those applications?

Mr. Lombardo, shared his concerns about noise, traffic and parking and asked if the brew house
could be relocated into the house to alleviate any possible odor issue.

Mr. Bruns, stated the whole idea is to have something separate from the restaurant. This will be
a reservation system only this will not be a walk in type of restaurant. We do have to control the
seating so it may be inside or outside but we are still limited to the 40 seats. I don’t know if it can
be done.

Mr. Lombardo, asked if we could stipulate the location or how far away for the Valet Parking.
He then asked if the trash enclosure could be moved

Mr. Bruns, stated that there is a pump house there now and we will only be adding a fence.
Mr. Connor, “I do have a comment or two and I don’t mean my comments to be an affront to any of you residents that are attending here tonight. I understand your concerns and I appreciate where you’re coming from. One of the things that makes the Hammock special is that it’s finite space. We’re hemmed in by the Atlantic Ocean on one side and the Intracoastal on the other and it’s a special place, and I understand that. But the reality is that it’s a central corridor that goes down the Hammock and it’s called A1A and almost virtually all the front footage on A1A is zoned R/C [Residential/Limited Commercial] or commercial. It was designed that way. And almost all the footage behind the front footage, almost all the lots, whether you go East to the Atlantic Ocean or whether you go West to the Intracoastal is residential. Which means that by design commercial down A1A butts up against residential behind it. And it’s designed that way. It can’t be any other way because that’s the way it is. And so there isn’t a place in the Hammock where anyone can do a commercial development that’s not going to impact somebody’s neighborhood behind it. And unfortunately in this situation, it’s y’all’s neighborhood that got impacted, or that potentially will be impacted. But part of the job that we have to do is staff is to run the credentials on whether or not the thing meets Code and then we as a Board vet it and that’s our purpose here tonight. But one of the things that we have to keep in mind when we go through that process is what are the alternatives? If we say no to small-scale development, if we say no to the little guys trying to do creative things in the Hammock, what are we left with? I think what we’re left with is the guys that come behind the little guys reading the handwriting on the wall and realizing that what they have to do is put a lot of parcels together and do a big development instead of a little development. And then you’ve got more stuff that looks like the Publix shopping center or the fire station or those sorts of things and that’s what we’re trying not to do in the Hammock. So I think we need to encourage creative thinking in the development of commercial in the Hammock or we’re going to get what we ask for which is something different than that. And I think that in the process of encouraging creative development that we need to keep in mind that the return on investment is much, much less for a small guy than it is for a big guy. It’s going to be a whole lot easier for the big guys to come in and put together sufficient parcels to meet the five acre standard which is the maximum and put developments into the Hammock and just buy up whole blocks and then your neighborhood, it really is going to have a traffic problem and it really is going to have a light problem and it really is going to have a noise problem because there is going to be a big box out there on A1A and its going to have a parking lot around it. So it’s a lot harder for a small guy to make it work and when you’ve got somebody that’s willing, and it’s also expensive in the Hammock to make it work because the Overlay District that we have in the Hammock is very, very difficult to work under. It’s very, very difficult to meet, and it’s very expensive to build out there. When you’ve got a guy that’s in front of you that says I want to come in there and try to put a quality development in place and I want, I’m going to make the investment to do it upscale, I think we need to encourage that.
Mr. Boyd, “I just have two comments. One, when these types of things come before us where there’s, when there’s an applicant and there’s some controversy or some opposition, a lot of times I tend to think of these as a, among other things, as a property rights issue. And I realize that the residents feel like, and rightly so, that have some particular property rights that usually are, are termed quality of life issues. And I agree with that. I also agree that someone like the applicant has some property rights as well. And so to me it kind of puts me in a quandary about this, and if I think that there, many times there, what it boils down to is kind of coming to some type of agreement. And also in this meeting, and more particularly in the last meeting, there were many comments made about emphasizing Scenic A1A. How Scenic A1A is and so forth. I would suggest that if you think A1A is scenic now, you should have seen it thirty or forty or fifty years ago, before all these people moved into it and started building along A1A. It was truly scenic back then. And I kind of tend to agree with the gentleman here that spoke before me in that to me if you have an applicant that is really trying to do something upscale, we might need to consider that as opposed to someone who could come in here and buy up a bunch of property. I really, I really don’t know how I think about this truly, but to me it just kind of boils down to those couple of things.”

Chairman Langello, asked Ms. Stangle, Board Counsel if the Special Exception go with the applicant and not run with the land?

Ms. Stangle, there is not a requirement that it run with the land, the Board has in the past attached it to the owner.

Chairman Langello, asked if we have a way to limit the gallons produced

Mr. Mengel, stated he thinks you can

Chairman Langello asked would a limit be enforceable. How would we be able to limit the size if we are basing it on parking and septic and the conditions change valet parking availability and then sewer becomes available.

Mr. Mengel, you can add reservation and valet parking

Chairman Langello, I think there should be a cap and if it grows they will have to come back.

Mr. Dickinson, made a recommendation to the conditions subject to Board members and Staffs comments which are somewhat ambiguous. The Special Exception runs with the application as presented 2.b2 add 40 seat unless amended. 2d, add the phrase generally described as a one barrel brewing system. 11, limited to ambient background music for dining limited to 9pm. 12, parking
will be limited to the ten designated parking spaces. 13, perpetual maintenance of the 8 foot perimeter privacy fence.

Ms. Kornel asked that Scenic A1A pride get to review stated that almost all the application that have come through have been reviewed by them. I see them as part of the process and not an adverse group, they are just part of the process. And that a wall be considered in place of the privacy fence along the back.

Chairman Langello asked is it that A1A Pride must look at this or may look at this?

Mr. Mengel, typically they do review Special Exceptions.

Chairman Langello, must we have a comment back from Scenic A1A, to properly review the application

Mr. Mengel I cannot dictate what Scenic A1A provides to us. They did not review the Special Exception should they have yes but they did review the Future Land Use Map amendment and rezoning yes and has the plan substantially changed no. The application has changed the site plan has stayed the same the proposed operation has stayed the same, true they have not reviewed the nine criteria of the Special Exception but that is not Scenic A1A criteria they do not provide recommendation on our nine criteria that is your job.

Chairman Langello asked Ms. Stangle if the Board was in good standing if we do not wait for any response back. Asked that the applicant respond to questions about seating and the amount of liquor being produces.

Mr. Bruns, could not give a definitive answer what would the maximum number of barrels he would brew because it would be based on sales.

Mr. Connor, stated the applicant would be limited by other means such as seating, parking, ice house space etc. and if the applicant acquired more land/space he would have to come back to this Board for approval of the expansion.

Ms. Stangel, I have consulted with staff and the origin of having Scenic A1A look at these applications it is not in the Land Development Code and speaking with staff it has been a practice that applications that are within the overlay district are provided to the committee and the committee provides input and according to staff and based on quick search of the Code we are finding nothing that requires it.

Ms. Kornel, I did believe it was in the Land Development Code
Ms. Lemon responded that it is not in the Land development Code (LDC) the only thing amended in the LDC to the corridor is Section 3.06.11 the Overlay District

Ms. Sherman, Assistant County Administrator and Growth Management Director, Scenic A1A Pride has tried to formalize their role in the planning process but the Board of County Commissioners has not chosen to do that.

Chairman Langello, stated that he believes the reasoning behind that is there is no public input. They seat their own people and they do what they want to do so it would seem outside of a fair practice. Also on the grounds of appeal either the applicant or public if we do not hear anything that is not ground for appeal or legal challenge to this.

Ms. Stangel, staff and I are not aware of any Ordinance that moving forward would not be a violation.

Mr. Boyd, made a motion to approve based on the conditions that have been suggested and what we come up with for conditions. There were a number of conditions that were made and we need to have a discussion. There are the ones form staff, and some from the Board. Seconded by Mr. Conner.

Ms. Stangel, There is a motion to approve and a second,

1. The Special Exception runs with the applicant, Hammock Enterprises, LLC with Mr. Bruns as a managing member.
2. Approval is limited to the use as a restaurant:
   a. Sit down and take out only, without drive-through;
   b. with a maximum of forty (40) seats located outdoors or otherwise visually screened from adjacent right-of-ways; and
   c. with an onsite brewery, generally described as a one-barrel system, allowing incidental production and consumption on premises of alcoholic beverages subject to issuance of a 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. Emergency egress to Live Oak Road will be provided through a locked gate at the East parcel line.

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, 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. Signs shall be limited as follows:
   a. The existing sign may be utilized provided that a permit is issued for a face change (change of copy). Any modification beyond a face change of the existing sign will require issuance of a variance due to the encroachment of this sign into the minimum twenty (20) foot front setback for signs within fifty (50) feet of a driveway intersection.
   b. Any new proposed signage will require a permit demonstrating compliance with the minimum setback requirements from the adopted Flagler County Land Development Code, with a single freestanding (double-sided, monument type) sign to be permitted 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.

11. The applicant shall only play or broadcast ambient, background music on the outdoor seating
area, which shall otherwise be prohibited after 9:00 p.m.

12. Onsite parking shall be limited to 10 parking spaces.

13. The applicant shall maintain the existing 8 foot high privacy fence, in a safe and good state of
repair, and any damages to the fence which may occur in the future shall be repaired promptly
in a good workman like manner.

Motion to approve with conditions noted above made by Mr. Boyd and seconded by Mr. Conner
motion passed 6/1 with Ms. Kornel dissenting.

8. Quasi-judicial requiring disclosure of ex parte communication:
Application #3120 – VARIANCE IN THE R/C (RESIDENTIAL/LIMITED
COMMERCIAL) DISTRICT – request for a landscape buffer variance for a restaurant at 5047
North Oceanshore Boulevard. Parcel Number: 40-10-31-4050-00000-0270; 0.58+/- acres Owner:
/ Applicant: Brent Bruns with Hammock Enterprises, LLC; Agent: Kim Buck, P.E., with Alann
Engineering Group.

Chairman Langello asked for exparte disclosures, same disclosers as noted for application #3122
Planning Director Adam Mengel presented the item and staff’s recommendation for approval
with the following condition:

A minimum 6’ high privacy fence, wall, or trellis planted with natural vegetation will be
maintained for the duration of the restaurant use along the North, East and South property lines.
This condition is addressed and will be enforced through Special Exception application #3119.

Melissa Tincher E.I., Alann Engineering Group, Inc 880 Airport Road, Ormond Beach
32174, representing the applicant gave a brief overview of the project and noting all the variances
requested and reasoning behind them.

Chairman Langello opened the Public Hearing.

Angela Miniagi, 635 North Orange Street, owns property directly north of the subject parcel.
Spoke against the project.
Scott Wunderle, 9 Holly Road, spoke against the project.

Chairman Langello closed the Public Hearing and asked for Board comments.

Motion to approve made by Mr. Boyd and seconded by Mr. Conner motion passed 6/1 with Ms. Kornel dissenting.

8. Staff Comments

9. Board Comments

Mr. Barr, It’s been a pleasure being on the Board
Chairman Langello, thanked Mr. Barr for his service

10. 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.

Scott Wunderle, 9 Holly Road, reiterated his opposition to the projects tonight.

11. Adjournment: Motion made by Mr. Boyd at 8:55 pm
FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING / AGENDA ITEM #4

SUBJECT: QUASI-JUDICIAL – Application #3098 – Request for Rezoning from AC (Agriculture) District to PUD (Planned Unit Development) District and Amendment of the Eagle Lakes Planned Unit Development (PUD) for the Eagle Lakes Phase 2 PUD. Parcel #22-12-31-0000-01010-0011; 202.2 +/- acres in the subject parcel, with 611.2 +/- acres in Phase 2. Owner: Venture 8, LLC; Agent: Michael D. Chiumento III, Esq., Chiumento Dwyer Hertel Grant, P.L.

DATE OF MEETING: February 13, 2018

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is for approval of an amendment to the Eagle Lakes PUD to create the Eagle Lakes Phase 2 PUD, incorporating within the Phase 2 boundaries parcel #22-12-31-0000-01010-0011. This parcel is located on the West side of Old Kings Road South, East of Interstate 95, approximately midway between State Road 100 to the North and Old Dixie Highway to the South:
On August 30, 2017, Venture 8, LLC, through its agent, Michael Chiumento III, submitted applications for a Future Land Use amendment (Application #3097) and rezoning (Application #3098) for the 202.2 acres located between Old Kings Road and Interstate 95, approximately midway between State Road 100 and Old Dixie Highway. The subject parcel is North of and abutting the Eagle Lakes Planned Unit Development (PUD), which was last amended through Ordinance No. 2014-03, recorded at Official Records Book 2027, Page 235, Public Records of Flagler County, Florida.

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

The intent through the current rezoning request is to incorporate the 202.2 acre subject parcel into an overall amendment to the Eagle Lakes PUD, amending the provisions of the 2014 agreement by adding additional units within the new parcel, along with other changes to reflect the owner's intended build-out of the remainder of Eagle Lakes as an age-restricted, mobile home community. The proposed PUD agreement is not a revision so much as it is a total rewrite of the PUD text. Instead of tracking changes with underlined text indicating additions and deletion depicted in strike-through, the agreement is presented as a replacement to the 2014 agreement in its entirety for the future Phase 2. The original platted Phase 1, Section 1 will still be subject to the 2014 agreement.

The November 14, 2017 Planning and Development Board agenda item sought the rezoning of the subject parcel without providing the specifics of the amendments to the PUD agreement, intending to provide additional time to negotiate the specific terms included within the agreement while advancing the rezoning request by changing the designation – through the rezoning – of the subject parcel. Following the November Planning and Development Board meeting, and after discussing the proposed course of action further with the County’s contracted legal counsel, staff opted not to advance the parcel rezoning request to the Board of County Commissioners, pending further negotiations with the owner that would complete the changes to the PUD agreement: those negotiations are now complete and the amended and restated Eagle Lakes PUD agreement for Phase 2 can now be presented to the Planning and Development Board.
It is anticipated that the Board’s recommendation will be forwarded to the Board of County Commissioners in March for adoption of the rezoning and approval of the Eagle Lakes Phase 2 PUD Development Agreement following the Board’s adoption of the Future Land Use amendment.

This application was originally discussed by the Technical Review Committee on September 20, 2017. All staff comments were satisfactorily addressed by the applicant in advance of the Planning and Development Board meeting.

Public notice has been provided for this application according to LDC Section 2.07.00 and Section 125.66, Florida Statutes.

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

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

RECOMMENDATION: The Planning and Development Board finds that the Eagle Lakes Phase 2 Planned Unit Development (PUD) Development Agreement is consistent with the adopted Comprehensive Plan and the Land Development Code.

ATTACHMENTS:
1. Technical Staff Report
2. Draft ordinance and PUD agreement
3. Application and supporting documents (including Ordinance No. 2014-03)
4. Public notice
Owner: Venture 8, LLC (Craig Wells, as agent for owner)

Agent: Michael D. Chiumento III, Esq., Chiumento Dwyer Hertel Grant, P.L.

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

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

Related Application: Application #3097 – Future Land Use amendment from Agriculture and Timberlands to Residential Low Density/Single Family (transmitted to the State of Florida Department of Economic Opportunity and reviewing agencies, with receipt acknowledged on January 5, 2018).

Land Development Code Sections Affected: Land Development Code (LDC) Section 3.07.05, Rezoning, and Section 3.04.00, Planned Unit Development.

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

April 18, 2005 – Board of County Commissioners approves Ordinance No. 2005-06, a Chapter 163, Florida Statutes, Development Agreement (this Agreement subsequently expired and is no longer in force). The agreement adopted through the ordinance was approved consistent with Section 163.3239, Florida Statutes, and identified as DCA #748A. This agreement was recorded at Official Records Book 1234, Page 1757, Public Records of Flagler County, Florida.


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

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

November 14, 2017 – Planning and Development Board recommends transmittal of the Future Land Use amendment (Application #3097) and approval of the draft ordinance rezoning the subject parcel from AC to PUD (Application #3098). The Planning and Development Board rezoning staff report contemplated subsequent submittal of a specific, revised Planned Unit Development (PUD) Development Agreement.

December 18, 2017 – Board of County Commissioners approves transmittal of the Future Land Use amendment from Agriculture and Timberlands to Residential Low Density Single Family for Parcel number 22-12-31-0000-01010-0011 (Application #3097), including a proposed parcel-specific limiting Future Land Use Element policy text amendment to restrict the density of this parcel to no more than 210 dwelling units and to restrict the overall density of Eagle Lakes Phase II, inclusive of the subject 202.2 acre parcel, to no more than 820 dwelling units.

**Specific PUD Requirements:** The 2014 amendment to the PUD Development Agreement listed the following requirements:

<table>
<thead>
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<th>Lot Type:</th>
<th>50’</th>
<th>60’</th>
<th>80’</th>
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<tr>
<td>Minimum Lot size</td>
<td>6,000 sf</td>
<td>7,000 sf</td>
<td>10,000 sf</td>
</tr>
<tr>
<td>Minimum Lot width</td>
<td>50’</td>
<td>60’</td>
<td>80’</td>
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<tr>
<td>Minimum front setback</td>
<td>20’</td>
<td>20’</td>
<td>20’</td>
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<tr>
<td>Minimum rear setback</td>
<td>20’</td>
<td>20’</td>
<td>20’</td>
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<tr>
<td>Minimum side yard setback</td>
<td>5’</td>
<td>6.5’</td>
<td>9.0’</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>35’</td>
<td>35’</td>
<td>35’</td>
</tr>
<tr>
<td>Maximum impervious coverage</td>
<td>60%</td>
<td>55%</td>
<td>55%</td>
</tr>
<tr>
<td>Minimum House Size</td>
<td>1,100 sf</td>
<td>1,500 sf</td>
<td>1,800 sf</td>
</tr>
<tr>
<td>Minimum Garage/Carport</td>
<td>1 Car with Door</td>
<td>1 Car with Door</td>
<td>1 Car with Door</td>
</tr>
</tbody>
</table>

For reference, Section 3.03.12, *Mobile home park district*, of the Land Development Code provides for the following development requirements:

D. **Dimensional requirements.**

1. Minimum site size: Ten (10) acres.
2. Maximum density: Seven (7) units per acre.
3. Minimum space size:
   Space area: Five thousand (5,000) feet.
   Space width: Fifty (50) feet.
   Space depth: Seventy-five (75) feet.

4. Minimum setback requirements for structures:
   Front yard: Ten (10) feet.
   Rear yard: Seven and one-half (7.5) feet.
   Side yard:
   Interior space: Seven and one-half (7.5) feet.
   Abutting any street: Ten (10) feet.

5. Minimum pervious area: Thirty (30) percent.

Of particular note within the proposed Eagle Lakes Phase 2 PUD Development Agreement is the inclusion of mobile homes as a permitted use where in the 2014 PUD agreement mobile homes were specifically prohibited. Development will follow the MH-3 (Mobile home park) requirements as provided within the Land Development Code, except to the extent that the proposed Development Agreement varies from these standards. The intent of the owner is to lease spaces to mobile home owners within Eagle Lakes Phase 2. While the Land Development Code requires all PUDs to be platted, in this instance the plat will not designate individual spaces since these will be held in common ownership. For ease of identification and addressing, spaces may be described and depicted, however individual sale of spaces shall not occur.

The proposed Development Agreement differs from the recent agreement that the Planning and Development Board has reviewed, principally because of the framework of the 2014 PUD agreement and both the owner’s and the County’s desire not to depart too far from the previous approval. This iteration builds off of its predecessors, but is its own document, leaving the 2014 PUD agreement in place as it will continue to apply to the platted Phase 1, Section 1.

**Stormwater**

Stormwater runoff from the development will conveyed to on-site stormwater retention systems by means of open swales and underground pipes. Design and capacity will meet St. Johns River Water Management District permit requirements.

**Roadways**

The owner, their successors and assigns, will retain ownership and maintenance of all roadway tracts, if any tracts are designated by plat. All roads will be a minimum of 20 feet pavement width. Two project entrances will be provided, generally within the locations as depicted on the Conceptual Site Plan, subject to alignment at time of Preliminary Plat submittal so as to create intersections with driveways located on the East side of Old Kings Road. The project may be gated at the owner’s discretion.

As provided in the PUD submittal, a proportionate fair share payment of $200,000 will be paid to the County to offset the signalization cost at the main project intersection on Old Kings Road.
Landscaping
Wherever possible, existing vegetation will be used. Perimeter landscaping will be provided along Old Kings Road within a 35 foot wide buffer strip so as to create a minimum 70% opacity, with a six foot high berm or wall additionally required along Old Kings Road except where lakes are adjacent to the Old Kings Road right-of-way.

Signage
Signs, if provided, may be lighted, and can be no higher than eight feet tall with no more than 32 square feet of copy area on any single sign face at each entrance driveway, and secondary directional signs limited to six feet in height and six square feet of sign area. All signs will be setback to preserve view angles consistent with the LDC.

Entry Features
Emergency vehicle access will be provided at all entries to the subdivision.

Lighting
Street lighting will be provided to meet Flagler County specifications, with lights not to exceed twelve feet in height.

Emergency Services
Hydrants will be placed in locations identified on the construction plans submitted as part of the preliminary plat. Roadway widths and cul-de-sacs will be verified as part of the final plat approval process for meeting County and applicable standards.

Wetlands
Wetlands will observe a 15 foot minimum, average 25 foot upland buffer, with wetland impacts minimized and avoided to the greatest extent possible. Wetland areas will be delineated on the final plat and appropriately dedicated consistent with St. Johns River Water Management District and/or County requirements.

Utilities
Utilities are to be placed underground within tracts or easements dedicated for utility purposes at the time of final plat approval. The City of Palm Coast is anticipated to be the water and wastewater provider servicing Phase 2.

Eagle Nest
The namesake of Eagle Lakes, Nest ID FL006, is no longer an active nesting site. Since the time of platting Phase 1, Section 1, the eagle protection zones have significantly decreased in area. With the abandonment of the nest, future development will not observe a minimum protection zone to the nest site.
Future Land Use Map
AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, FLAGLER COUNTY, FLORIDA ADOPTING THE PUD (PLANNED UNIT DEVELOPMENT) DEVELOPMENT AGREEMENT FOR EAGLE LAKES PHASE 2; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Venture 8, LLC, is the owner of Parcel Numbers 22-12-31-0000-01010-0011, 26-12-31-0000-01010-0010, 27-12-31-0000-01010-0000, 27-12-31-0000-01010-0030, 27-12-31-0000-01020-0010, 27-12-31-0000-01020-0020, 27-12-31-0000-01020-0030, 34-12-31-0650-000D0-0072, 34-12-31-0650-000D0-0080, and 35-12-31-0000-02010-0040, all of these respective parcels totalling 611.2 acres, more or less, in size as more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the owner of the above-listed parcels is seeking the approval of this Ordinance creating the Eagle Lakes Phase 2 Planned Unit Development (PUD); and

WHEREAS, this Ordinance, the attached Development Agreement, and its attached Exhibits shall serve as the PUD Development Agreement for the Eagle Lakes Phase 2 PUD; and

WHEREAS, on February 13, 2018, the Planning and Development Board conducted a public hearing on this request and voted to recommend approval; and

WHEREAS, on March 19, 2018, the Flagler County Board of County Commissioners held a public hearing on this request and voted to approve the Eagle Lakes Phase II PUD; and

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

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

SECTION 1. FINDINGS

A. The Board of County Commissioners, pursuant Section 3.04.02 of the Flagler County Land Development Code, finds as follows:

1. The proposed Eagle Lakes Phase 2 Planned Unit Development (PUD) does not adversely affect the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies, and the Land Development Code; and

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

Section 2. **ADOPTION OF DEVELOPMENT AGREEMENT**
A. This Ordinance, the attached Development Agreement, and its Exhibits attached hereto shall serve as the PUD Development Agreement for the Eagle Lakes Phase 2 Planned Unit Development (PUD).

B. The Board of County Commissioners hereby adopts the PUD Development Agreement for the Eagle Lakes Phase 2 PUD, the boundaries of said PUD as described in the legal description included at Exhibit “A” and as depicted in the Conceptual Site Plan at Exhibit “B” to the Development Agreement.

Section 3. **EFFECTIVE DATE**
This Ordinance shall take effect upon Official Acknowledgement by the Secretary of State that the Ordinance has been filed.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS 19TH DAY OF MARCH, 2018.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

By: __________________________
Gregory L. Hansen, Chair

ATTEST:

Approved as to Form:

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

By: __________________________
Albert J. Hadeed, County Attorney
PLANNED UNIT DEVELOPMENT AGREEMENT
FOR EAGLE LAKES PHASE 2

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as the “Development Agreement”) is made as of this ____ day of ____________, 2018, by and between Venture 8, LLC (hereinafter referred to as “Owner”) and FLAGLER COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the “County”) and, collectively, the Owner and County are hereinafter referred to as the “Parties”.

RECsTALS

A. Pursuant to Flagler County Ordinance 2014-05 the County approved a Planned Unit Development for Eagle Lakes (the “2014 PUD”) which permitted the development of 725 residential units in multiple phases on approximately 535 acres of land (the “Original Property”) located in Flagler County.

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

C. Other than Phase 1 Development, the Owner did not develop any other improvements permitted by the 2014 PUD, leaving approximately 409 acres of vacant and undeveloped land still subject to the 2014 PUD (the “Remaining Property”).

D. The Owner also owns 202.2 acres of land (the “Additional Property”) adjacent to and North of the Remaining Property and desires to amend and restate the 2014 PUD in its entirety
specifically for Phase 2 by incorporating the Additional Property and revising the Conceptual Site Plan without an effect on the Phase 1 Development.

E. The Owner desires to revise the Conceptual Site Plan by aggregating the Remaining Property and the Additional Property to create a 611.2 acre (the “Subject Property”) master planned golf age-restricted community subject to the terms and conditions of this Development Agreement (the “Phase 2 Development” or “Project”) with the Subject Property as described in Exhibit “A”.

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

G. The Board of County Commissioners of Flagler County (the “BOCC”) finds that this Development Agreement has been properly conditioned with the terms and restrictions to be consistent with the County’s 2010-2035 Comprehensive Plan (the “Comprehensive Plan”) and Land Development Code (the “LDC”), and that the conditions, terms, restrictions, and requirements set forth herein are necessary to ensure compliance with the Comprehensive Plan and the LDC and the protection of the health, safety, and welfare of the citizens of the County.

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

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

J. The Planning and Development Board and County staff recommended approval of this Development Agreement and the Planning and Development Board has found this requested change and the recommended conditions of approval consistent with the Comprehensive Plan.
K. The BOCC held a duly noticed public hearing on the proposed zoning change set forth hereunder and considered findings and the advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and the recommendation of the Planning and Development Board which voted to recommend approval of the request at its regularly scheduled meeting conducted on February 13, 2018, and after complete deliberation, the BOCC hereby finds the requested change consistent with the Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder.

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

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

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

2. **REPRESENTATIONS OF OWNER.**
   a. The Owner hereby represents and warrants to the County that the Owner is the owner of the Subject Property in accordance with the title opinion or title certification provided by the Owner to the County.
   b. The Owner represents and warrants to the County that it has the power and authority to enter into and consummate the terms and conditions of this Development Agreement and that, upon the execution of this Development Agreement by the parties, this Development Agreement shall be valid and binding upon the parties hereto and their successors in interest.
c. The Owner hereby represents that all required joinders and consents have been obtained and set forth in a properly executed form on this Development Agreement.

3. **ZONING MAP AMENDMENT AND PUD AGREEMENT.** The Official Zoning Map of the County shall be amended to include a change of classification to PUD for the Subject Property, as described in Exhibit “A”, which is attached and incorporated herein by this reference. This Development Agreement and its Conceptual Site Plan, with all appropriate signatures and joinders, is hereby adopted and approved by the BOCC and shall constitute the regulations for the specific Eagle Lakes Phase 2 Planned Unit Development (PUD). This Development Agreement shall be recorded in the Official Records of Flagler County, Florida, by the Clerk of the Court at the expense of the Owner.

4. **PROJECT DESCRIPTION.** This Development Agreement shall have no effect on the Phase 1 Development. The Project or Phase 2 Development shall be a 594.7 acres master planned age-restricted golf community. The Project shall consist of up to 820 age-restricted mobile homes integrated with an eighteen (18) hole golf course, club house, outdoor pool(s), outdoor whirlpool, exercise room, sundeck with terraces, tennis courts, pickleball courts, shuffleboard courts, fishing pier and planned activities. All amenities, roadways, paths, and stormwater lakes shall be privately owned and maintained. The Conceptual Site Plan, attached as Exhibit “B”, depicts the conceptual layout of the Project and delineates the approximate property boundaries, streets, easements, property lines, general location of residences and intended uses. The Conceptual Site Plan contains a level of detail satisfactory to permit the Project to proceed through this rezoning (referenced as a sketch plan in LDC subsection 3.04.02.B.2); however, development of the Project will require approval of a PUD Site Development Plan meeting the requirements of LDC Section 3.04.03. PUD Site Development Plan and Preliminary Plat submittals may be made simultaneously and are subject to review and recommendation by the
Planning and Development Board and approval by the BOCC. Final Plat approval shall be made by the BOCC consistent with the Preliminary Plat. Minor modifications to the exact location and number of lots, roadways, primary sidewalk/pathway system, and other improvements may be requested by the Owner and approved by County staff pursuant to the limitations of LDC subsection 3.04.02.G during review of construction documents, site plans, or the Preliminary Plat(s) for the Project or portions thereof, as long as the development standards contained in this Development Agreement are maintained. The Project may be developed in one or more phases requiring the submittal, approval, and recording of one or more Final Plats.

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

   a. **Temporary Sales and Construction Trailers and Models.** No more than ten (10) mobile home spaces within the Project may be utilized for placement of temporary sales, construction trailers or models. If the temporary sales, construction trailers and/or models are permitted prior to Final Plat approval, the issuance of the certificates of occupancy shall be contingent on said final approval and the completion and approval of the subdivision infrastructure.

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

d. **Wetland Buffer.** A minimum fifteen (15) foot wide, average twenty-five (25) foot wide, upland buffer shall be provided around all wetlands on the site, except where road crossings are necessary. The buffer areas shall be shown on the Final Plat(s) and shall be maintained in their natural state free of structures. Where wetland impacts occur, they shall be avoided wherever possible, with impacts limited to the minimum impact necessary to develop the Project and subject to issuance of appropriate permits or authorizations by the St. Johns River Water Management District (SJRWMD) and/or the U.S. Army Corps of Engineers, as applicable.

e. **Utilities.** All utilities will be installed underground within dedicated easements and/or within tracts permitting such installation. Maintenance of utilities will be the responsibility of the owner and/or the utility provider without recourse to the County.

f. **Stormwater.** The necessary and required infrastructure to provide for stormwater runoff shall be approved by the appropriate government entities. Stormwater runoff shall be conveyed to on-site stormwater retention systems by means of grassed swales and an underground drainage pipe system. The systems onsite may be interconnected with such systems on adjacent sites, subject to approval of the SJRWMD and the County. Maintenance of the stormwater system shall be the responsibility of the owner, their successors or assigns, without recourse to the County.

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

Internal Roadways: All right-of-ways shall: (1) be privately owned and maintained; (2) be a minimum of twenty (20) feet in width; and (3) include a five (5) foot wide sidewalk on one side of any roadway.

External Roadway: The Owner shall construct a minimum eight (8) foot wide public sidewalk/bike path along the frontage of Old Kings Road within the County’s right of way.

h. **Signage.** The Project may be identified by either one (1) double-faced or two (2) single-faced entrance signs to be located at each entrance to the Project. Such signs may be lighted (with lighting directed away from traffic), and shall be a maximum of eight (8) feet in height, with a message area no greater than thirty-two (32) square feet in size as measured on any single sign face. Directional, identity and information signs for recreation and other amenities may be provided throughout the Project, providing that none of these signs exceed six (6) square feet in size with a maximum height of six (6) feet, including advertising and/or “for sale” signs. Signs shall be set back from adjacent roadways as provided in the LDC sufficient to protect public safety and view angles.

i. **Open space.** A minimum of thirty (30) percent of the gross area of the Project shall remain as open space, which includes stormwater ponds, preserved wetlands, and active and/or passive recreation areas. All open space and common areas shall be privately owned and maintained.

j. **Landscape Buffer.** The Owner shall provide a thirty-five (35) foot wide landscape buffer (the “Landscape Buffer”) along the Project’s frontage on Old Kings Road. Plantings within the Landscape Buffer shall be a mix of plantings, including shade trees, having a minimum opacity of seventy percent (70%) and substantially similar to the existing Landscape Buffer along OKR in
Phase 1 of the Development. Within the Landscape Buffer, a natural landscape berm or privacy wall shall: (1) be constructed along the Old Kings Road frontage, except where lakes are adjacent to Old Kings Road to provide view corridors to such lakes; and (2) be a minimum of six (6) feet in height as measured relative to the adjacent centerline of Old Kings Road.

k. **Lighting.** Decorative pole-mounted lighting fixtures no more than twelve (12) feet in height shall be provided throughout the Project. Additional landscape lighting may include low-level lighting and occasional accent lighting. The locations of such fixtures shall be further described at the time of Preliminary Plat approval.

l. **Parking and Driveways.** A minimum of two (2) parking spaces per unit shall be provided within driveways with a minimum of eight (8) feet by twenty (20) feet per space, on individual mobile home spaces. Parking shall not be permitted within the paved street portion of internal roadways: on-street parking shall not be permitted. Driveways shall be setback a minimum of five (5) feet from any side yard boundary and twenty (20) feet from any street intersection with another street.

m. **Irrigation.** The Owner shall cause to be constructed a distribution system for non-potable reclaimed water concurrent with the development of the Project for both residential and non-residential uses. The non-potable distribution system may be developed parallel to and concurrently with the potable water system for utilization when sufficient quantities of reclaimed or surface water are available for irrigation. Until such time that sufficient quantities of reclaimed or surface water are available for irrigation, stormwater, surface water, and reclaimed water shall be maximized as non-potable water sources for irrigation. Wells may be used for irrigation, subject to permitting and authorization by the SJRWMD or the Health Department, as applicable. Nothing herein shall prevent the Owner from using potable water for irrigation where a non-potable irrigation source is not available or commercially reasonable.
n. **Fire Protection.** Unless otherwise provided for herein, fire protection requirements for the Project will be met through a system of fire hydrants installed within the Project by the Owner utilizing a public water supply system approved by the County and in accordance with applicable standards.

o. **Uses and other requirements.** The Project shall be an age-restricted community. Except as provided herein, the Project shall be subject to the use, dimensional requirements, and those other requirements as provided in LDC Section 3.03.12 unless otherwise stated herein.

6. **PUBLIC FACILITIES.** The following public facilities will serve the Eagle Lakes Phase 2 PUD, subject to the following terms and conditions:

a. **Transportation.** County and State roads and highways will service the Project. The Owner has met all the concurrency requirements of the LDC and Comprehensive Plan regarding the provision of roads. Therefore, the Owner is vested to proceed with all development provided for in this PUD without providing for any other traffic improvements (including off-site improvements) except for those provided herein. In addition, the Owner shall pay the County two hundred thousand dollars ($200,000.00) as its contribution to and proportional fair share of the cost of a traffic signal and any associated intersection improvements at the intersection of Bulow Boulevard and the corresponding future Eagle Lakes Entrance (shown on the Conceptual Site Plan) and Old Kings Road. Notwithstanding the above, a Traffic Study performed by the Lassiter Transportation Group dated October 3, 2017 and incorporated herein by reference demonstrates that trip generation is decreased and therefore no additional traffic mitigation is required.

b. **Potable Water/Wastewater.** A water/wastewater facility was constructed within the Eagle Lakes PUD having a capacity to serve a total of 181 units which include 111 units within the Phase 1 Development, the 4 units within the Outparcels and 66 units for Phase 2 Development without subsequent payment to the County of any fees or costs as provided for in the 2014 Utility
Agreement. For development exceeding that described above, the Owner shall enter into a binding utility agreement with the governmental authority providing such service prior to the issuance of a final development order or construction permit.

c. **Solid Waste.** The solid waste will be collected by the County’s franchised operation and disposed of as provided within County facilities or through interlocal agreement.

d. **Drainage.** The Owner shall provide drainage in accordance with the SJRWMD rules and the LDC.

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

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

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

9. **TERMINATION.** Upon execution of this Development Agreement by the Parties and upon recordation, the 2014 PUD shall have no further force and effect on the Project.
10. **RECORDATION.** Within fourteen (14) days after the County executes this Development Agreement, the Owner shall record it with the Clerk of the Circuit Court for Flagler County, Florida, at the Owner’s expense.

11. **BINDING EFFECT.** The burdens of this Development Agreement shall be binding upon, and the benefits of this Development Agreement shall inure to, all successors in interest to the Parties to this Development Agreement.

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

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

14. **EXHIBITS.** All exhibits attached hereto contain additional terms of this Development Agreement and are incorporated herein by reference.
15. **CAPTION OR PARAGRAPH HEADINGS.** Captions and paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Development Agreement, nor the intent of any provision hereof.

16. **COUNTERPARTS.** This Development Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Development Agreement.

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

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

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

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

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

For the Owner: Venture 8, LLC
P.O. Drawer 2140
Daytona Beach, FL 32115

With copy to: Michael Chiumento III, Esquire
Chiumento Dwyer Hertel Grant, P.L.
145 City Place, Suite 301
Palm Coast, FL 32164

Passed and Duly Adopted by the Board of County Commissioners of Flagler County,
Florida, this _______ day of ____________________, 2018.

Attest: Board of County Commissioners
Tom Bexley, Clerk of the Circuit Court
Flagler County, Florida
and Comptroller

By:__________________________

Gregory L. Hansen, Chair

Approved as to form:

_____________________________
Albert J. Hadeed, County Attorney
IN WITNESS WHEREOF, the Owner, through its duly authorized representative, has executed this Development Agreement on the day(s) and year set forth below.

OWNER
VENTURE 8, LLC

________________________
By:________________________

Name:_______________________
Its:__________________________

________________________
Name:_______________________
Date:________________________

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument is hereby acknowledged before me this ____ day of ____________, 2018, by _________________________, as __________________ of VENTURE 8, LLC. He has produced _________________________ as identification and (did/did not) take an oath.

_____________________________
NOTARY PUBLIC, State of Florida
Name:___________________________

My Commission Expires:___________
My Commission Number is:_________
EXHIBIT “A”

LAND
EXHIBIT B

CONCEPTUAL SITE PLAN
APPLICATION FOR REZONING TO
A PLANNED UNIT DEVELOPMENT
FLAGLER COUNTY, FLORIDA
1769 E. Moody Boulevard, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009 Fax: (386) 313-4109
Application/Project #: 3098/2012090008

<table>
<thead>
<tr>
<th>PROPERTY OWNER(S)</th>
<th></th>
</tr>
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<tbody>
<tr>
<td>Name(s):</td>
<td>Venture 8, LLC, a Florida limited liability company</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>P.O. Drawer 2140</td>
</tr>
<tr>
<td>City:</td>
<td>Daytona Beach</td>
</tr>
<tr>
<td>State:</td>
<td>FL</td>
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<tr>
<td>Zip:</td>
<td>32115</td>
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<th>APPLICANT/AGENT</th>
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<tbody>
<tr>
<td>Name(s):</td>
<td>Michael D. Chiumento III, Esq.</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>145 City Place, Suite 301</td>
</tr>
<tr>
<td>City:</td>
<td>Palm Coast</td>
</tr>
<tr>
<td>State:</td>
<td>FL</td>
</tr>
<tr>
<td>Zip:</td>
<td>32164</td>
</tr>
<tr>
<td>Telephone Number</td>
<td>386-445-8900</td>
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<tr>
<td>Fax Number</td>
<td>386-445-6702</td>
</tr>
<tr>
<td>Email Address</td>
<td><a href="mailto:Michael3@palmcoastlaw.com">Michael3@palmcoastlaw.com</a></td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>SITE LOCATION (street address):</th>
<th>South Old Kings Road</th>
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<tbody>
<tr>
<td>LEGAL DESCRIPTION:</td>
<td>See attached Exhibit &quot;A&quot;</td>
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<tr>
<td>Parcel # (tax ID #):</td>
<td>See attached Exhibit &quot;A&quot;</td>
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<tr>
<td>Parcel Size:</td>
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<th>ZONING</th>
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<tr>
<td>PRESENT Zoning Classification:</td>
<td>PUD &amp; Agriculture</td>
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<tr>
<td>Present Future Land Use Designation:</td>
<td>Residential Low Density &amp; Agriculture/Timberlands</td>
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<tr>
<td>PROPOSED ZONING CLASSIFICATION:</td>
<td>PUD</td>
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Signature of Owner(s) or Applicant/Agent if Owner Authorization form attached

**OFFICIAL USE ONLY**

PLANNING BOARD RECOMMENDATION/ACTION:

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

BOARD OF COUNTY COMMISSIONERS ACTION:

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

NOTE: The applicant or a representative, must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application. Rev. 03/06
REQUIRED ATTACHMENTS:

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

*10 sets of plans for the Technical Review Committee due upon submittal of application, 13 sets of plans for
Planning Board, and 10 sets of plans for the BCC.

NOTE: All applicants are requested to provide at least one set of
documents/plans in a size no larger than 11” x 17” plus one electronic submittal
in PDF format.

Pursuant to Section 286.0105 of Florida Statutes, Flagler County hereby notifies all interested persons that if a person
decides to appeal any decision made by the Planning Board or Board of County Commissioners with respect to any
matter considered at such meetings or hearings, he or she will need a record of the proceedings, and for such
purpose, he or she may need to ensure that a verbatim record of the proceedings is made which record includes the
testimony and evidence upon which the appeal is to be based.

NOTE: Pursuant to Section 286.0105 of Florida Statutes, the Flagler County Planning Board hereby notifies all interested persons that if a person decides to appeal any decision made by the Planning Board with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.
3.04.02. Reclassification procedure.

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

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

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

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

4. Conceptual development phasing including:

(a) Areas to be developed; and,

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

(c) The dedication of land to public use.

C. Pre-application conference. The applicant shall meet with the development administrator, county engineer and county attorney to review the proposal prior to the submittal of all application materials. The development administrator, county engineer and county attorney may request additional plans, maps, studies, and reports as they may reasonably require to make a recommendation on the proposal to the county commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ZONING AMENDMENT

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

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

This information shall be submitted to the Development Administrator for review, as required by
Section 3.07.05 of this Ordinance.
Owner’s Authorization for Applicant/Agent
FLAGLER COUNTY, FLORIDA
1769 E. Moody Boulevard, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009 Fax: (386) 313-4109

Application/Project # ____________________

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

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

By: X ____________________

Signature of Owner

John Schnebly, Sr./Manager

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

Signature of Owner

Printed Name of Owner

Address of Owner:
P.O. Drawer 2140
Mailing Address

Daytona Beach FL 32115
City State Zip

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

STATE OF Florida
COUNTY OF Volusia

The foregoing was acknowledged before me this 9th day of June, 2012 by John Schnebly Sr. and who is/are personally known to me or who has produced as identification, and who (did) / (did not) take an oath.

Signature of Notary Public

CRAIG A. WELLS MY COMMISSION # GG 008846 EXPIRES: August 12, 2021 Bonded/Blanket Notary Services

August 30, 2017

Adam Mengel
Flagler County Planning & Zoning
1769 E. Moody Blvd., Bldg. 2, Suite 105
Bunnell, FL 32110

RE: Eagle Lakes/2nd Amended and Restated PUD

Dear Mr. Mengel:

As you may recall, our law firm represents Venture 8, LLC, (hereinafter “Owner”). In 2014, Flagler County adopted Ordinance 2014-05 approving a Planned Unit Development (the “PUD”) commonly known as Eagle Lakes (the “Project”) (Exhibit 1) consisting of 535 acres and 749 residential units. Phase I of Project consists of approximately 111 lots and other amenities. The remaining portion of the Project remains vacant and undeveloped.

The Owner also owns approximately 202 additional vacant acres adjacent and south of the Project (the “Additional Land”). The Additional Land (Ex. “2”) presently has a land use designation of Agriculture and zoning classification of Agriculture. The Owner desires to incorporate the Additional Land into the Project and revise the master plan to provide for an separate and distinct master planned active living community (“Phase II”). To accomplish this goal, the Owner must amend the present land use designation of the Additional Land to Residential Low Density, amend the existing PUD Agreement, and incorporate the Additional Land into the Project. Therefore, please find enclosed applications for (1) Large Scale Comprehensive Scale Amendment for the Additional Property and (2) a Rezoning Application to amend the existing PUD Agreement.

I. Application for Large Scale Comp Plan Amendment

As it relates to the Large Scale Comp Plan Amendment, the Additional Property presently has a County comprehensive plan designation of Agriculture and the Owner desires to change it to Residential Low Density. The desired designation is consistent with adjacent property to its east and the existing DRI approved by the City of Palm Coast to the north. Therefore, the Owner asserts that this change is consistent with the surrounding land use patterns, as well as the County’s Comprehensive Plan.
1. Analysis of Consistency with Florida Statutes
   The proposed amendment is consistent with Section 163.3177(6) of Florida Statutes:

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

   Growth projections for Flagler County over the next 15 years exceed 60,000 new residents. Given that this region of Flagler County is already developed, served by existing government utilities, and the City of Palm Coast anticipates approval of the South Old Kings Road DRI, the project can be considered urban infill as it is adjacent the City’s Urban Boundaries. It is anticipated that given the unique qualities of this project, it will accommodate anticipate growth.

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

   The amendment would represent a permanent increase in population in the area of on 170 persons, using 2.4 persons per household (pph) for the increase of 71 dwelling units.

   “c. The character of undeveloped land.”

   The land is level and composed of piney flatwoods.

   “d. The availability of water supplies, public facilities, and services.”

   These services are provided by Flagler County.

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

   This Amendment is consistent with the character of the community’s existing adjacent residential communities. The amendment does not renew blighted areas or eliminate nonconforming uses.

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

   Not applicable

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

   Not applicable – the subject parcel is not adjacent to an airport.
“h. The discouragement of urban sprawl.”

The proposed amendment does not add to urban sprawl since it is only an expansion of an existing approved project. Moreover, it is adjacent to the South Old Kings Road DRI and directly adjacent to existing built out developments.

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

Not applicable. Notwithstanding, this amendment with the project will provide temporary construction jobs and some permanent jobs for the management of the community.

“j. The need to modify land uses and development patterns within antiquated subdivisions.”

Not applicable.

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

Final determination of the availability of facilities and services will be made at the time of final platting or permit issuance.

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

No site characteristics would hinder development of the parcel.

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

Not applicable.

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

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

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

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

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

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

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

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

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

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

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

This request neither results in the 13 sprawl indicators being met or not met; the approval of the request would have an overall de minimis impact on the sprawl indicators.

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

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

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.
(IV) Promotes conservation of water and energy.
(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.
(VI) Preserves open space and natural lands and provides for public open space and recreation needs.
(VII) Creates a balance of land uses based upon demands of residential population for the nonresidential needs of an area.
(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.”

Seven of the eight indicators are satisfied. This proposed amendment is intended to further the development of an existing development. The at issue land is an isolated parcel of land designated as agriculture. The land is an island in the middle of high to medium density development which is also adjacent to a commercial/retail/job center which would limit the impact to governmental services.

2. Analysis of Consistency with the Comprehensive Plan

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

“Policy A.1.2.2: The Flagler County Planning and Zoning Department shall maintain consistency between the Land Development Regulations (LDRs) and the Comprehensive Plan by the following means:
(1) Parcels being considered for amendment to the Future Land Use Map shall be concurrently evaluated for rezoning to the most appropriate zoning district.
(2) Parcels seeking site plan approval shall continue to be designed, developed and used for activities allowed by the appropriate zoning district.
(3) Property owners will be asked to conform to pending land use/zoning regulations as they request development approval.”

It is anticipated that the owner, upon the parcel receiving the new land use designation through the Future Land Use amendment, will pursue rezoning of the subject parcel to replace the present Planned Unit Development (PUD) to complete the action to make the use conform to the Comprehensive Plan and the LDC. This amendment attempts to reduce or eliminate the conflict between the present Future Land Use designation and the Owner, but will require rezoning to be completed by the owner prior to issuance of any development order or permit.

“Policy A.1.4.1: During the review of requests for plan amendments, topography, vegetation, wildlife habitat, flood hazard, the 100-year flood plain, and soils for the areas to be amended will be analyzed and specific findings made as part of the plan amendment process.”
No site characteristics are present on this parcel that would impact the requested amendment.

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

This analysis satisfies this Policy’s requirements.

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

This analysis satisfies this Policy’s requirements. Public facilities including potable water requirements are satisfied by the County for this use.

Policy C.1.7.1: Flagler County shall through its Land development Regulations allow for a diversity of lot sizes, floor area, setback and other design features which identify appropriate lands for a variety of housing types and prices.

The amendment and the accompanying rezoning application provides for a unique housing and community type which

In conclusion, the application is consistent with State and County comprehensive plan requirements. The application merely seeks to convert an isolated agriculture parcel in the middle of urban type development. The proposed amendment will not create urban sprawl as defined by the State or County, nor will it have any adverse impact on the health safety or welfare of the adjacent community in that it is compatible with the surrounding uses.

II. Rezoning / PUD Amendment

Contemporaneous with the Comp Plan application, the Owner desires to amend the existing PUD Agreement and incorporate the Additional Property into a new master planned active living community. Therefore, also enclosed is an application for rezoning. The proposed PUD shall have no effect on the existing Phase I development referenced above. Phase II of the development shall consist of 594 acres Master Planned Active Living Community and consist of up to 820 residential units (the “New Project”). The Owner would also like to reserve the right to, but not obligation, to construct an 18-hole golf course.

The purpose of a PUD is to encourage the unified development of large tracts of land using more creative and flexible concepts in site planning than would otherwise be possible through the strict application of minimum and maximum requirements of conventional land use districts established in this article. The proposed PUD is in harmony with the general purpose of the article and the State and County comprehensive plans. The design and construction of the PUD project shall follow a carefully devised plan of development which must be prepared in accordance with the requirements, procedures and approvals herein prescribed.
Generally a request should be consistent with the adopted Comprehensive Plan and the following suggested standards:

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

B. The requested zoning designation is be consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan.
   a. Consistent with Table A.1 from Policy A.1.1.2, development on this parcel would be limited to a maximum number of units well below the permissible limits, with a majority of the project area remaining as open space at full build out.
   b. A review of relevant Goals, Objectives, and Policies of the Comprehensive Plan demonstrates that the requested rezoning to PUD is appropriate and generally consistent with the Comprehensive Plan and specifically consistent with Future Land Use Policy A.1.1.1(9).

C. The requested zoning designation is compatible with the adjacent and surrounding land uses. Land uses shall include, but not be limited to permitted uses, structures, and activities allowed within the Future Land Use category and zoning district. East of the subject property are numerous residential developments including but not limited to a dense mobile home park. To the north is a the South Old Kings DRI which consists of approximately 2,000 residential units and 2,000,000 sq ft of commercial development.

D. The requested zoning does not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide available public facilities, including transportation, water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar public facilities. Should the request be approved, the proposed development will served by existing Flagler County Utilities. There will be little impacts to schools, and it is anticipated that this use will not impact or exceed the public facilities necessary to support the proposed development.

E. The requested zoning in no way creates a public nuisance. The PUD development agreement and PUD site development plan reduce – through buffering and limitations on the intensity of the use – the potential for a public nuisance. Any negative effects would be addressed through the code enforcement process.

F. The requested zoning and resulting project’s proposed traffic impact does not have an unreasonable impact on the contiguous and surrounding area. All de minimus impacts will be mitigated through offsite improvements and other methods.

In conclusion, the proposed amend to the existing approved PUD Agreement is consistent with the County Comprehensive Plan and its Land Development Code. The proposed amendment merely desires to incorporate isolate agriculture land into an master planned active living community. This will not have any adverse effect to the surrounding community or government services. More importantly, the proposed amendment is consistent with the area and does not create urban sprawl. Therefore, the Owner requests that the Count approve the application for rezoning.
In addition to the Applications, please find enclosed a check in the amount of $11,030.00 as the fee for both Applications. Recognizing that there is additional information required for your evaluation, we respectfully request that you and your staff review the matter and schedule a brief meeting to discuss with us your comments and concerns. During that time, Mr. Sans Lassiter will finalize his traffic analysis and engineer Jerry Finley will provide you with the necessary capacity analysis. We look forward to working with the County on this Project. Should you have any questions or comments please feel free to contact me at your earliest convenience.

Sincerely,

Michael D. Clements III
Attorney
MDC/cm

Enclosures
SPECIAL WARRANTY DEED

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

WITNESSETH:

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

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

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

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

Witnesses:

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

By: Stanley E. Weir, Vice President

Print Name: Tonya Wilson
Print Name: Anita Muller

STATE OF ALABAMA
COUNTY OF JEFFERSON

The foregoing special warranty deed was acknowledged before me this 29th day of November, 2012, by Stanley E. Weir, as Vice President of EAGLE FL VI SPE, LLC, on behalf of the company. He is personally known to me or has produced __________________ as identification.

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

PARCEL A

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

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER SECTIONS 34, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE WEST LINE OF SECTION 26 A DISTANCE OF 660.09 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE BEAR S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S32°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 398.01 FEET; THENCE S13°51'33"W A DISTANCE OF 1236.81 FEET; THENCE PARALLEL WITH (AND 100 FEET OFFSET FROM) THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING FOUR (4) COURSES: (1) N34°48'25"W A DISTANCE OF 137.99 FEET; (2) N20°46'14"W A DISTANCE OF 335.30 FEET TO A POINT OF CURVATURE; (3) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°36'00", A RADIUS OF 34127.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF N19°33'14"W, AND CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (4) N18°20'14"W A DISTANCE OF 1812.02 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 3249.03 FEET TO THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE ALONG THE WEST RIGHT-OF-WAY OF OLD KINGS ROAD (100' RIGHT-OF-WAY) THE FOLLOWING THREE (3) COURSES: (1) S26°38'38"E A DISTANCE OF 466.50 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA 02°34'15", A RADIUS OF 5779.65 FEET, A LENGTH OF 259.33 FEET, A CHORD BEARING OF S27°55'46"E, AND CHORD OF 259.31 FEET; (3) S29°12'54"E A DISTANCE OF 680.16 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF OLD KINGS ROAD BEAR S60°47'06"W A DISTANCE OF 1228.92 FEET; THENCE S29°12'54"E A DISTANCE OF 1083.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

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

AS A POINT OF REFERENCE, COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 34; TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE BEAR N00°58'28"W ALONG THE EAST LINE OF SECTION 27 A DISTANCE OF 660.08 FEET; THENCE S88°40'04"W A DISTANCE OF 333.37 FEET; THENCE CONTINUE S88°40'04"W A DISTANCE OF 1756.16 FEET; THENCE S88°46'15"W A DISTANCE OF 11.51 FEET; THENCE S32°02'31"E A DISTANCE OF 178.22 FEET; THENCE S17°22'00"E A DISTANCE OF 398.01 FEET; THENCE S13°51'33"W A DISTANCE OF 1236.81 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE CONTINUE S13°51'53"W A DISTANCE OF 146.32 FEET TO THE EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG THE FIRST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE HIGHWAY 9) THE FOLLOWING TWO (2) COURSES: (1) N21°11'20"W A DISTANCE OF 41.95 FEET (2) N34°48'25"W A DISTANCE OF 208.18 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95, N06°06'43"W A DISTANCE OF 276.81 FEET; THENCE N20°46'14"W A DISTANCE OF 40.00 FEET; THENCE S89°13'46"W A DISTANCE OF 70.00 FEET TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING THREE (3) COURSES: (1) N20°46'14"W A DISTANCE OF 40.00 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34227.47 FEET, A LENGTH OF 1453.84 FEET, A CHORD BEARING OF N19°33'14"W, AND A CHORD OF 1453.53 FEET TO A POINT OF TANGENCY; (3) N18°20'14"W A DISTANCE OF 1794.60 FEET; THENCE LEAVING SAID RIGHT-OF-WAY OF INTERSTATE 95 BEAR N61°46'45"E A DISTANCE OF 101.54 FEET TO A LINE RUNNING PARALLEL AND 100' TO THE EAST AS MEASURED AT RIGHT ANGLES TO SAID EAST RIGHT-OF-WAY OF INTERSTATE 95; THENCE ALONG SAID LINE THE FOLLOWING FOUR (4) COURSES: (1) S18°20'14"E A DISTANCE OF 1812.19 FEET TO A POINT OF CURVATURE; (2) A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY HAVING A DELTA OF 02°26'00", A RADIUS OF 34217.47 FEET, A LENGTH OF 1449.39 FEET, A CHORD BEARING OF S19°33'14"E, AND A CHORD OF 1449.29 FEET TO A POINT OF TANGENCY; (3) S20°48'14"E A DISTANCE OF 355.30 FEET; (4) S34°48'25"E A DISTANCE OF 137.99 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL B

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

POINT OF BEGINNING BEING THE NORTHWEST CORNER OF GOVERNMENT SECTION 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 35 SOUTH 01°50'44" WEST A DISTANCE OF 200.25 FEET; THENCE DEPARTING THE WESTERLY BOUNDARY LINE OF SAID SECTION 35 NORTH 88°59'36" EAST A DISTANCE OF 1282.78 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD A (100' R/W) SAID POINT INTERSECTING A NON-TANGENT CURVE: THENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD ALONG A CURVE TO THE RIGHT (CONCAVE WESTERLY) 255.26 FEET, WITH A RADIUS OF 2814.93 FEET, AND A CENTRAL ANGLE OF 05°11'43", HAVING A CHORD DISTANCE OF 255.17 FEET AND A CHORD BEARING OF SOUTH 15°53'00" EAST TO A POINT OF TANGENCY; THENCE SOUTH 13°17'15" EAST A DISTANCE OF 489.56 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT (CONCAVE EASTERNLY) 126.93 FEET, WITH A RADIUS OF 579.65 FEET AND A CENTRAL ANGLE OF 01°15'30", HAVING A CHORD DISTANCE OF 126.93 AND A CHORD BEARING OF SOUTH 13°54'53" EAST TO A POINT OF TANGENCY; THENCE SOUTH 14°32'45" EAST A DISTANCE OF 1204.30 FEET; THENCE SOUTH 14°22'51" EAST A DISTANCE OF 1638.44 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY OF OLD KINGS ROAD SOUTH 75°36'15" WEST, A DISTANCE OF 563.89 FEET; THENCE SOUTH 17°36'38" WEST A DISTANCE OF 188.29 FEET TO THE CENTER OF THE KORONA CANAL AS RECORDED IN O.R. BOOK 459, PAGE 127 AND O.R. BOOK 28, PAGE 94, THENCE
ALONG THE CENTER LINE OF SAID KORONA CANAL NORTH 73°59'57" WEST A DISTANCE OF 3286.50 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 95 (R/W Varies) THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 20°47'05" WEST A DISTANCE OF 1535.59 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 13°52'27" EAST A DISTANCE OF 1383.13 FEET; THENCE NORTH 17°21'27" WEST A DISTANCE OF 898.01 FEET, THENCE NORTH 22°01'57" WEST A DISTANCE OF 178.20, THENCE ALONG THE SOUTHERLY PROPERTY LINE OF A PARCEL OF LAND OWNED BY RAYONIER, INC. NORTH 88°40'51" EAST A DISTANCE OF 2100.90 FEET TO A POINT ON THE EASTERLY LINE OF GOVERNMENT SECTION 27, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG SAID EASTERLY LINE OF SECTION 27 SOUTH 01°00'17" EAST A DISTANCE OF 660.00 FEET TO THE BEGINNING OF DESCRIPTION.

PARCEL C

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

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

THENCE SOUTH 88°40'04" WEST, 333.37 FEET; THENCE NORTH 29°12'32" WEST, 1083.00 FEET; THENCE NORTH 60°46'50" EAST, 1228.92 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100' FOOT WIDE RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE SOUTH 29°12'51" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 951.92 FEET TO A POINT OF CURVATURE; THENCE 82.47 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2814.93 FEET AND A CENTRAL ANGLE OF 1°40'43" A CHORD BEARING OF SOUTH 28°22'31" EAST AND A CHORD DISTANCE OF 82.46 FEET TO A POINT OF TANGENCY; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 374.34 FEET; THENCE SOUTH 22°32'00" EAST, 614.01 FEET; THENCE NORTH 88°58'58" EAST, 374.34 FEET TO SAID WEST RIGHT-OF-WAY OF OLD KINGS ROAD; THENCE SOUTH 20°37'28" EAST, 53.08 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'58" WEST, 968.74 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:


ADDITIONAL LANDS:
THE FOLLOWING LEGAL DESCRIPTION WAS PREPARED BY TOMOKA ENGINEERING
DAYTONA BEACH, FLORIDA, UNDER THE SUPERVISION OF PETER G. JOHNSON, FLORIDA
SURVEYOR NO. 5913 ON APRIL 7, 2005 AND IS BASED ON A SKETCH BY TOMOKA
ENGINEERING, PROJECT NO. TS026DELAN, DRAWING REFERENCE NO. 5026SL-PARCEL A.

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

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

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

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

Re: Eagle Lakes - Rezoning

Dear Ms. Lemon:

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

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


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


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

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


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

19. Agreement Between Flagler County, Venture 8 LLC and the Eagle Lakes Homeowners Association, Inc. for Potable Water Interconnection for Emergency Fire Protection as filed
August 28, 2017
Page 3


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

Sincerely yours,

Michael D. Chiumento III
MC/kd
EXHIBIT A

PARCEL A

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

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

PARCEL 2

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

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

PARCEL B

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

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

PARCEL C

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

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

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

AND

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

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

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

COUNTY PARCEL DESCRIBED AS FOLLOWS:

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

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

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

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 9/20/2017

#3098 VENTURE 8 LLC/ REZONING

APPLICANT: MICHAEL CHIUMENTO III
OWNER: VENTURE 8 LLC

Distribution date: Monday, September 18, 2017

Project #: 2017090008
Application #: 3098

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

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

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

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

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

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

Provide a Boundary Survey of the entire site.

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

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

Additional comments may be forthcoming with further submittals.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.
ORDINANCE NO. 2014-03

AN ORDINANCE OF FLAGLER COUNTY, FLORIDA, AMENDING THE EAGLE LAKES PLANNED UNIT DEVELOPMENT LOCATED IN SECTIONS 26, 27, 34, AND 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST; AMENDING THE DEVELOPMENT STANDARDS ADOPTED PURSUANT TO ORDINANCE NUMBERS 2005-02 AND 2005-26; REPEALING ORDINANCE NO. 2005-06; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Eagle Lakes Planned Unit Development (hereinafter the "Eagle Lakes PUD") consists of 535 acres, and is located on the west side of Old Kings Road, lying north of the Korona Canal; and

WHEREAS, the Eagle Lakes PUD is classified as Residential: Low Density/Single Family and Conservation on the Flagler County Comprehensive Plan; and

WHEREAS, the Eagle Lakes PUD zoning classification and development standards were established pursuant to Ordinance No. 2005-02 and the associated development agreement adopted by the Flagler County Board of County Commissioners on February 7, 2005; and

WHEREAS, the Eagle Lakes PUD development standards were subsequently revised pursuant to Ordinance No. 2005-26 and the associated development agreement adopted on November 21, 2005 (collectively the "Prior Development Agreements") and

WHEREAS, the Eagle Lakes PUD was also the subject of a Chapter 163, Florida Statutes, development agreement adopted pursuant to Ordinance No. 2005-06 on April 18, 2005; however, the term of the development agreement has since expired and is no longer in force; and

WHEREAS, Venture 8, LLC, a Florida Limited Liability Corporation (hereinafter "Venture 8 LLC"), now owns or controls, as the declarant for the Eagle Lakes Homeowners' Association, Inc., a Florida Non Profit Corporation, approximately 506 acres within the Eagle Lakes PUD, as more specifically described in Exhibit "A", attached hereto and incorporated herein by reference (the "Venture 8 LLC Land"); and

WHEREAS, Venture 8 LLC has made application with Flagler County to amend and clarify the terms of the Prior Development Agreements as they relate to the Venture 8 LLC Land, as more specifically described in Exhibit "B", attached hereto and incorporated herein by reference (the "Venture 8 LLC Development Agreement"); and

WHEREAS, the Venture 8 LLC Development Agreement is deemed to be in furtherance of the health, safety and welfare of the citizens of Flagler County; and
WHEREAS, public notice of this action has been provided in accordance with Section 125.66, Florida Statutes and in accordance with the Flagler County Land Development Code.

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

SECTION 1. FINDINGS

A. The above Recitals are incorporated herein as Findings of Fact.

B. The Board of County Commissioners, pursuant to Section 3.04.02 of the Flagler County Land Development Code, finds as follows:

1. The proposed Venture 8 LLC Development Agreement will not adversely affect the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies; and

2. The proposed Venture 8 LLC Development Agreement will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood.

SECTION 2. APPROVAL OF AMENDED DEVELOPMENT STANDARDS

Development within the boundaries of the Venture 8 Land shall take place in accordance with the terms and conditions of the Venture 8 LLC Development Agreement. All other property within the Eagle Lakes PUD shall continue to be governed by the Prior Development Agreements.

SECTION 3. REPEAL.

Ordinance No. 2005-06 is hereby repealed.

SECTION 4. EFFECTIVE DATE

This Ordinance shall take effect upon recordation of the executed Development Agreement attached as Exhibit "B" in the Public Records of Flagler County, but in no event shall this Ordinance become effective until the Ordinance is filed with the Secretary of State as provided in Section 125.66, Florida Statutes.
PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA THIS 23RD DAY OF JULY, 2014.

FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS

George Hanns, Chairman

ATTEST:

Gail Wadsworth, Clerk of the
Circuit Court and Comptroller

APPROVED AS TO FORM:

Al Hadeed, County Attorney
05-22-2014

PLANNED UNIT DEVELOPMENT AGREEMENT
FOR EAGLE LAKES

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as the "Agreement"). is made as of this 23rd day of July, 2014, by and between VENTURE 8 LLC, a Florida limited liability company and EAGLE LAKES HOMEOWNERS' ASSOCIATION, INC., a Florida Non Profit Corporation (hereinafter collectively referred to as “Developer”) and FLAGLER COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the "County") and, collectively, the Developer and County are sometimes hereinafter referred to as the “Parties”.

WITNESSETH:

WHEREAS, Developer is the owner of a portion of land within the original 535 acre Planned Unit Development (the “Eagle Lakes PUD”), which portion of land is more specifically described and depicted on Exhibit “A” attached hereto and incorporated herein (the “Land”); and

WHEREAS, the Land is currently governed by the Eagle Lakes PUD and is the subject of the following land development agreements: 1) Development Agreement Eagle Lakes, recorded in Official Records Book 1234, Page 1757, et. seq., Public Records of Flagler County, Florida; 2) Eagle Lakes Planned Unit Development Agreement, attached as Exhibit “A” to Ordinance No. 2005-02; and 3) Eagle Lakes Phase II Planned Unit Development Agreement, attached as Exhibit “A” to Ordinance No. 2005-26 (hereinafter collectively referred to as the “Prior Land Development Agreements”); and

WHEREAS, the Parties are willing to terminate the application of the Prior Land Development Agreements as they relate to the Land and to amend the terms and conditions applicable to the Land in accordance with this Agreement in order to facilitate a development
05-22-2014

that is consistent with the current market and will provide for a higher level of service and infrastructure for the community; and

WHEREAS, the Land is also subject to the following utility agreements: 1) Flagler County – Eagle Lakes Developer’s Agreement for Utilities, dated March 6, 2006, and recorded in Official Records Book 1405, Page 1219, Public Records of Flagler County, Florida; and 2) Flagler County – Eagle Lakes 2nd Developer’s Agreement for Utilities Phase 2 Permanent Utilities Program, dated April 3, 2006, and recorded in Official Records Book 1422, Page 830, Public Records of Flagler County, Florida (collectively the “Utility Agreements”); and

WHEREAS, the Parties acknowledge they are in the process of negotiating an agreement to amend the Utility Agreements (the “2014 Utility Agreement”), and the provisions contained herein provide a mechanism for development of the Land to continue, providing specified conditions are met; and

WHEREAS, the 2014 Utility Agreement is an integral part of this agreement and is hereby incorporated by reference; and

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

I.

RECITALS

The above recitals are true and correct and are incorporated herein by specific reference.
II.

DEVELOPMENT PARAMETERS AND CONDITIONS

1.0. FORMER PUD DEVELOPMENT PLAN APPROVAL.

1.1. Previous PUD Approvals.

   a. The Prior Land Development Agreements authorized the development of a maximum of 749 single-family residential units, to be constructed in multiple phases.

   b. A final plat has been approved for Phase 1, Section 1 for 111 lots, which is recorded in Map Book 36, Page 10, Public Records of Flagler County, Florida (hereafter referred to as the “Phase I Final Plat”).

   c. The Phase I Final Plat included the creation of Tract J and Tract K (hereinafter the “Outparcels”), which are the subject of a development agreement recorded in Official Records Book 1614, Page 676, Public Records of Flagler County, Florida, granting density for up to four single-family residential units.

   d. In addition to the development rights set forth in subsections b. and c., above, the remaining phases consisted of a maximum of 578 single-family residential units, in accordance with two approved preliminary plats titled “Eagle Lakes Phase I, Section 2” and “Eagle Lakes Phase II” (collectively, the “Preliminary Plats”) with approved construction drawings and previously issued land development permits.
05-22-2014

e. The additional 56 potential single-family residential units were not included within the Phase I Final Plat or the Preliminary Plats.

2.0. NEW PUD DEVELOPMENT PLAN APPROVALS.

2.1. PUD Conceptual Plans and Master Plan. The Phase I Final Plat and the previously approved Preliminary Plats shall serve as the PUD Conceptual Site Plans and together collectively serve as the PUD Master Plan. The Preliminary Plats and the Phase I Final Plat are dated and attached hereto as Exhibit “B” and are incorporated herein. These Plans provide an overview of the proposed lot layouts, common areas, development features, utility infrastructure, road construction and similar subdivision provisions. The County Administrator, or his designee, may approve minor changes to the Conceptual Site Plans, when such changes will not cause: 1) an expansion to the land area covered by the approved application; 2) an increase in the number of dwelling units beyond that provided for in Section 2.2; 3) a decrease in the amount of open space by more than one 1% to any area within the Land, excluding the area designated as “Eagle Preserve” on the Phase I Final Plat (which area may be reduced or eliminated), or 4) a change to the approved roadway system with respect to its width and/or a change in the general roadway alignment resulting in negative impacts to existing lots or properties. All other changes to the Conceptual Site Plans shall be processed as a PUD Amendment subject to the provisions of the Flagler County Land Development Code. It is understood and agreed by the Parties that any PUD Amendments which may be processed by the County shall not require transportation improvements in excess of the conditions required herein, providing that density does not exceed the maximum set forth in Section 2.2.
2.2. Authorized Development Density – Development of the Eagle Lakes PUD shall not exceed a maximum of 725 single-family residential units, developed in multiple phases, consistent with the following unit breakdown:

a. The Phase I Final Plat, which includes 111 units;
b. The Outparcels, which include 4 units;
c. 578 units as illustrated on the Conceptual Site Plans/Master Plan
d. 32 units reserved as future density that can be added without a PUD amendment.

The Parties hereby agree that the development approval for 24 additional single-family units included within the Prior Land Development Agreements are hereby terminated and cannot be developed.

2.3. Existing Platted Development – Development within the Phase I Final Plat may proceed subject to the following terms and conditions:

a. Fire Protection.

1. The Parties acknowledge that fire hydrants have been installed and the water flow is provided for through a connection to a stormwater pond.

Upon the Effective Date of this Agreement, no building permits shall be issued until the Developer causes all improvements, repairs and/or modifications to be made which are necessary to ensure the fire protection water supply system is in proper working order, in accordance with all applicable rules and regulations, and subject to the approval of the County Administrator or his designee. Thereafter, on a monthly basis, the Developer shall certify to the County Administrator, or his designee, that the system is operational and remains in compliance with all applicable
rules and regulations. The Developer shall further cause all necessary
maintenance to be performed to the system until such time as the
Developer is notified by the County that a connection can be made to a
public water system.

2. The Developer shall convert this fire protection water supply
system from the pond to a publicly provided water system within 6 months
of receiving notice from the County of a proper public source that is
available and located within 1000 feet of the Phase I Final Plat boundary.
Such connection shall be made at the Developer's expense. Alternatively,

prior to the 6 month notification period referenced above, a connection
may be made to a storage tank system, provided the system can achieve
minimum County fire flow standards for the development permitted. In
the event that compliance with these provisions is not achieved within the
6 month period set forth herein, no further single family residential
building permits on lots located within the Land will be issued by the
County until a conversion approved by the County Administrator, or his
designee, is completed. In addition, the County may withhold any other
development related approvals on any portion of the Land located outside
the Phase I Final Plat.

b. Pursuant to the 2014 Utility Agreement, no utility impact fees shall be
assessed by the County against any lot within the Phase I Final Plat or the
Outparcels.

c. Following the Effective Date of this Agreement and contingent upon
compliance with the Fire Protection provisions in Subsection 2.3(a), above and
the Sidewalk Surety provisions in Subsection 2.3(d) below, the Developer may apply for and receive up to 15 building permits; however, no further building permits may be issued until the Developer achieves compliance with Subsections 3.1(a) and Section 3.2 herein. Thereafter, the Developer may proceed with the completion of development authorized by the Phase I Final Plat.

d. Sidewalk Surety. Following the Effective Date of this Agreement, no building permits within any portion of the Land located within the Phase I Final Plat may be issued until the Developer provides the County with a bond, or other financial surety, in a form satisfactory to the County Administrator, or his designee, to guarantee construction of the sidewalks depicted on approved construction plans associated with the Phase I Final Plat. Construction of all required sidewalks within the Phase I Final Plat must be completed on or before December 30, 2016. In the event that compliance with these provisions is not achieved on or before December 30, 2016, the County may call the surety and install the sidewalk at the Developer’s expense, withhold any other development related approvals on those portions of the Land located outside the Phase I Final Plat, and pursue any other remedies which may be available to the County in order to recover all County costs.

2.4. Future Development – Development that was authorized by the Preliminary Plats together with the previously approved construction plans, may proceed subject to the following conditions:

a. All previous land development permits associated with the Preliminary Plats and associated construction plans for development outside of the Phase I
Final Plat are hereby revoked until the items listed in this Section 2.4 herein are corrected and new land development permits are thereafter issued.

b. The construction drawings associated with the Preliminary Plats shall be modified to show development phasing based on the water and wastewater concurrency availability and shall be done so at a logical phase terminus for infrastructure, fire protection, etc. The County may require additional modifications to the construction plans so each phase can stand on its own accord and is not deficient if a future phase is not timely built.

c. Additional future phases shall be given sequential numbers and platted accordingly i.e., Phase I, Phase II, Phase III.

d. The proposed development shall meet all the requirements set forth in this Agreement and the Flagler County Land Development Code, and all associated applications shall be reviewed in accordance with the normal regulatory process in place at the time of application.

e. The Preliminary Plats and associated construction plans shall remain in effect but shall be modified and approved by the County in the following areas:

1. Fire Protection to reflect a combined public-supplied, potable water/fire protection system with adequate capacity.

2. Public Water Supply and Wastewater (on site and off site).

3. Public Dedication Areas to show the streets as non-County streets and no County parks unless specifically requested.

4. All other modifications related to phasing.

3.0. **PUBLIC FACILITIES.** The following public facilities will serve the Eagle Lakes PUD, subject to the following terms and conditions:
3.1. **Transportation.** County and State roads and highways will service the Land. The Developer has met all the concurrency requirements of the Flagler County Land Development Code and Comprehensive Plan regarding the provision of roads. Therefore, the Developer is vested to proceed with all development provided for in this PUD without providing for any other traffic improvements (including off-site improvements) except for those required herein. In furtherance of, and in addition to, those requirements the following conditions apply:

a. Upon execution of this Agreement, the Developer shall convey to the County by quit claim deed, in a form satisfactory to the County, the additional parallel right-of-way for Old Kings Road of 15 feet, which is adjacent to the Eagle Lakes PUD and designated as Tract N on the Phase I Final Plat. The Developer shall be required to convey additional right of way in the same width and in same manner as future phases are platted along Old Kings Road. All conveyances will occur concurrently with the approval of the applicable plat.

b. The Parties acknowledge and agree that a traffic signal and associated intersection improvements will be required to serve the Eagle Lakes PUD at the intersection of Bulow Boulevard and the corresponding future Eagle Lakes Entrance (shown on the Conceptual Site Plans) and Old Kings Road. The Parties further agree that said improvements bear a rational nexus to the Eagle Lakes PUD development and that the Developer’s fair share contribution toward the cost of these improvements shall be 66% of the total cost as calculated by the County. The calculation will be performed by the County when either the County determines that the signal is warranted, or prior to the Developer receiving final plat approval for the 425th unit within the Eagle Lakes PUD, whichever event is earlier. The County’s cost calculation shall include design, permitting, mitigation
(if applicable) and installation of the signal and associated intersection improvements. The Parties acknowledge and agree that the cost calculation will be based upon the traffic signal being designed with a mast arm(s) in accordance with Florida Department of Transportation (FDOT) "Green Book" standards, FDOT design standards, and FDOT plans preparation manuals, as amended by the County Administrator, or his designee, at his sole discretion, in order to ensure the design and finish of the traffic signal and mast arm(s) is consistent with other traffic signal construction within the corridor and is complimentary to traffic signal construction within the City of Palm Coast. Upon providing the Developer with written notice of the cost calculation, the Developer shall pay its fair share contribution to the County in the amount of 66% of the total cost, as determined by the County. No final plat approvals shall be granted by the County beyond the 475th unit within the Eagle Lakes PUD until the County has received payment for the Developer’s fair share contribution. For purposes of this subsection and the unit count thresholds provided herein, the 111 lots platted in the Phase I Final Plat shall be included within the cumulative total unit count.

3.2. **Potable Water/Wastewater.** A water/wastewater facility has been constructed within the Eagle Lakes PUD which has the current capacity to serve a total of 181 units, which will include 111 units within the Phase I Final Plat, the 4 units within the Outparcels and 66 units of a future phase; however, the Parties acknowledge the existence of outstanding issues relative to the required conveyance of the facility to the County. In order to resolve these outstanding issues, contemporaneously herewith the Parties have entered into an Agreement Regarding the Transfer of Existing Water and Wastewater Assets and the Future Expansion of the Utility System located within the Eagle Lakes PUD (the “2014 Utility Agreement”). The Parties agree
that no more than 15 additional building permits for development within the Phase I Final Plat may be applied for until after the Closing Date, as defined in the 2014 Utility Agreement. Following the Closing Date, the Developer is authorized to proceed with the build out of the remaining approved units located within the Phase I Final Plat (a remaining total of 98 units including the Outparcels) and a future phase(s) for the remaining 66 units of capacity with regard to water and wastewater concurrency, and contingent upon compliance with all other applicable requirements. No future development beyond a total of 181 units may be approved, and land development permits shall not be issued as part of any preliminary plat applications, nor shall any final plats be filed for additional single family residential lots until (1) the Developer has complied with all terms and conditions of the 2014 Utility Agreement and entered into an additional utility agreement with the County on or before June 1, 2016, for any needed future water and wastewater capacity; or (2) a determination has been made by the County Administrator, or his designee, that sufficient water and wastewater capacity exists to accommodate additional development.

3.3. **Solid Waste.** The solid waste will be collected by the County's franchised operation and disposed of as provided by County facilities or interlocal agreement.

3.4. **Drainage.** The Developer shall provide drainage in accordance with the St. Johns River Water Management District rules and the Flagler County Land Development Code.

3.5. **Recreation.** The Developer will provide local recreation within the Eagle Lakes PUD to satisfy the adopted levels of service for neighborhood Parks. All recreation will be consistent with the Flagler County Comprehensive Plan as amended from time to time, as well as the development standards set forth below.

4.0. **DEVELOPMENT STANDARDS.**
4.1. **Lot Sizes.** The Eagle Lake PUD shall include a mix of 50’, 60’ and 80’ wide lots, with a maximum of 339 lots that are 50’ in width. Any two adjacent 50’ lots may be combined for a 2 unit/single family semi-detached residence. A semi-detached residence is a single-family dwelling attached to one other single-family dwelling by a common vertical wall with each dwelling located on a separate lot. Lot sizes may be increased at the discretion of the Developer.

4.2. **Homeowner Associations.** The residential development shall be governed by the management of one or more property owners’ associations. If more than one property owners’ association is created, a Master Association governing all sub-associations shall be required.

4.3. **Mobile Homes.** Mobile homes are not a permitted use in the Eagle Lakes PUD.

4.4. **Temporary Sales and Construction Trailers and Model Homes.** No more than 10 lots within the Eagle Lakes PUD may be utilized for placement of temporary sales trailers, construction trailers and model homes, subject to review and approval of the County Administrator, or his designee, and subject to any terms and conditions imposed in connection with the approval, if granted. If the temporary sales trailers, constructions trailers and/or model homes are allowed prior to the recordation of the final plat, the issuance of the certificates of occupancy shall be contingent on final plat approval and the completion and approval of the subdivision infrastructure.

4.5. **Common Areas.** Common areas are located within the Eagle Lakes PUD and shall include open space and landscape areas.

4.6. **Cell Tower.** An existing cell tower is located within the Eagle Lakes PUD. The tower is identified on the Phase I Final Plat and is a permitted use. The tower may be replaced, provided it remains in the location identified in the PUD Master Plan. The tower may not exceed
a maximum height of one hundred seventy seven (177) feet as measured from the average ground level at the base of the tower.

4.7. **Wetland Buffer.** A minimum fifteen (15) foot wide, average twenty-five (25) foot wide upland buffer shall be provided around all wetlands on the Land, except where road crossings are necessary. The buffer areas shall be shown on the final plat(s) and shall be maintained in its natural state free of structures.

4.8. **Stormwater.** The necessary and required infrastructure to provide for storm water runoff has been approved and constructed for development within the Phase I Final Plat. For future phases, storm water runoff shall be conveyed to on-site storm water retention systems by means of grassed swales and an underground drainage pipe system. The systems onsite may be interconnected with such systems on adjacent sites, subject to approval of the St. Johns River Water Management District ("SJRWMD") and the County Development Engineer.

4.9. **Roadways/Rights-of-Way.** Internal access to all residential structures and common areas within the Phase I Final Plat has been constructed. The Parties acknowledge that the Phase I Final Plat dedicated the internal access within Phase I (Tract 0) to the County, in error. In addition, Tract 0 was subsequently and erroneously included in judicial proceedings related to a foreclosure action. In order to address these conflicts, and to remove any cloud upon the title, upon the Effective Date of this Agreement, the County shall convey its interest in the roadways by County deed to the Developer. Internal access for future phases shall be by private roadway tracts, and all roadways within the Eagle Lakes PUD shall be maintained by the master property owners’ association, or other entity approved by the County.

a. The Developer shall limit vehicular access to the Eagle Lakes PUD from Old Kings Road to a maximum of four (4) entrance roads aligned to create four-way intersections. Each such intersection shall be provided with right and left turn...
lanes and tapers consistent with County standards and shall align whenever reasonably possible with drive and entranceways on the east side of Old Kings Road, as determined by the County.

b. The entrance road(s) may be gated at the Developer’s discretion.

4.10. **Signage.** The Eagle Lakes PUD may be identified by either one (1) double faced or two (2) single faced entrance signs to be located at each entrance to the PUD or at one location between adjacent entrances. Such signs may be lighted (with lighting directed away from traffic), and shall be a maximum of eight (8) feet high as measured from the centerline of Old Kings Road, with a message area no greater than thirty two (32) square feet in size. Directional, identity and information signs for recreation and other amenities may be provided throughout the PUD, provided that none of these signs exceed six (6) square feet in size, including advertising and/or “for sale” signs. The residential entrance signs shall be located adjacent to Old Kings Road. Signs shall be setback from adjacent roadways sufficient to protect public safety and view angles.

4.11. **Open space.** A minimum of 20% of the gross area of the Land shall remain as open space, which includes water, stormwater ponds, preserved wetlands, and recreation (active and/or passive). In the area of the project encompassed by the Phase I Final Plat, the recreation areas include a park (Tract C). The Parties acknowledge that the Phase I Final Plat Park (Tract C) was originally intended to be a public park, and the park was dedicated to the County for such purposes. However, the size of the park is not suitable for public purposes, and the Parties acknowledge that the park should remain as a private, community common area/neighborhood park. In addition, Tract C was subsequently and erroneously included in judicial proceedings related to a foreclosure action. In order to address these conflicts, and to remove any cloud upon the title, upon the Effective Date of this Agreement, the County shall convey its interest in the
park (Tract C) to the Developer by County deed, and the park shall thereafter function as a private park, for the use and benefit of the Eagle Lakes PUD residents unless agreed to otherwise in writing between the Developer and the master homeowners association. The remainder of the required recreational amenities shall be provided in future phases and shall, at a minimum, include an amenity center with at least one tennis court, an open pavilion with restrooms, a parking area and an outdoor swimming pool. All open space and common areas shall be maintained by the property owners’ association. The completion by the Developer of the required recreational amenities listed herein will satisfy the level of service requirements associated with Section 3.5.


a. Internal Roadways: Prior to the final platting of any future phase, a five (5) foot wide sidewalk system connecting all lots within the phase shall be constructed adjacent to the internal roadways. Sidewalk construction within the Phase I Final Plat shall be governed by Subsection 2.3(d).

b. External Roadway: The Developer shall construct a minimum eight (8) foot wide public sidewalk/bike path along the frontage of Old Kings Road within the right of way conveyed to the County for future phases pursuant to Subsection 3.1(a). The Developer shall construct each section of the sidewalk/bike paths as part of the preliminary plat infrastructure improvements prior to the final platting of any future phase. The timing for this construction shall be in conjunction with the associated final plat for all the frontage of the Land along the west side of Old Kings Road.

4.13. Landscape Berm. A landscaped berm shall be constructed along the Old Kings Road frontage; except where the entrance lakes are adjacent to Old Kings Road in order to
provide view corridors to such lakes. This berm shall be a minimum of six (6) feet high as measured above the centerline of Old Kings Road and shall be located within a thirty-five (35) foot wide landscape buffer along the frontage to Old Kings Road. A minimum six (6) foot high berm shall also be constructed along the property’s boundary with the I-95 right-of-way, in those locations where the existing natural vegetation is less than two hundred (200) feet as measured horizontally between any lot and the I-95 right-of-way. Where provided, this berm shall also be located within a thirty-five (35) foot wide landscape buffer.

4.14. Lighting. Decorative pole mounted lighting fixtures no more than twelve (12) feet high as measured above the centerline of the adjacent roadway shall be provided throughout the Eagle Lakes PUD. Additional landscape lighting may include low level lighting and occasional accent lighting. The locations of such fixtures shall be further described at the time of site plan approval.

4.15. Parking and Driveways. A minimum of two (2) parking spaces per unit shall be provided within driveways with minimum dimensions of eight (8) feet in width by twenty (20) feet of depth per space, on individual lots. Parking shall not be permitted within the curbed portion and/or paved street portion of internal rights-of-way. Driveways shall be setback a minimum of five (5) feet from any side property boundary and twenty (20) feet from any street intersection with another street.

4.16. Fire Protection. Except as provided in Subsection 2.3(a) hereof, fire protection requirements for the Eagle Lakes PUD will be met through a system of fire hydrants installed on the Land by the Developer connected to a public water supply system approved by the County and in accordance with County standards.

4.17. Table of Site Development Requirements.
a. The following table lists the site development requirements that are applicable to the principal uses and structures within the Eagle Lakes PUD. Amendments to these standards shall require an amendment to this Agreement.

<table>
<thead>
<tr>
<th>Lot Type (1)</th>
<th>50'</th>
<th>60'</th>
<th>80'</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot size</td>
<td>6,000 sf</td>
<td>7,000 sf</td>
<td>10,000 sf</td>
</tr>
<tr>
<td>Minimum Lot width</td>
<td>50'</td>
<td>60'</td>
<td>80'</td>
</tr>
<tr>
<td>Minimum front setback(2)</td>
<td>20'</td>
<td>20'</td>
<td>20'</td>
</tr>
<tr>
<td>Minimum rear setback</td>
<td>20'</td>
<td>20'</td>
<td>20'</td>
</tr>
<tr>
<td>Minimum side yard setback(3)</td>
<td>5'</td>
<td>6.5'</td>
<td>9.0'</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>35'</td>
<td>35'</td>
<td>35'</td>
</tr>
<tr>
<td>Maximum impervious coverage</td>
<td>60%</td>
<td>55%</td>
<td>55%</td>
</tr>
<tr>
<td>Minimum House Size(4)</td>
<td>1,100 sf</td>
<td>1,500 sf</td>
<td>1,800 sf</td>
</tr>
<tr>
<td>Minimum Garage/Carport</td>
<td>1 Car Garage</td>
<td>1 Car Garage</td>
<td>1 Car Garage</td>
</tr>
<tr>
<td></td>
<td>Fully Enclosed</td>
<td>Fully Enclosed</td>
<td>Fully Enclosed</td>
</tr>
<tr>
<td></td>
<td>with Door</td>
<td>with Door</td>
<td>with Door</td>
</tr>
</tbody>
</table>

(1) Phasing shall be based on specific lot types, with each lot type being incorporated into distinct and separate areas.

(2) For corner lots with two (2) front setbacks, the front yard without a driveway connection may be reduced to ten (10) feet.

(3) Except for 50-foot single family semi-detached lots, where the non-attached side setback shall be ten (10) feet. The side setback for the common vertical wall shall be zero (0) feet. The side yard where the common vertical wall occurs shall not be subject to any easement, unless the easement has been vacated through a plat vacation or similar action by the Board of County Commissioners.

(4) Minimum house size is calculated as the principal dwelling unit's heated and cooled space under roof.

b. All detached structures (gazebos, pavilions, etc.) shall be a maximum height of twelve (12) feet and shall be located in a rear or side yard and shall be set back five (5) feet from side property boundaries, and ten (10) feet from rear property boundaries (except where a side yard is also a road frontage, where the accessory setback shall be ten (10) feet). The minimum separation of accessory structures from principal and other accessory structures shall be ten (10) feet.
05-22-2014

c. Pools, screen enclosures, and screen rooms shall only be located in rear or side yards.
d. All setbacks as stated above will be measured from the lot line and will apply to principal and accessory structures and pools (as stated above) but not sidewalks, patios and similar non-vertical elements.
e. No buildings or accessory structures shall be permitted within easements or buffers, regardless of the setback.

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

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

6.0. TERMINATION. Upon execution of this Agreement by the Parties and upon recordation in the Public Records of Flagler County, Florida as set forth in Section 7.0, the Prior Land Development Agreements shall have no further force and effect on the Land.

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

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

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

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

12.0. **CAPTION OR PARAGRAPH HEADINGS.** Captions and paragraph headings contained in this Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Agreement, nor the intent of any provision hereof.
05-22-2014

13.0. **COUNTERPARTS.** This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Agreement.

14.0. **EFFECTIVE DATE.** This Agreement shall become effective upon recordation in the Public Records of Flagler County, Florida.

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

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

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

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

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

For Venture 8 LLC: Venture 8 LLC
125 N. Ridgewood Avenue, Suite 100
Daytona Beach, Florida 32114
05-22-2014

With copy to:                         Chiumento Selis & Dwyer, P.L.
                                           Attn: Michael Chiumento III, Esquire
                                           145 City Place, Suite 301
                                           Palm Coast, Florida 32136

For Eagle Lakes Homeowners’      Eagle Lakes Homeowners’ Association, Inc.
Association, Inc.:                        125 N. Ridgewood Avenue, Suite 100
                                           Daytona Beach, Florida 32114

Passed and Duly Adopted by the Board of County Commissioners of Flagler County,
Florida, this 23rd day of July, 2014.

Attest:                                Board of County Commissioners
                                           Flagler County, Florida

By: George Hanss, Chairman

Approved as to form:

Al Hadeed, County Attorney
05-22-2014

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

VENTURE 8 LLC, a Florida limited liability company

By: [Signature]
Name: John Schneble
Its: Manager

Date: 9/18/2014

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument is hereby acknowledged before me this 18th day of September, 2014, by John Schneble, Sr., who has produced Florida Driver License as identification and (did/did not) take an oath.

Carol A. Gallagher
NOTARY PUBLIC, State of Florida
Name: ____________________________

My Commission Expires: ________________
My Commission Number is: ____________

[Stamp]

22
JOINDER AND CONSENT OF HOMEOWNER'S ASSOCIATION

The undersigned as the Homeowner's Association, hereby joins in, consents and agrees with the Planned Unit Development Agreement for Eagle Lakes, Flagler County, Florida, encumbering the lands described in the foregoing Planned Unit Development (the "PUD"), and joins in the filing of the PUD as Homeowner's Association for the limited and sole purpose of consenting to execution and recording of the PUD.

Signed, sealed and delivered

EAGLE LAKES HOMEOWNERS' ASSOCIATION, INC., a Florida non-profit corporation

By:

Name: John Schnebly Sr.
Title: President

Printed Name

STATE OF Florida
COUNTY OF Volusia

The foregoing Joinder and Consent of Homeowner's Association was acknowledged before me this 13 day of May, 2014, by John Schnebly, Sr., as President of Eagle Lakes Homeowners' Assn, Inc. He/She is personally known to me or has produced as identification.

Printed Name:
Notary Public - State of Florida
My Commission Expires:
My Commission Number:

[Notary Public Seal]
CERTIFICATE OF CORPORATE RESOLUTION

We, John Schnebly, Sr and Craig A. Wells, as President and Treasurer/Secretary respectively of EAGLE LAKES HOMEOWNERS' ASSOCIATION, INC., duly organized, validly existing and in good standing under the laws of the State of Florida (the "Corporation"), do hereby certify that the Officers and Directors of the Corporation, at a meeting duly held on the 12th day of May, 2014 adopted the following resolutions and said resolution have not been modified or rescinded as of the date hereof:

RESOLVED the President, of the Corporation is hereby authorized and empowered, on behalf of the Corporation, to execute and deliver a Joinder and Consent of Homeowner's Association to the Planned Unit Development for Eagle Lakes ("PUD") and any other documents necessary or desirable to finalize and have the PUD recorded in the Public Records of Flagler County, Florida as may be required by the County of Flagler.

BE IT FURTHER RESOLVED, that this Resolution shall continue in force, and the signature of the designated person of said corporation shall be conclusive evidence of his/her authority to act on behalf of and in the name of said Corporation, as provided herein, or any similar subsequent Certificate, until notice to the contrary is duly served upon the Buyer.

I further certify that the foregoing Resolutions remain in full force and effect, have not been rescinded or modified and conform with the Articles of Incorporation and Bylaws of the Corporation, and may be relied upon by the Buyer.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal on May 13, 2014.

Name: John Schnebly, Sr  
Title: President

Name: Craig A Wells  
Title: Secretary/Treasurer

RECEIVED 
MAY 16 2014
Flagler County Planning & Zoning Dept
EXHIBIT “A”

LAND
EXHIBIT “A”

Legal Description

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27, 34, AND 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING BEING THE NORTHWEST CORNER OF GOVERNMENT SECTION 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG THE WESTERY BOUNDARY OF SAID SECTION 35 SOUTH 01°50'44" WEST A DISTANCE OF 200.25 FEET; THENCE DEPARTING THE WESTERY BOUNDARY LINE OF SAID SECTION 35 NORTH 88°59'36" EAST A DISTANCE OF 1,282.78 FEET TO A POINT ON THE WESTERY RIGHT-OF-WAY LINE OF OLD KINGS ROAD (A 100’ R/W) SAID POINT INTERSECTING A NON-TANGENT CURVE; THENCE ALONG THE WESTERY RIGHT-OF-WAY LINE OF OLD KINGS ROAD ALONG A CURVE TO THE RIGHT (CONCAVE WESTERLY) 255.26 FEET, WITH A RADIUS OF 2,814.93 FEET, AND A CENTRAL ANGLE OF 05°11'43", HAVING A CHORD DISTANCE OF 255.17 FEET AND A CHORD BEARING OF SOUTH 15°53'00" EAST TO A POINT OF TANGENCY; THENCE SOUTH 13°17'15" EAST A DISTANCE OF 489.56 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT (CONCAVE EASTERNLY) 126.93 FEET, WITH A RADIUS OF 5,779.65 FEET, AND A CENTRAL ANGLE OF 01°15'30", HAVING A CHORD DISTANCE OF 126.93 AND A CHORD BEARING OF SOUTH 13°54'53" EAST TO A POINT OF TANGENCY; THENCE SOUTH 14°32'45" EAST A DISTANCE OF 1,204.30 FEET; THENCE SOUTH 14°22'51" EAST A DISTANCE OF 1,638.44 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY OF OLD KINGS ROAD SOUTH 75°36'15" WEST, A DISTANCE OF 563.89 FEET; THENCE SOUTH 17°36'38" WEST A DISTANCE OF 188.29 FEET TO THE CENTER OF THE KORONA CANAL AS RECORDED IN O.R. BOOK 459, PAGE 127, AND O.R. BOOK 28, PAGE 94, THENCE ALONG THE CENTER LINE OF SAID KORONA CANAL NORTH 73°59'57" WEST A DISTANCE OF 3,286.50 FEET TO A POINT ON THE EASTERNLY RIGHT-OF-WAY LINE OF INTERSTATE 95 (R/W VARIES) THENCE NORTHWESTERLY ALONG SAID EASTERNLY RIGHT-OF-WAY OF INTERSTATE 95 NORTH 20°47'05" WEST A DISTANCE OF 1,535.59 FEET; THENCE NORTH 20°46'14" WEST ALONG SAID RIGHT-OF-WAY EASTERNLY LINE A DISTANCE OF 41.72 FEET; THENCE NORTH 34°48'24" WEST A DISTANCE OF 206.16 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY OF INTERSTATE 95 NORTH 06°06'43" WEST A DISTANCE OF 276.61 FEET; THENCE NORTH 20°46'14" WEST A DISTANCE OF 40.00 FEET; THENCE SOUTH 69°13'46" WEST A DISTANCE OF 70.00 FEET TO A POINT ON SAID INTERSTATE 95 RIGHT-OF-WAY LINE; THENCE NORTH 20°46'14" WEST A DISTANCE OF 40.00 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 1,453.64 FEET, A RADIUS OF 34,227.47 FEET, A CENTRAL ANGLE OF 02°26'00", A CHORD BEARING OF NORTH 19°33'14" WEST AND A CHORD DISTANCE OF 1,453.53 FEET TO A POINT OF TANGENCY; THENCE NORTH 18°20'14" WEST A DISTANCE OF 343.04 FEET; THENCE DEPARTING SAID INTERSTATE 95 RIGHT-OF-WAY LINE NORTH 03°40'43" WEST A DISTANCE OF 276.61 FEET; THENCE NORTH 18°20'14" WEST A DISTANCE OF 40.00 FEET; THENCE SOUTH 71°39'46" WEST A DISTANCE OF 70.00 FEET TO A POINT ON SAID INTERSTATE 95 RIGHT-OF-WAY LINE; THENCE NORTH 18°20'14" WEST A DISTANCE OF 1,143.95 FEET; THENCE DEPARTING SAID INTERSTATE 95 RIGHT-OF-WAY LINE NORTH 61°46'57" EAST A DISTANCE OF 3,350.50 FEET TO A POINT ON OLD KINGS ROAD WESTERLY RIGHT-OF-WAY LINE; THENCE SOUTH 26°38'38" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 466.50 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 259.51 FEET, A RADIUS OF 5,779.65 FEET, A CENTRAL ANGLE OF 02°34'21", A CHORD BEARING OF SOUTH 28°00'14" EAST AND A CHORD DISTANCE OF 259.48 FEET TO A POINT OF TANGENCY; THENCE SOUTH 29°12'53" EAST A DISTANCE OF 680.16 FEET; THENCE SOUTH 29°12'17" EAST A DISTANCE OF 951.92 FEET; THENCE DEPARTING SAID OLD KINGS ROAD WESTERLY RIGHT-OF-WAY LINE SOUTH 88°59'32" WEST A DISTANCE OF 374.34 FEET; THENCE SOUTH 22°31'26" EAST A DISTANCE OF 614.01 FEET; THENCE NORTH 88°59'42" EAST A DISTANCE OF 374.34 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT-OF-WAY LINE OF OLD KINGS ROAD; THENCE SOUTH 20°36'44" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 53.08 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 88°58'34" WEST A DISTANCE OF 968.86 FEET TO A POINT ON THE EASTERY LINE OF GOVERNMENT SECTION 27,
EXHIBIT “A”
Legal Description

TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE ALONG SAID EASTERLY LINE OF SECTION 27 SOUTH 01°00'17" WEST A DISTANCE OF 660.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

LESS AND EXCEPTION:

EXHIBIT “B”

CONCEPTUAL SITE PLANS
EAGLE LAKES - PHASE 1 - SECTION 1

A REPLAT OF A PORTION OF THE BUNNELL DEVELOPMENT COMPANY SUBDIVISION, ASRecorded IN MAP BOOK 1, PAGE 1, OF THE PUBLIC RECORDS OF
FLAGLER COUNTY, FLORIDA, LOCATED IN TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA. GOVERNMENT SECTIONS 34 AND 35.

TOMOKA ENGINEERING

T.E. PROJECT FILE (FL-016-1-4)
ISSUE DATE: NOVEMBER 2005

SHEET 2 OF 14
EAGLE LAKES - PHASE I - SECTION 1

A PLAT OF A PORTION OF THE BUNNELL DEVELOPMENT COMPANY SUBDIVISION, AS RECORDED IN MAP BOOK 1, PAGE 1, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA. GOVERNMENT SECTIONS 34 AND 36.
EAGLE LAKES - PHASE I - SECTION 1

A Plat of a portion of the Bunnell Development Company Subdivision, as recorded in Map Book 1, Page 1, of the Public Records of Flagler County, Florida, located in Township 12 South, Range 31 East, Flagler County, Florida, Government Sections 34 and 35.
EAGLE LAKES - PHASE I - SECTION 1

A PLAT OF A PORTION OF THE BUMNELL DEVELOPMENT COMPANY SUBDIVISION, AS RECORDED IN MAP BOOK 1, PAGE 1, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, GOVERNMENT SECTIONS 34 AND 35.
EAGLE LAKES - PHASE 1 - SECTION 2
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.

SHEET INDEX PHASE 1 - SECTION 2
PRELIMINARY PLAT
EAGLE LAKES - PHASE 1 - SECTION 2
A REPI AME DEATION OF A LINE SURVEYING SECTION
27, 34 AND 35, GOVERNMENT SECTIONS 27, 34 AND 35, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE I - SECTION 2
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE I - SECTION 2

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE I - SECTION 2
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE I - SECTION 2

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE 1 - SECTION 2
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE I - SECTION 2
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.

MAP BOOK _____ PAGE _____
EAGLE LAKES - PHASE I - SECTION 2
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 27, 34 AND 35,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE II
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
MATCH LINE - SEE SHEET 4
PRELIMINARY PLAT
EAGLE LAKES - PHASE I

LEGEND/ABBREVIATIONS

MAP BOOK PAGE
EAGLE LAKES - PHASE II

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE II
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE II
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.

MAP BOOK ______ PAGE ______
EAGLE LAKES - PHASE II
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 20, 27 AND 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE II
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.

UNPLATTED
JACKSON ENGINEERING, INC.

MAP BOOK _______ PAGE _______
EAGLE LAKES - PHASE II
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE II
A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 26, 27 AND 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.
EAGLE LAKES - PHASE II
A Parcel of land lying in government sections 26, 27 and 34,
TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA.

MAP BOOK PAGE
NOTICE OF REZONING

Pursuant to Section 2.07.00, Flagler County Land Development Code, and Chapter 125, Florida Statutes, the Flagler County Board of County Commissioners hereby provide notice of consideration of Application #3098 submitted by Michael D. Chiumento III, Esq., as applicant for property owned by Venture 8, LLC, and possible adoption of an Ordinance titled similar to:

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

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

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD - February 13, 2018 at 6:00 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS - March 19, 2018 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida.

All interested persons are urged to attend these public hearings and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-4009 or write to: Flagler County Planning Department, 1769 E. Moody Blvd, Building 2, Bunnell, FL 32110 or email to amengel@flaglercounty.org. Copies of the proposal, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Bldg. 2, Bunnell, Florida 32110.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.
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I hereby affirm mailed notice to each owner on January 26, 2018 for the Planning & Development Board Meeting on February 13, 2018 at 6 pm.

Wendy Hickey, Planner
January 26, 2018

RE: Notice of Public Hearing – Rezoning Application #3098

Dear Property Owner:

As an owner of land lying within 300’ of property that is subject of a proposed Rezoning, Flagler County hereby gives notice of two public hearings to consider approval of a request by Michael D. Chiumento, III Esq., as applicant for property owned by Venture 8, LLC, and possible adoption of an Ordinance titled similar to:

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

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

Planning Board Hearing on Tuesday, February 13, 2018 at 6:00 p.m.
Board of County Commissioners on Monday, March 19, 2018 at 5:30 p.m.

You are welcome to attend and express your opinion.

Sincerely,

Wendy Hickey
Planner

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.
APPLICATION # 3098
NOTICE OF PUBLIC HEARING

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

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

FEBRUARY 13, 2018 - 6:00 P.M.

REQUEST: REZONING
APPLICANT: MICHAEL D. CHIUMENTO III ESQ.

Parcel Number: 22-102-31-000-01010-0011
Zoning District: AC (AGRICULTURE)

THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.

For additional information visit web page at: www.flaglercounty.org or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE
FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING / AGENDA ITEM #5

SUBJECT: QUASI-JUDICIAL – Application #3123 – Request for Special Use in the I-PUD (Industrial Planned Unit Development) District. Parcel #17-12-31-0650-000A0-0013; 40.71+/- acres. Owners: City of Flagler Beach and JTL Grand Landings Development, LLC; Applicant: Kevin A. Lee, P.E., QLH.

DATE OF MEETING: February 13, 2018

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is for approval of a Special Use in the I-PUD (Industrial Planned Unit Development) District for replacement of the City of Flagler Beach's abandoned public supply well #12. The parcel is 40.71+/- acres in size, identified as parcel #17-12-31-0650-000A0-0013, and is located West of Seminole Woods Boulevard, southeast of the Flagler Executive Airport, and North of the Iroquois Canal:

![Map showing Well #12R](image-url)
On December 26, 2017, the City of Flagler Beach, through its applicant, Kevin Lee with QLH, submitted an application for a Special Use to replace the City’s public raw water supply well #12, with the replacement well to be designated as well #12R. This well is necessary to supply additional raw water for processing into potable water to serve the customers of the City of Flagler Beach. This well will have a maximum pumping capacity of 350 gallons per minute (gpm), and will feed into the City’s 12-inch raw water main through an 8-inch diameter pipe. Additionally, adding this well will allow all the wells to be rotated offline for maintenance purposes.

Construction of this well consists of a 12-inch well casing with a submersible pump, associated piping, and electrical connections. The bulk of the work will take place within a 34 foot by 34 foot fenced area within the 160 foot by 200 foot easement. Permits for the well have been provided by the St. Johns River Water Management District and the Florida Department of Environmental Protection.

Specific guidance regarding Special Use review by the Planning and Development Board is provided at LDC Section 3.06.05.E.2, *Planning board hearing*:

(a) The planning director shall schedule a hearing before the planning board to consider the application. In no event shall such hearing be scheduled more than forty-five (45) days from the date of a complete application unless proper notice has not been made.

(b) The hearing provided for under this section shall be for the purpose of reviewing relevant information from the applicant regarding the requested public, semi-public or special use. The planning board shall also review written and/or oral comments from the public in accordance with its established procedures.

(c) The planning board shall determine whether sufficient factual data was presented in order to render a decision. If the planning board determines that sufficient factual data was presented, then it shall recommend to either:

(1) Approve the request as submitted;

(2) Approve the request with conditions; or

(3) Disapprove the request.

If the planning board determines that sufficient factual data was not presented, the planning board may direct the applicant to supplement its application. At its option, the planning board also may hire an independent consultant to study the issue and provide factual data. The planning board may continue the hearing until the next scheduled meeting to allow for the preparation of such factual data unless it extends the time for good cause shown on the record. Only one (1) such continuation shall be allowed for each requested public, semi-public or special use application unless good cause is found by the planning board on the record.
This application was discussed by the Technical Review Committee on January 17, 2018. All staff comments were satisfactorily addressed by the applicant in advance of the Planning and Development Board meeting.

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

This agenda item is:

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

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

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

RECOMMENDATION: The Planning Department recommends that the Planning Board determine that sufficient factual data has been presented and recommend to the Board of County Commissioners approval of Application #3123 for a Special Use for a Potable Water Supply Well on Parcel #17-12-31-0650-000A0-0013 subject to the following conditions:

1. development to occur according to the site plan submittal dated January 2018;
2. securing all applicable permits prior to installation and site development; and
3. coordinating access with the Flagler Executive Airport during construction and on an ongoing basis for maintenance.

ATTACHMENTS:

1. Technical Staff Report
2. Site Plan
3. Application and supporting documents
4. Public notice
Owner: JTL Grand Landings Development, LLC (with easement rights to the City of Flagler Beach)

Applicant: Kevin A. Lee, P.E., QLH (Quentin L. Hampton Associates, a Mead & Hunt Company)

Parcel size: 40.71 acres within the parent parcel, with 0.73 acres in the well easement (dimensions of 160 feet by 200 feet)

Legal Description
Metes and bounds described parcel within Section 17, Township 12 South, Range 31 East, originally part of ITT Parcel 413 (as described in Official Records Book 601, Pages 1989 through 2025) and further described as Tract 1 in Official Records Book 1329, Page 1277, Public Records of Flagler County, Florida.

The well easement is recorded as a Grant of Easement dated November 8, 2007 and recorded on April 9, 2008 at Official Records Book 1654, Page 465, Public Records of Flagler County, Florida, with well #12/12R within the specific easement found on Pages 474 and 475 within the Public Records. This easement is accessed through a 40 foot wide access and utility easement providing vehicular access and within which the raw water main is installed, recorded at Official Records Book 10, Page 432, Public Records of Flagler County, Florida.

Existing Zoning and Land Use Classification:
Zoning: I-PUD (Industrial Planned Unit Development) District
Land Use: RLDRE (Residential Low Density: Rural Estate)

Future Land Use Map Classification/Zoning of Surrounding Land:
North: A&T (Agriculture & Timberlands)/I-PUD (Industrial Planned Unit Development) District
East: RLDRE (Residential Low Density: Rural Estate)/I-PUD (Industrial Planned Unit Development) District
South: Iroquois Canal; RLDRE (Residential Low Density: Rural Estate)/I-PUD (Industrial Planned Unit Development) District
West: Flagler Executive Airport; I (Industrial)/I (Industrial) District

Land Development Code Sections Affected: Land Development Code (LDC) Section 3.03.20.5, I-PUD (Industrial-Planned Unit Development) district, Section 3.06.05, Public, semi-public and special uses, Section 3.06.05.C, Special uses, and Section 6.03.00, Wellfield protection.

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

*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.*

**Comprehensive Plan consistency:**

**GOAL D.1:** Flagler County shall plan and coordinate with public and private utility providers for the development, operation and maintenance of cost-effective and efficient potable water and wastewater systems that promote timely, orderly and efficient land development patterns, consistent with the goals, objectives, and policies established in the Future Land Use Element, while protecting the public health and environment.

**Objective D.1.1:** Coordinate the sizing and location of publicly and privately funded wastewater and water facilities with the adopted Future Land Use Map through Flagler County staff approval during project planning, design, and permitting.

**Policy D.1.1.1:** Centralized water and wastewater programs and facilities will be designed to service the densities and intensities of development projected in the Future Land Use Element.

**Policy D.1.1.4:** Flagler County shall continue to review and comment on master plans for public and private sewer facilities in existing and future sewer service areas for consistency with Flagler County’s Comprehensive Plan.

**Necessary or desirable to support projected community needs:**

The addition of this well is necessary for the City to maintain its level of service for potable water demand, while enabling the City to rotate the wells into and out of service based on demand and for routine maintenance. Other raw water well sites will be forthcoming in a successive Special Use application; however, completing this work for well #12R is necessary now.

*Major utility installations and transportation facilities determined to be consistent with the comprehensive plan and necessary or desirable may be located in an appropriate land use district upon recommendation of the Planning 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. The site plan need not be engineered.

The permitted location of major utility installations and transportation facilities 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.

The site plan submitted for the proposed use locates the well site in the northwest portion of the subject property, within an existing easement. The well site will be fenced with a 6 foot chain link fence. No buffers or landscaping is needed since the parent parcel is heavily wooded and undeveloped at this time.

The ability of the site to properly accommodate the proposed facility and the opportunity to locate the facility within the development which it is to serve may also be taken into consideration at the discretion of the Planning Board.

The applicant has included the two-hundred-foot radius of the zone of exclusion on the site plan, graphically demonstrating the area within which no incompatible land uses (including, but not limited to, industrial and commercial land uses, which handle, store or process hazardous or toxic materials, landfills, borrow pits which penetrate through confining beds and waste storage, transfer, disposal and treatment facilities) may be located. Due to the proximity to the City’s existing main and access easement, along with limited adjacent development and low development pressure in the near future, this location is optimal for the continued use and future siting of the City’s wellfield.

The 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.

The proposed utility installation will not cause substantial impact on the remainder of the subject property or within the vicinity of the property. The daily traffic to and from the site will be minimal, with the Airport Manager requesting – as part of the TRC review – that the applicant coordinate construction and maintenance activities with the Airport staff due to the recent expansion to the Airport’s primary runway and its resulting extension of related airspace protection zones.

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 or materially reduce the economic value of surrounding neighborhood properties.

The proposed facility should not impose substantial detrimental effects on the neighborhood in which it is to be built. Presently the subject parcel is undeveloped with limited access. Arguably, this well site is well-established; however, the City’s wellfield was never formally reviewed by the County through the Special Use process.
The planning board will have the flexibility to recommend requirements or conditions in the form of significant natural buffers, screening, landscaping, limited access, security fencing or other site development design criteria that may be imposed to protect the health, safety and welfare of the public or surrounding property owners. The planning board recommendations and the reasons therefore shall be forwarded to the county commission for its review and decision.

Staff has crafted a set of recommended set of conditions reflecting the minimum requirements for development of the well, including consistency with the site plan, securing applicable permits prior to development, and coordination of construction and maintenance with the Flagler Executive Airport staff.
Future Land Use Map
Zoning Map
PROJECT NOTES

POTABLE WATER WELL 12R
CITY OF FLAGLER BEACH
FLAGLER COUNTY, FL

CONSTRUCTION GENERAL NOTES:
1. All information and work from site to site of existing shall be removed by the Contractor.
2. All work and testing from site to site of existing shall be removed by the Contractor.
3. All work and testing from site to site shall be removed by the Contractor.
4. All work and testing from site to site shall be removed by the Contractor.
5. All work and testing from site to site shall be removed by the Contractor.

CONCRETE AND REINFORCED STEEL NOTES:
1. Concrete is a combination of cement, sand, and water.
2. Reinforced steel is a combination of steel and concrete.
3. Concrete and steel are used together in construction.

QUALITY CONTROL:
1. Quality control is important in construction.
2. Quality control helps ensure the success of a project.

CONTRACTOR:
QLH
CITY OF FLAGLER BEACH
FLAGLER COUNTY, FL

CITY OF FLAGLER BEACH
FLAGLER COUNTY, FL
POTABLE WATER WELL 12R
PROJECT NOTES
SHEET 2

FLORIDA CERTIFICATE OF AUTHORIZATION NO. 26730
P.O. BOX 290247, PORT ORANGE, FL. 32129-0247

\corp.meadhunt.com\sharedfolders\entp\1000709\171302.01\TECH\CAD\Drawings\FB76_2 NOTES.dwg, 1/22/2018 10:04:38 AM, 2045adk
# APPLICATION FOR SPECIAL USE

**FLAGLER COUNTY, FLORIDA**  
1760 E. Moody Blvd. Suite 105  
Bunnell, FL 32110  
Telephone: (386) 313-4009 Fax: (386) 313-4109

**Application/Project #:**

<table>
<thead>
<tr>
<th>PROPERTY OWNER(S)</th>
<th></th>
</tr>
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<tbody>
<tr>
<td>Name(s):</td>
<td>City of Flagler Beach</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>105 S Second St</td>
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<tr>
<td>City: Flagler Beach</td>
<td>State: FL</td>
</tr>
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<td>Telephone Number:</td>
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<td>PO Drawer 290247</td>
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<tr>
<td>City: Port Orange</td>
<td>State: FL</td>
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<tr>
<td>Telephone Number:</td>
<td>386-761-6810</td>
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<tr>
<td>E-Mail Address:</td>
<td><a href="mailto:kevin.lee@meadhunt.com">kevin.lee@meadhunt.com</a></td>
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<tr>
<th>SITE LOCATION (street address):</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEGAL DESCRIPTION: (briefly describe, do not use &quot;see attached&quot;)</td>
<td>A portion of land in official record book 1329, pg 1777</td>
</tr>
<tr>
<td>Parcel #: (tax ID #:):</td>
<td>17-12-31-0050-000AO-0013</td>
</tr>
<tr>
<td>Parcel Size:</td>
<td>easement size: 160ft x 200ft, 0.73 acres</td>
</tr>
<tr>
<td>Current Zoning Classification:</td>
<td>I-PUD</td>
</tr>
<tr>
<td>Current Future Land Use Designation:</td>
<td>Residential: Low Density Rural Estate</td>
</tr>
</tbody>
</table>

**Subject to A1A Scenic Corridor IDO?**
- [ ] YES
- [x] NO

**Description of Use:** Utility, City of Flagler Beach Potable Water Well #12R

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

****OFFICIAL USE ONLY**

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

**Signature of Chairman:**

**Date:** 12/26/17

**Board of County Commissioners Action:**  
- [x] 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. 05/08**

**Page 1 of 14**
December 26, 2017

Gina Lemon
Development Review Planner III
Flagler County Planning and Zoning Department
1769 E. Moody Boulevard, Bldg 2
Bunnell, FL 32110

CITY OF FLAGLER BEACH
POTABLE WATER WELL #12R
BLDG PERMIT #2017110213

Dear Ms. Lemon:

The City of Flagler Beach has an active contract with Connect Consulting, Inc (CCI) to install and outfit a potable water Well #12R; this well is being constructed as a replacement for the abandoned Well #12. CCI contracted with McMahan Construction, Inc who has applied for the above referenced building permit. Upon review of the building permit submittal the Flagler County Planning and Zoning Department identified that special use approval is required for the well installation per the Flagler County Land Development Code (FCLDC), Section 3.06.05.

The proposed Well #12R will add to the City of Flagler Beach Water Treatment Plant’s raw water supply. The City currently has three (3) wells, this well will increase the total to four (4) active wells. The City provides potable water to residential and commercial customers within Flagler Beach and areas of unincorporated Flagler County. The addition of this well will ensure the City has adequate raw water to serve their existing utility customers. The construction consists of a 12” well casing with submersible pump, associated piping, and electrical. The site will be within a chain link fenced area approximately 34’ x 34’, constructed on an existing well easement that is approximately 160’ x 200’. Permits for the well construction have been provided by the St Johns Water Management District and the Florida Department of Environmental Protection.

This package constitutes the City of Flagler Beach’s submittal for the special use approval and includes the following:

1. Check for the application fee of $470.00 (under separate cover submitted by the City)
2. Application For Special Use form signed by the City
3. Recorded property easement
4. Ten (10) sets of 11x17 plans signed and sealed
Please review the enclosed application package for conformance with the County’s land development requirements. Do not hesitate to contact us if clarifications or additional information are required.

Sincerely,

Kevin A. Lee, P.E.
Project Manager

cc: Fred Griffith, P.E. – City of Flagler Beach

Attachments as noted above
# Application for Special Use

**Flagler County, Florida**

1765 E. Moody Blvd. Suite 105
Bunnell, FL 32110

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

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**SITE LOCATION (street address):** N/A

**LEGAL DESCRIPTION:** A portion of land on official records book 1329, pg 1777

**Parcel #: (tax ID #):** 17-12-31-0650-000A0-0013

**Parcel Size:** easement size: 160ft x 200ft, 0.73 acres

**Current Zoning Classification:** I-PUD

**Current Future Land Use Designation:** Residential: Low Density Rural Estate

**Subject to A1A Scenic Corridor IDO?:** NO

**Description of Use:** Utility, City of Flagler Beach Potable Water Well #12R

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

**Date:** 12/26/17

****OFFICIAL USE ONLY**

**PLANNING BOARD RECOMMENDATION/ACTION:**

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

**Signature of Chairman:**

**Date:**

- approved with conditions, see attached

**BOARD OF COUNTY COMMISSIONERS ACTION:**

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

**Signature of Chairman:**

**Date:**

- approved with conditions, see attached

**NOTE:** The applicant or a representative must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application.
GRANT OF EASEMENT

THIS GRANT OF EASEMENT (this “Easement”), made this 8th day of November, 2007, between THE RESERVE, LLC, a Delaware limited liability company, hereinafter called Grantor, whose address for notice purposes is 10739 Deerwood Park Boulevard, Suite 300, Jacksonville, Florida 32256, and THE CITY OF FLAGLER BEACH, a municipal corporation, hereinafter called Grantee, whose address for notice purposes is 105 South 2nd Street, Flagler Beach, Florida 32136.

RECITALS:

A. Grantee is the owner of certain existing well sites more particularly described on Exhibit A attached hereto and incorporated herein (the “Existing Well Sites”).

B. Grantor is the owner of certain real property located in Flagler County, Florida, more particularly described in Exhibit B attached hereto and incorporated herein (the “Grantor’s Property”).

C. In connection with the relocation of the Existing Well Sites onto Grantor’s Property, Grantee desires to obtain from Grantor, and Grantor desires to grant to Grantee a non-exclusive, perpetual, relocatable easement in, on, over, under, through a portion of the Grantor’s Property more particularly described on Exhibit C attached hereto and incorporated herein (the “Easement Property”) for the purposes of ingress and egress and to install, maintain, and repair pipe lines or mains, and wells for the purposes of extracting water from and conveying water over, across, through and under the Easement Property, for the location of said wells, pipe lines or mains and the further right to remove trees, bushes, undergrowth, and other obstacles such as may be deemed necessary for the installation and maintenance of said wells, pipe lines and all mains (the “New Well Sites”).

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The above stated recitals are true and correct and hereby incorporated herein by reference.

2. Grant of Easement. Subject to the terms, covenants and conditions hereinafter set forth, Grantor does hereby grant and convey unto Grantee, a non-exclusive perpetual, relocatable easement in, on, over, under, through a portion of the Easement Property for the purposes of
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3. Abandonment of Existing Well Sites. Within 180 days of completion of all the new well site improvements as evidenced by acceptance of same by the applicable governmental agencies (including the Florida Department of Environmental Protection and the St. Johns River Water Management District), the City agrees at its sole cost and expense to remove all aboveground improvements located on the Existing Well Sites, or otherwise abandon the Existing Well Sites in compliance with all regulatory and governmental requirements. The Grantee shall not be required to make any additional improvements to the Existing Well Sites not otherwise required for the abandonment of the same, by the applicable regulatory or governmental entity which has oversight over the abandonment of the Existing Well Sites, except for the removal of all existing above ground improvements. Once the Existing Well Sites have been abandoned, the Grantee will vacate and/or convey title to the property of the Existing Well Sites to Grantor or its designee. In the event improvements located on the Existing Well Sites have not been removed after the Existing Well Site has been abandoned, such improvements shall be deemed abandoned by the Grantee and the Grantor, may, at its sole discretion, enter upon the property and remove such improvements without any further consent from the Grantee, and the Grantor may thereafter deliver an invoice to the Grantee for the costs of removing such improvements. In the event the Grantee fails to abandon the Existing Well Sites, in addition to any other remedies available, the Grantor shall have the right to terminate the Easement without the consent or joinder of the Grantee and remove any improvements related to the New Well Sites at the expense of the Grantee. Once the Grantee has abandoned the Existing Well and Grantee has vacated and/or conveyed title to the property of the Existing Well Sites to Grantor or its designee, at the request of Grantee, Grantor shall enter into and record an acknowledgement that such condition has been satisfied and any termination of this Easement shall thereafter require the consent and joinder of Grantee.

4. Right of Relocation. Grantor shall have the right from time to time to relocate all or any portion of the easement granted herein provided that Grantor pays the cost of any reconstruction of the improvements related to such easement as may be required for such relocation, and provided Grantee has a reasonable opportunity to review and approve such relocation of the easement. Subject to the provisions of this paragraph, Grantee agrees to execute any documents presented by Grantor to evidence any such relocation and to terminate the portions of the easements that have been relocated by Grantor. Grantee shall not unreasonably withhold consent to any relocation of the easement granted herein, provided the relocated easement shall provide materially the same easement as granted herein and shall not materially affect the water quality of the well site and any relocation is consistent with all regulatory or governmental requirements.
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5. **Number and Gender.** The captions and headings are for convenience only and are not intended to be used in construing any provision of this Agreement. Singular and plural shall each include the other where appropriate, words of any gender shall include other genders when the context so permits.

6. **Governing Law and Venue.** The laws of the State of Florida shall govern this Easement Agreement.

7. **Severability.** In the event any provision of this Agreement shall be determined to be void, unlawful or otherwise unenforceable, such provision shall be deemed severable from the remainder of this Agreement and such void, unlawful or unenforceable provision shall be replaced automatically by a provision containing terms as nearly as possible to the void, unlawful or unenforceable provision, but which still remains valid and enforceable; and this Agreement as so modified shall continue to be in full force and effect.

8. **Covenants Running With the Land.** This Agreement and the rights, obligations and easements created and granted in this Agreement shall be appurtenant to and run with fee title to the Grantor’s Property and the Grantee’s Property, and shall be for the benefit of and binding upon the parties and their respective successors and assigns.

9. **Attorneys’ Fees.** In the event that either the Grantor or Grantee are required to enforce this Agreement by litigation, then the prevailing party in such litigation shall be entitled to collect its costs and reasonable attorneys’ fees incurred in connection with such litigation from the non-prevailing party, whether in pre-litigation preparation, trial, appeal, and in any bankruptcy or collection proceedings.

10. **Amendment.** This Agreement shall not be changed, amended or modified except by an instrument in writing, executed by the Grantor and Grantee or their designated successor or assign in title to the Grantor’s Property or Grantee’s Property. Notwithstanding anything to the contrary contained herein, the Grantor and Grantee reserve the right, with the consent of only Grantor and Grantee, to unilaterally amend, reissue, modify, or terminate this Agreement and the easements created hereby.

11. **Counterparts.** This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original and all of which together will constitute one and the same instrument.

*This space intentionally left blank*
IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date.

Signed, sealed and delivered in the presence of:

[Signature]

Print Name: [Print Name]

"Grantor"

THE RESERVE, LLC, a Delaware limited liability company

By: LandMar Group, LLC, a Delaware limited liability company, its sole member

By: LandMar Management, LLC, a Delaware limited liability company, its manager

By: [Signature]

Print Name: [Print Name]

Its Vice President

STATE OF FLORIDA
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6th day of October, 2007, by [Signature], the Vice President of LandMar Management, LLC, a Delaware limited liability company, the manager of LandMar Group, LLC, a Delaware limited liability company, the sole member of The Reserve, LLC, a Delaware limited liability company, on behalf of the limited liability companies.

[Signature]

(Print Name Barbara Posella)

NOTARY PUBLIC
State of Florida at Large
Commission # 1D436601
My Commission Expires: June 2, 2009
Personally Known to or Produced ID
Type of Identification Produced

BARBARA A POSELLA
MY COMMISSION #: 1D436601
EXPIRED: June 2, 2009
(954) 928-2103 Public Notary Service.com
Signed, sealed and delivered in the presence of:

Robert M. Smith
Print Name:

Penny Overstreet
Print Name:

THE CITY OF FLAGLER BEACH, a municipal corporation

By: Alice Baker
Its Mayor

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 27th day of October, 2007, by Alice Baker, as Mayor of the City of Flagler Beach.

Penny Overstreet
(Print Name)
NOTARY PUBLIC
State of Florida at Large
Commission # JIM 37983
My Commission Expires: 3/22/2012
Personally Known [x] or Produced ID [ ]
Type of Identification Produced [ ]
Exhibit A

Existing Well Sites
Exhibit B

Grantor's Property
Exhibit C

Easement Property
SEE SHEET 2 OF 2 FOR LEGAL DESCRIPTION, NOTES, LEGEND/ABBREVIATIONS, SIGNATURE AND SEAL.
LEGAL DESCRIPTION

A PORTION OF LANDS PER OFFICIAL RECORDS BOOK 1329, PAGE 1277, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN GOVERNMENT SECTION 17, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE SOUTHEAST CORNER OF GOVERNMENT SECTION 17, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE S89°02'14"W ALONG THE SOUTH LINE OF SAID GOVERNMENT SECTION 17 FOR A DISTANCE OF 3,857.34 FEET; THENCE DEPARTING SAID SOUTH LINE N00°57'46"W FOR A DISTANCE OF 719.79 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE S89°24'45"W FOR A DISTANCE OF 160.00 FEET TO THE EASTERY LINE OF FLAGLER COUNTY AIRPORT LANDS PER DEED DUKE 46, PAGE 33, UP THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE NO0°35'15"E ALONG SAID EASTERY LINE FOR A DISTANCE OF 200.00 FEET; THENCE S90°35'15"E FOR A DISTANCE OF 160.00 FEET TO THE AFOREMENTIONED POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINING 32,000 SQ. FT. OR 0.734 ACRES MORE OR LESS.

SURVEYOR'S NOTES:

1. BEARINGS BASED ON THE SOUTH LINE OF GOVERNMENT SECTION 17, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING S89°02'14"W.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR/MAPPER.
3. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS SKETCH THAT MAY BE FOUND IN THE COUNTY PUBLIC RECORDS.
4. THIS IS A GRAPHIC ILLUSTRATION FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO DEPICT A FIELD SURVEY. THIS IS NOT A BOUNDARY SURVEY.

ABBREVIATIONS:

C=CURVE
D=DELTA
R=RADIUS
L=LENGTH
O=ODOR
TH=TANGENT BEARING
CN=CHORD BEARING
R=RIGHT OF WAY
E=CENTRE LINE
PC=PERMANENT CONTROL POINT
PO=POINT OF CURVE
PI=POINT OF TANGENCY
PIE=POINT OF INTERSECTION
PB=PLAT BOOK
PG=PAGE
PO=POINT OF BEGINNING
PM=POINT OF COMMENCEMENT
MAP=MAP BOOK
S/SEC=SECTION
R/RANGE=RAY
W/TOWNSHIP=WAY
I=IDENTIFICATION
C=CONCRETE
R=RECORD
F=FIELD MEASURED
OF=OFFICIAL RECORD BOOK
(N)=NON-RADIAL
(R)=RADIAL

SKETCH AND DESCRIPTION

PROJECT NO. 7020FLBC
DRAWING REFERENCE NO. 7020-BL2
DATE: 07/23/2007
SHEET NO. 2 OF 2

TOMOKA ENGINEERING
Civil Engineering & Land Surveying Since 1976
Daytona Beach
Flagler/Palm Coast
Main Office: 140 LPGA Blvd, Suite 143, Daytona Beach, FL 32114
Phone: 386-274-3007
Fax: 386-274-3002
web: tomokaengineering.com
email: info@tomokaengineering.com

SIGNATURE:
KENNETH J. KUKAR
FLA PROFESSIONAL SURVEYOR/MAPPER #5905

Confidential and protected by law.
LEGAL DESCRIPTION:
A PORTION OF LANDS PER OFFICIAL RECORDS BOOK 1375, PAGE 1329, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE SOUTHEAST CORNER OF SAID GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE DEPARTING SAID SOUTH LINE OF SECTION 29 FOR A DISTANCE OF 2,454.79 FEET; THENCE DEPARTING SAID SOUTH LINE OF SECTION 29, N02°01'27"W FOR A DISTANCE OF 884.76 FEET TO A POINT ON THE NORTHERLY LINE OF LANDS PER OFFICIAL RECORDS BOOK 1454, PAGE 152, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE ALONG SAID NORTHERLY LINE N74°25'57"W FOR A DISTANCE OF 79.81 FEET; THENCE CONTINUING ALONG SAID NORTHERLY LINE N90°00'00"W FOR A DISTANCE OF 85.88 FEET; THENCE DEPARTING SAID NORTHERLY LINE N05°02'15"W FOR A DISTANCE OF 171.74 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LANDS PER OFFICIAL RECORDS BOOK 1329, PAGE 1277; THENCE ALONG SAID SOUTHERLY LINE N73°59'55"E FOR A DISTANCE OF 190.45 FEET; THENCE DEPARTING SAID SOUTHERLY LINE S12°32'04"E FOR A DISTANCE OF 128.88 FEET; THENCE S15°34'03"W FOR A DISTANCE OF 123.73 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINING 38,885 Sq. Ft. OR 0.893 ACRES, MORE OR LESS.
LEGAL DESCRIPTION:

A PORTION OF LANDS PER OFFICIAL RECORDS BOOK 1329, PAGE 1277, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

AS A POINT OF REFERENCE, COMMENCE AT THE SOUTHEAST CORNER OF SAID GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, THEN CHORD 587'58.33'W ALONG THE SOUTH LINE OF SAID SECTION 29 FOR A DISTANCE OF 2,454.79 FEET; THEREAFTER CHORDING SOUTH LINE OF SAID SECTION 29, N02°01'27"W FOR A DISTANCE OF 884.76 FEET TO A POINT ON THE NORTHERLY LINE OF LANDS PER OFFICIAL RECORDS BOOK 1459, PAGE 152, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THEREAFTER CHORDING NORTHERLY LINE N74°25'57"W FOR A DISTANCE OF 79.81 FEET; THEREAFTER CHORDING ALONG SAID NORTHERLY LINE N80°00'00"W FOR A DISTANCE OF 85.86 FEET; THEREAFTER CHORDING SAID NORTHERLY LINE N05°02'15"W FOR A DISTANCE OF 171.74 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LANDS PER OFFICIAL RECORDS BOOK 1329, PAGE 1277; THEREAFTER CHORDING SOUTHERLY LINE N73°59'55"E FOR A DISTANCE OF 23.85 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THEREAFTER CHORDING SAID SOUTHERLY LINE N16°44'35"E FOR A DISTANCE OF 220.26 FEET; THEREAFTER CHORDING SAID SOUTHERLY LINE N03°20'29"W FOR A DISTANCE OF 72.39 FEET TO A POINT ON THE SOUTHERLY LINE OF THE CITY OF FLAGLER BEACH WEIL SITE NUMBER 9, AS RECORDED IN OFFICIAL RECORDS BOOK 253, PAGE 29, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THEREAFTER CHORDING SAID SOUTHERLY LINE N88°28'29"E FOR A DISTANCE OF 15.05 FEET; THEREAFTER CHORDING SAID SOUTHERLY LINE S03°20'29"W FOR A DISTANCE OF 75.43 FEET; THEREAFTER CHORDING SAID SOUTHERLY LINE N16°44'35"W FOR A DISTANCE OF 212.38 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LANDS PER OFFICIAL RECORDS BOOK 1375, PAGE 1329; THEREAFTER CHORDING S73°59'55"W ALONG SAID NORTHERLY LINE FOR A DISTANCE OF 17.83 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINING 4.353 SQ. FT. OR 0.100 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:

1. BEARINGS BASED ON THE SOUTH LINE OF GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING 587'58.33'W.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR/MAPPER.
3. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS SKETCH THAT MAY BE FOUND IN THE COUNTY PUBLIC RECORDS.
4. THIS IS A GRAPHIC ILLUSTRATION FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO DEPICT A FIELD SURVEY. THIS IS NOT A BOUNDARY SURVEY.

ABBREVIATIONS

C=CURVE
D=DELTAS
R=radius
L=LENGTH
Ch=Chord
T=B=TANGENT BEARING
DB=Direction Bearing
R=W=Right of Way
C=Center Line
PC=P=Point of Curve
PT=P=Point of Tangency
PS=P=Point of Intersection
PB=Point of Beginning
PS=Point of Setting
PO=Point of Course
POC=Point of Beginning
POC=Point of Course
MR=Map Book
S=SECT=SECTION
R=Range
L=Identification
G=G=Geodetic
P=P=Plate
F=F=EASTING
N=NORTING
R=REFERENCES
FT=Feet
survey
map
this
sketch
includes
these
items
and
certain
information
which
may
be
found
in
the
County
Public
Records.

TOMOKA ENGINEERING

CIVIL ENGINEERING & LAND SURVEYING SINCE 1979

2040 NW 200th Street, Suite 163, Daytona Beach, FL 32116

Phone 386-274-8100  Fax 386-274-8102

email: tomokasurveying@tomoka-engineering.com  website: www.tomoka-engineering.com

DATE: 08/13/2007

SHEET NO. 2 OF 2

PROJECT NO. T7020FLBCH

DRAWING REFERENCE NO. 7020-SL3A

SKETCH AND DESCRIPTION
LEGAL DESCRIPTION

A PORTION OF LANDS PER OFFICIAL RECORDS BOOK 1329, PAGE 1277, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE SOUTHEAST CORNER OF SAID GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, THENCE S58°08'33"W ALONG THE SOUTH LINE OF SAID SECTION 29 FOR A DISTANCE OF 2,223.08 FEET; THENCE DEPARTING SAID SOUTH LINE OF SECTION 29, NO2°01'27"W FOR A DISTANCE OF 2,261.13 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE S88°27'23"W FOR A DISTANCE OF 151.12 FEET TO A POINT OF CURVATURE; THENCE SOUTH-WESTERLY ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 157.38 FEET, A RADIUS OF 475.00 FEET, AND A CENTRAL ANGLE OF 18°59'03", A CHORD BEARING OF 57°57'51"W AND A CHORD DISTANCE OF 156.67 FEET TO A POINT OF TANGENCY; THENCE S69°28'19"W FOR A DISTANCE OF 31.18 FEET TO THE EASTERLY LINE OF A 40'-FOOT WIDE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 425, PAGE 27, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE N01°30'58"W ALONG SAID EASTERLY EASEMENT LINE FOR A DISTANCE OF 52.78 FEET; THENCE DEPARTING SAID EASTERLY EASEMENT LINE NO2°30'34"E FOR A DISTANCE OF 14.36 FEET TO A POINT OF CURVATURE; THENCE NORTH-EASTERLY ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 124.58 FEET, A RADIUS OF 529.00 FEET, A CENTRAL ANGLE OF 113°35'45", A CHORD BEARING OF S16°51'12"W AND A CHORD DISTANCE OF 124.29 FEET TO A NON-TANGENT LINE; THENCE DEPARTING SAID CURVE ALONG SAID LINE NO2°13'37"W FOR A DISTANCE OF 66.82 FEET; THENCE N89°33'34"E FOR A DISTANCE OF 200.04 FEET; THENCE S01°32'39"E FOR A DISTANCE OF 60.64 FEET; THENCE S02°01'15"E FOR A DISTANCE OF 50.00 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINING 29,517 SQ. FT. OR 0.677 ACRES, MORE OR LESS.

SIGNED ________________

KENNETH J. KIERNAN
FLA. PROFESSIONAL SURVEYOR/MAPPER #6105

ABBREVIATIONS

C=CURVE
D=DEGREE
R=INPUT
L=LENGTH
Q=RIGHT
TBN=RIGHT
B=CHORD BEARING
O=CHORD
C=RIGHT
PI=POINT OF CURVE
PT=POINT OF TANGENCY
FN=FOOT
PM=PLAT BOOK
EU=EUCLIDEAN
SQ=SQ. FEET
PO=POINT OF BEGINNING
PC=POINT OF COMMISSION
SR=SINUOUS
S=SECTION
R=RANGE
T=TOWNSHIP
I=IDENTIFICATION
C=CONCRETE
R=RECORD
F=FIELD
N=NON-RADIAL
R=RADIAL
AC=ACRES

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Phone 386-274-6600 Fax 386-274-1022
email: tomoka@tomoka-eng.com website: www.tomoka-eng.com

SKETCH AND DESCRIPTION
PROJECT NO. 77200FLBCH
DRAWING NUMBER 7020-68
DATE 04/25/2007
SHEET NO. 2 OF 2
LEGAL DESCRIPTION

A PORTION OF LANDS PER OFFICIAL RECORDS BOOK 1329, PAGE 1277, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMENCE AT THE SOUTHEAST CORNER OF SAID GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST; THENCE 587'58.33"W ALONG THE SOUTH LINE OF SAID SECTION 29 FOR A DISTANCE OF 2,222.57 FEET; THENCE DEPARTING SAID SOUTH LINE OF SECTION 29, N20°01'27"W FOR A DISTANCE OF 2,371.77 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE 589.3374"W FOR A DISTANCE OF 200.04 FEET; THENCE N10°13'27"W FOR A DISTANCE OF 135.90 FEET; THENCE N88°27'21"N FOR A DISTANCE OF 200.00 FEET; THENCE S01°32'37"E FOR A DISTANCE OF 139.36 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINING 27,488 Sq. Ft. OR 0.631 ACRES, MORE OR LESS.

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SURVEYOR'S NOTES:

1. BEARINGS BASED ON THE SOUTH LINE OF GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING 587'58.33"W.

2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR / MAPPER.

3. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS SKETCH THAT MAY BE FOUND IN THE COUNTY PUBLIC RECORDS.

4. THIS IS A GRAPHIC ILLUSTRATION FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO DEPICT A FIELD SURVEY. THIS IS NOT A BOUNDARY SURVEY.

ABBREVIATIONS

D - DRAPE
S - DELTA
L - PAGE
N - LENGTH
C = CHORD
T = TANGENT BEARING
W = COMPUTE
N = CENTER LINE
PO = POINT OF BEGINNING
PC = POINT OF CURVE
P = POINT OF INTERSECTION
P = SQUARE FEET
PO = POINT OF BEGINNING
S = SECT = SECTION
R = RANGE
T = TOWNSHIP
N = IDENTIFICATION
C = CONCRETE
R = RECORD
F = FIELD MEASURED
O = OFFICIAL RECORD BOOK
R = NON-RADIAL
R = RADIAL

SIGNED
KENNETH J. KUNAR
FLA. PROFESSIONAL SURVEYOR/MAPPER #6105

TOMOKA ENGINEERING
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SKETCH AND DESCRIPTION

PROJECT NO. T7020FLBCH
DRAWING REFERENCE NO. 7020-5L5
DATE: 04/25/2007
SHEET NO. 2 OF 2
In the Matter of an Application for Permit by:

Mr. Fred Griffith, P.E., City Engineer
City of Flagler Beach
105 Second Street
Flagler Beach, Florida 32136
Email: fgriffith@cityofflaglerbeach.com

Permit Number.: 0080281-025-WC
Project Name: PW Well 12R
County: Flagler

NOTICE OF PERMIT ISSUANCE

Enclosed is Permit Number 0080281-025-WC to construct replacement well 12R and raw water piping. This permit is issued pursuant to Chapter 403.087(1), Florida Statutes.

This permit is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with the paragraphs below or unless a request for extension of time in which to file a petition is filed within the required timeframe and conforms to Rule 62-110.106(4), F.A.C. Upon timely filing of a petition or a request for an extension, this permit will not be effective until further Order of the Department.

A person whose substantial interests are affected by this permit may petition for an administrative proceeding (hearing) in accordance with sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) with the Agency Clerk for the Department of Environmental Protection, Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, within 14 days of receipt of this Notice. Petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, F.A.C.
A petition must contain the following information:

(a) The name and address of each agency affected and each agency’s file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner’s substantial interests will be affected by the agency determination;

(c) A statement of how and when the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts which petitioner contends warrant reversal or modification of the Department’s action;

(f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department’s action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by petitioner, stating precisely the action that the petitioner wants the Department to take.

A petition that does not dispute the materials facts on which the Department’s action is based shall state that no such facts are in dispute and otherwise contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that, the Department’s final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any such final decision of the Department on the petition have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

When the Order (Permit) is final, any party to the Order has the right to seek judicial review of the Order pursuant to section 120.68 of the Florida Statutes, by filing a Notice of Appeal pursuant to Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jeffrey S. Martin, P.E.
Chief Engineer
Water and Wastewater Permitting

CERTIFICATION OF SERVICE/ FILING AND ACKNOWLEDGEMENT

FILED, on October 13, 2017, under Section 120.52, Florida Statutes, with the designated Deputy Clerk, receipt of which is hereby acknowledged. The undersigned hereby certifies that this NOTICE OF PERMIT ISSUANCE and all copies were mailed before the close of business on October 13, 2017, to the listed persons.

cc: Kevin A. Lee, P.E., QLH, A Mead & Hunt Company, kevin.lee@meadhunt.com
    Jim Orr, E.I., FDEP, Jim.Orr@dep.state.fl.us
    Jeff Martin, P.E., FDEP, Jeff.Martin@dep.state.fl.us
    Joni Petry, FDEP, Joni.Petry@dep.state.fl.us
    Shane Tierney, FDEP, Shane.Tierney@dep.state.fl.us
    Alisha Simpson, FDEP, Alisha.Simpson@dep.state.fl.us
PERMITTEE: Mr. Fred Griffith, P.E., City Engineer
City of Flagler Beach
105 Second Street
Flagler Beach, Florida 32136
Email: fgriffith@cityofflaglerbeach.com:

PUBLIC WATER SYSTEM ID: 2180349
PERMIT NUMBER: 0080281-025-WC
EFFECTIVE DATE: October 13, 2017
EXPIRATION DATE: October 12, 2022
COUNTY: Flagler
PROJECT: PW Well 12R

This permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Chapters 62-4, 62-550, 62-555 and 62-560. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawings, plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

TO CONSTRUCT: construct replacement well 12R and raw water piping.

PROPOSED CONSTRUCTION INCLUDES:

The components that will be installed as part of the project consist of a 20-hp submersible pump with a pumping capacity of 350 gpm, one 8” propeller flow meter, approximately 10 LF of 8” DIP, approximately 34 LF of 8” HDPE raw water main and associated valves and appurtenances.

IN ACCORDANCE WITH: The permit application package received by the Department on September 5, 2017 and subsequent information submitted to the Department through October 12, 2017.

LOCATION: The Flagler Beach WTP is located at 4680 Seminole Woods, Flagler Beach, Florida 32136.

Work must be conducted in accordance with the General and Specific Conditions, attached hereto.
GENERAL CONDITIONS:

The permittee shall be aware of and operate under the Permit Conditions below. These applicable conditions are binding upon the permittee and enforceable pursuant to Chapter 403, Florida Statutes. [F.A.C. Rule 62-555.533(1)]

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.

4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
   a. Have access to and copy any records that must be kept under conditions of the permit;
   b. Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
   c. Sample or monitor any substances or parameters at any location reasonable necessary to assure compliance with this permit or Department rules.

   Reasonable time may depend on the nature of the concern being investigated.
8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
   a. A description of and cause of noncompliance; and
   b. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to elevate, eliminate, and prevent recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.

11. This permit is transferable only upon Department approval in accordance with Rule 62-4.120 and 62-730.300 F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof shall be kept at the work site of the permitted activity.

13. This permit also constitutes:
   a. Determination of Best Available Control Technology (BACT)
   b. Determination of Prevention of Significant Deterioration (PSD)
   c. Certification of compliance with state Water Quality Standards (Section 401, PL 92-500)
   d. Compliance with New Source Performance Standards

14. The permittee shall comply with the following:
   a. Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
   b. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
   c. Records of monitoring information shall include:
      1. the date, exact place, and time of sampling or measurements;
      2. the person responsible for performing the sampling or measurements;
      3. the dates analyses were performed;
      4. the person responsible for performing the analyses;
      5. the analytical techniques or methods used;
6. the results of such analyses.

15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

SPECIFIC CONDITIONS:

1. All construction must be in accordance with this permit. Before commencing work on project changes for which a construction permit modification is required per 62-555.536(1), the permittee shall submit to the Department a written request for a permit modification. Each such request shall be accompanied by one copy of a revised construction permit application, the proper processing fee and one copy of either a revised preliminary design report or revised drawings, specifications and design data. [F.A.C. Rule 62-555.536]

2. Permitted construction or alteration of public water supply systems must be supervised during construction by a professional engineer registered in the State of Florida if the project was designed under the responsible charge of a professional engineer licensed in the State of Florida. The permittee must retain the service of a professional engineer registered in the State of Florida to observe that construction of the project is in accordance with the engineering plans and specifications as submitted in support of the application for this permit. [F.A.C. Rule 62-555.520(3)]

3. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoe remains, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section at 850.245.6333 or 800.847.7278, as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources and the permitting agency. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.

4. In accordance with General Condition #11 of this permit, this permit is transferable only upon Department approval. Persons proposing to transfer this permit must apply jointly for a transfer of the permit within 30 days after the sale or legal transfer of ownership of the permitted project that has not been cleared for service by the Department using form, 62-555.900(8), Application for Transfer of a PWS Construction Permit along with the appropriate fee. [F.A.C. Rule 62-555.536(5)]

5. This permit satisfies Drinking Water permitting requirements only and does not authorize construction or operation of this facility prior to obtaining all other necessary permits from other program areas within the Department, or required permits from other state, federal, or local agencies.

6. Permittee shall ensure that the well and drinking water treatment facilities will be protected to prevent tampering, vandalism, and sabotage as required by Rule 62-555.315(1) & 62-555.320(5), F.A.C.
7. All products, including paints, which shall come into contact with potable water, either directly or indirectly, shall conform with National Sanitation Foundation (NSF) International, Water Chemicals Codex, Food Chemicals Codex, American Water Works Association (AWWA) Standards and the Food and Drug Administration, as provided in Rule 62-555.320(3), F.A.C.

8. Water supply facilities, including mains, pipe, fittings, valves, fire hydrants and other materials shall be installed in accordance with the latest applicable AWWA Standards and Department rules and regulations. The system shall be pressure and leak tested in accordance with AWWA Standard C600 C603, or C605, as applicable, and disinfected in accordance with AWWA Standard C651-653, as well as in accordance with Rule 62-555.340, F.A.C.

9. The installation or repairs of any public water system, or any plumbing in residential or nonresidential facilities providing water for human consumption, which is connected to a public water system shall be lead free in accordance with Rule 62-555.322, F.A.C.

10. The new or altered aboveground piping at the drinking water treatment plant shall be color coded and labeled as recommended in Section 2.14 of “Recommended Standards for Water Works, 1997 Edition”. [F.A.C. Rule 62-555.320(10)]

11. Permittee shall ensure that there shall be no cross-connection with any non-potable water source in accordance with Rule 62-555.360, F.A.C.

12. The supplier of water shall operate and maintain the public water system so as to comply with applicable standards in F.A.C. Rule 62-550 and 62-555.350.

13. The permittee shall provide an operation and maintenance manual for the new or altered treatment facilities to fulfill the requirements under subsection 62-555.350(13), F.A.C. The manual shall contain operation and control procedures, and preventative maintenance and repair procedures, for all plant equipment and shall be made available for reference at the plant or at a convenient location near the plant. Bound and indexed equipment manufacturer manuals shall be considered sufficient to meet the requirements of the subsection.


15. The permittee shall have complete record drawings produced for the project in accordance with Rule 62-555.530(4), F.A.C.

16. The permittee or suppliers of water shall telephone the State Warning Point (SWP), at 1-800-320-0519 immediately (i.e., within two hours) after discovery of any actual or suspected sabotage or security breach, or any suspicious incident, involving a public water system in accordance with the F.A.C. Rule 62-555.350(10).

17. The permittee must instruct the engineer of record to request system clearance from the Department within sixty (60) days of completion of construction, testing and disinfecting the system. Bacteriological test results shall be considered unacceptable if the test were completed more than 60 days before the Department received the results. [F.A.C. Rule 62-555.340(2)(c)]

18. This facility is a Community Water System as defined in F.A.C. Rule 62-550.200(12) and shall comply with the applicable chemical, radiological, lead and copper, and bacteriological monitoring...

19. The water treatment plant shall maintain throughout the distribution system a minimum continuous and effective free chlorine residual of 0.2 mg/l or its equivalent. A minimum system pressure of 20 psi must be maintained throughout the system. Also, safety equipment shall be provided and located outside of chlorine room.

20. Setback distances between potable water wells and sanitary hazards shall be in accordance with 62-555.312, F.A.C.

21. All new systems or systems that use a new source of water, including a new well, shall demonstrate compliance with all maximum contaminant levels. The system shall comply with the initial sampling frequencies as specified in chapter 62-555, F.A.C. Initial monitoring for Lead & Copper may be waived if the new source is verified, by a signed and sealed statement, documenting a Professional Geologist’s judgment that the new source is the same as the existing source, for existing facilities. [F.A.C. Rule 62-550.500]

Initial monitoring frequencies are as specified below:
- Synthetic Organic Contaminants (SOCs) – Quarterly
- Volatile Organic Contaminants (VOCs) – Quarterly
- Radionuclides – Quarterly
- Lead & Copper – Biannual

22. Prior to placing this project into service, Permittee shall submit, at a minimum, all of the following to the Department for evaluation and approval for operation, as provided in Rules 62-555.340 and 62-555.345, F.A.C.:
   a. the engineer’s Certification of Construction Completion and Request for Clearance to Place Permitted PWS Components Into Operation {DEP Form 62-555.900(9)};
   b. certified record drawings, if there are any changes noted for the permitted project.
   c. copy of a satisfactory pressure test of the process piping performed in accordance with AWWA Standards. [F.A.C. Rule 62-555.320(21)(a)(1)]
   d. two consecutive days of satisfactory distribution bacteriological analytical results.
   e. 10 satisfactory bacteriological analysis results performed on the raw water to be taken 10 consecutive weekdays, or taken twice a day, 6 hours apart for 5 consecutive weekdays;

In order to facilitate the issuance of a letter of clearance, the Department requests that all of the above information be submitted as one package.

Executed in Jacksonville, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Jeffrey S. Martin, P.E.
Chief Engineer
Water and Wastewater Permitting

Date: October 13, 2017
January 13, 2017

City of Flagler Beach
PO Box 70
Flagler Beach, FL 32136

SUBJECT: Water Well Construction Permit 148471 located in Flagler County

Dear Sirs/Madam:

Please find enclosed the permit for the above referenced project. Permit issuance does not relieve you from the responsibility of obtaining permits from any federal, state, and/or local agencies asserting concurrent jurisdiction for this work.

In the event you sell your property, the permit will be transferred to the new owner if we are notified by you within thirty (30) days of the recording of the sale. Please assist us in this matter so as to maintain a valid permit for the new property owner.

The permit enclosed is a legal document. Please read the permit carefully since you are responsible for compliance with any conditions which is a part of this permit. Compliance is a legal requirement and your assistance in this matter will be greatly appreciated.

If you have any questions concerning your permit, please do not hesitate to contact this office at (386) 329-4401.

Thank you for your interest in our water resources.

Sincerely,

Margaret Daniels, Office Director
Office of Business and Administrative Services

Cc: District Permit File
Contractor
Wesley Curtis
### STATE OF FLORIDA PERMIT APPLICATION TO CONSTRUCT, REPAIR, MODIFY, OR ABANDON A WELL

<table>
<thead>
<tr>
<th>Permit No.</th>
<th>148471-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida Unique ID</td>
<td></td>
</tr>
<tr>
<td>Permit Stipulations (Required) (See Attached)</td>
<td></td>
</tr>
<tr>
<td>62-524 Quad No.</td>
<td>Delinination No.</td>
</tr>
<tr>
<td>CUP/WUP Application No.</td>
<td>2B-035-59-5</td>
</tr>
</tbody>
</table>

**NOTE:** Not all types of wells are permitted by a given permitting authority.

1. **Owner, Legal Name if Corporation**
   - Flagler Beach
2. **City of Flagler Beach**
   - PO Box 70
   - FL 32136
3. **State**
   - FL
4. **Telephone Number**
   - (386)517-2000

**Remediation:**

- **Recharge**
- **Commercial/Industrial Disposal**
- **Aquefer Storage and Recovery**
- **Drainage**

**Remediation (Describe):**

<table>
<thead>
<tr>
<th>Reason for Remedial Work</th>
<th>Other (Describe)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recovery</td>
<td>Recovery</td>
</tr>
<tr>
<td>Air Sparge</td>
<td>Other</td>
</tr>
<tr>
<td>Other (Describe)</td>
<td>Official Use Only</td>
</tr>
</tbody>
</table>

5. **Type of Work:**
   - X Construction
   - Repair
   - Modification
   - Abandonment

6. **Number of Proposed Wells:** 1

7. **Construction, Repair, or Abandonment:**
   - X Sheet
   - X Sheet

8. **Description:**
   - Domestic
   - Landscape Irrigation
   - Agricultural Irrigation
   - Site Investigation
   - Open Hole: From 110 to 200 ft.

9. **Primary Casing Material:**
   - Black Steel
   - Galvanized
   - PVC
   - Stainless Steel

10. **Seal Material:**
    - Bentonite
    - Neat Cement
    - Other

11. **Method of Construction, Repair, or Abandonment:**
    - Auger
    - Cable Tool
    - Jetted
    - Rotary
    - Sonic

12. **Date of Completion:**
    - 01/10/2017

13. **Facility Description:**
    - Well site
    - 12. Estimated Start Date 01/01/2017

14. **Estimated Screen Interval:**
    - From To ft.

15. **Primary Casing Material:**
    - Black Steel
    - Galvanized
    - PVC
    - Stainless Steel

16. **Secondary Casing:**
    - Cone Boring
    - Rotary
    - Sonic

17. ** custody:**
    - Auger
    - Cable Tool
    - Jetted
    - Rotary
    - Sonic

18. **Method of Construction, Repair, or Abandonment:**
    - Drilled
    - Grouted
    - Perfused
    - Other

19. **Proposed Grouting Interval for the Primary, Secondary, and Additional Casing:**
    - X Shft
    - X Shft

20. **Indicate total number of existing wells on site:** 2

21. **Is this well or any existing well or water withdrawal on the owner's contiguous property covered under a Consumptive/Water Use Permit (CUP/WUP) or CUP/WUP Application?**
    - X Yes
    - No

22. **Latitude:** 292723.0004
    - Longitude: 811206.9948

23. **Data Obtained From:**
    - GPS
    - Map
    - Survey

I hereby certify that I will comply with the applicable rules of Title 40, Florida Administration Code, and that a water use permit or artificial recharge permit, if needed, has been or will be obtained prior to commencement of well construction. I further certify that information provided in this application is accurate and that I will obtain necessary approval from other federal, state, or local governments, if applicable. I agree to provide a well completion report to the District within 30 days after completion of the construction, repair, modification, or abandonment authorized by this permit, or the permit expiration, whichever occurs first.

**George W Freeman**

**Signature of Contractor**

**City of Flagler Beach**

**Signature of Owner or Agent**

**Date**

**Below this line – for official use only**

**Approval Granted By**

**Issue Date**

**Expiration Date**

**Hydrologist Approval**

**Fee Received $ 250**

**Receipt No. 65638**

**Check No. OnLine-31531984-364623**
Comments:

*General Site Map of Proposed Well Location

Identify known roads and landmarks. Give distances from all reference points or structures, septic systems, sanitary hazards, and contamination sources, if applicable.
"EXHIBIT A"
CONDITIONS FOR ISSUANCE OF PERMIT NUMBER 148471-1
City of Flagler Beach 12 Inch UFA PWS Replacement Well 12R, CUP 59, STN 459664
DATE ISSUED January 13, 2017

1. The well contractor shall submit to the District a Well Completion Report in a District-approved format within 30 days of the completion of the construction, repair, or abandonment authorized by this permit.

2. The water well contractor shall notify a District field representative no less than 24 hours prior to initiating construction or grouting operations. The District field representative for this water well construction permit is Wesley Curtis, phone number (386) 329-4252, or cell number (386) 937-0600.
1. **Permit Number**: 148471
2. **Number of permitted wells constructed, repaired, or abandoned**: 1
3. **Owner's Name**: City of Flagler Beach
4. **Completion Date**: 04/07/2017
5. **Florida Unique ID**: __________
6. **PALM COAST; FL - 32164**
7. **Latitude**: 292722.9788
   **Longitude**: 811206.9876
8. **Data Obtained From**: GPS
9. **Survey Datum**: NAD 27
10. **Type of Work**: Construction
11. **Specify Intended Use(s) of Well(s):**
    - Domestic
    - Agriculture Irrigation
    - Bottled Water Supply
    - Public Water Supply (Limited Use/DOH)
    - Public Water Supply (Community or Non-Community/DEP)
    - Class I Injection
    - Class V Injection
    - Commercial/Industrial Disposal
    - Aquifer Storage and Recovery
12. **Drill Method**: Auger
13. **Measured Static Water Level**: 18.5 ft
14. **Recovery Air Sparge**: __________
15. **Total Well Depth**: 202 ft
16. **Abandonment**
17. **Surface Casing Diameter and Depth**
18. **Primary Casing Diameter and Depth**
19. **Liner Casing Diameter and Depth**
20. **Telescope Casing Diameter and Depth**
21. **Pump Type (If known):** Centrifugal
22. **Chemical Analysis (When Required):**
    - Iron __________ ppm
    - Sulfate __________ ppm
    - Chloride __________ ppm
23. **Driller's Name (Print or Type)**
24. **License Number**: 2737
25. **E-mail Address**: geofreeman@comcast.net

**Remediation:**
- Recovery
- Air Sparge
- Other (__________)

**Repair:**

**Modification:**

**Abandonment:**

**Delegated Authority (If Applicable)**

**State of Florida Well Completion Report**

**Date Stamp**

**Confirmation#** 377721

**Date: 05/05/2017**

**DEP Form 62-532.900(2) Incorporated in 62-532.410, F.A.C. Effective Date: October 7, 2010 Page 1 of 3**
**DRILL CUTTINGS LOG** (Examine cuttings every 20 ft. or at formation changes. Note cavities and depth to producing zone. Grain Size: F=Fine, M=Medium, and C=Coarse)

<table>
<thead>
<tr>
<th>From ft.</th>
<th>To ft.</th>
<th>Color</th>
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**Comments:**
Attended are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

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

No Comments at this time

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. Public record indicates that the owner of the subject property is JTL Grand Landings Development, LLC. Provide an Owner's Authorization signed by the property owner for this application. The County acknowledges the Grant of Easement for multiple well sites and associated appurtenances, the use also lies within the boundary of the property owned by JTL Grand Landings Development, LLC.
2. Sec. 6.03.03.B, FCLDC, establishes 200-foot radius from proposed wellhead zone of exclusion prohibiting incompatible land uses. Zoning of the subject parcel is I-PUD, which permits possible incompatible industrial uses. Please depict 200-foot radius on plan.

REVIEWING DEPARTMENT: FLAGLER COUNTY AIRPORT

1. The proposed well site will not create a hazard to the airport or to air navigation.

2. City of Flagler Beach will need to create or improve an existing road to access their well sites. The access they have used in the past is only available with an airport escort. The previous access now traverses the Runway Safety Area (RSA) due to the relocation and extension of Runway 11-29. Airport personnel will continue to work with the Flagler Beach Utility Department during normal working hours for access.

3. During construction of the new well site the contractor shall contact the Airport Administration Office (386-313-4220) 72 hours prior to the use of a crane with a boom height higher than 75 ft.
REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

Wells 6" in diameter or larger are permitted and inspected directly by the St. Johns River Water Management District.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

Provide detailed documentation that the project meets the requirements of Section 6.03.00 of the Flagler County Land Development Code with regard to Wellfield Protection.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

LDC 3.06.05.C lists a number of findings the Planning Bd must make, mainly that the use is consistent with the Comp Plan and necessary or desirable for projected community needs.
January 22, 2018

Wendy A. Hickey
Planner
Growth Management Department
Flagler County Board of County Commissioners
1769 E. Moody Blvd, Bldg # 2
Bunnell, FL 32110

Subject: Flagler Beach Well #12R, TRC Comments
Project #2017120047, Application #3123

Dear Wendy:

This letter is in response to the Technical Review Committee (TRC) comments discussed at the January 17, 2018 TRC meeting, for the above referenced project. The TRC questions are provided in bold with responses below.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. No Comments at this time

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. Public record indicates that the owner of the subject property is JTL Grand Landings Development, LLC. Provide an Owner's Authorization signed by the property owner for this application. The County acknowledges the Grant of Easement for multiple well sites and associated appurtenances, the use also lies within the boundary of the property owned by JTL Grand Landings Development, LLC.

The Well #12R site is a 200ft x 160ft easement in the parcel owned JTL Grand Landings Development, LLC. The easement is recorded with Flagler County and previously provided to the planning department with this application. The easement was granted “…for the purposes of ingress and egress and to install, maintain, and repair pipe lines or mains, and wells…” Therefore; we feel that the installation of this replacement Well #12R is in accordance with the existing easement granted to the City of Flagler Beach.

The TRC indicated that the underlying property owner was notified about the proposed construction. In addition, the public notice period will provide adequate time for response from the property owner. The City requests that an Owner's Authorization not be required.

2. Sec. 6.03.03.B, FCLDC, establishes 200-foot radius from proposed wellhead zone of exclusion prohibiting incompatible land uses. Zoning of the subject parcel is I-PUD, which permits possible incompatible industrial uses. Please depict 200-foot radius on plan.

The 200-foot radius for the wellhead zone of exclusion was added to the plans.
REVIEWING DEPARTMENT: FLAGLER COUNTY AIRPORT

1. The proposed well site will not create a hazard to the airport or to air navigation.
   
   Noted

2. City of Flagler Beach will need to create or improve an existing road to access their well sites. The access they have used in the past is only available with an airport escort. The previous access now traverses the Runway Safety Area (RSA) due to the relocation and extension of Runway 11-29. Airport personnel will continue to work with the Flagler Beach Utility Department during normal working hours for access.

   The City of Flagler Beach uses the airport property to access the existing well located north of the proposed Well #12R. This was confirmed with the Flagler County Airport Director after the TRC meeting. All traffic for the construction of Well #12R will be from the JTL Grand Landings Development, LLC property and not over airport property.

3. During construction of the new well site the contractor shall contact the Airport Administration Office (386-313-4220) 72 hours prior to the use of a crane with a boom height higher than 75 ft.

   The City will notify the Contractor regarding this requirement.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1. Wells 6” in diameter or larger are permitted and inspected directly by the St. Johns River Water Management District.

   The City has a permit from the St Johns Water Management District for construction of Well #12R, permit #14871, CUP #2B-035-59-5.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. Provide detailed documentation that the project meets the requirements of Section 6.03.00 of the Flagler County Land Development Code with regard to Wellfield Protection.

   The well has been permitted by SJRWMD and FDEP, permits previously provided. The FDEP permit requires separation from existing sanitary hazards. Currently there are no sanitary hazards near the Well #12R site. Additionally, the 200-foot radius for the wellhead zone of exclusion was added to the plans.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

1. LDC 3.06.05.C lists a number of findings the Planning Bd must make, mainly that the use is consistent with the Comp Plan and necessary or desirable for projected community needs.

   The City of Flagler Beach provides potable water for residential and commercial customers throughout the City’s utility service area. The service area includes areas within the City and unincorporated
Flagler County. Potable water is withdrawn from the Upper Floridan aquifer and treated at the City’s low-pressure reverse osmosis water treatment plant (WTP).

The City currently operates three (3) Upper Floridan wells in the area south of the Flagler County Airport. These wells were installed with during the construction of the WTP. During construction of the WTP well #12 was constructed and abandoned, this would have been well number four (4). To meet current water demand the City will use one or two wells each day. Design standards for wellfields suggest that utilities have 50% reserve capacity to allow wells to be rotated.

Well #12R will bring the installed total to four (4) wells. The fourth well is required to meet existing and future water demands. The figure below includes historical water use for 2004-2017. Projected water use is shown through 2036. The projected water use illustrated in the chart is from the 2016 CUP renewal application.
If you have any questions or require additional information, please contact me.

Sincerely,
QLH, A MEAD & HUNT COMPANY

Kevin Lee, P.E.
Project Manager

Cc: Fred Griffith, P.E. – City of Flagler Beach
NOTICE OF PUBLIC HEARING FOR SPECIAL USE APPLICATION #3123

A request has been made by Kevin A. Lee, P.E., Quentin L. Hampton Associates, as agent for City of Flagler Beach for a Special Use approval for Raw Water Well #12 on an easement area within property owned by JTL Grand Landings Development, LLC on parcel number: 27-12-31-0650-000A0-0013 lying west of Seminole Woods Boulevard, north of the Iroquois Waterway and south of the Flagler County Airport.

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

Public Hearing to be held as follows:
PLANNING AND DEVELOPMENT BOARD
February 13, 2018 @ 6:00 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida 32110 for recommendation to the Board of County Commissioners.

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

Anyone wishing to express their opinion may attend, telephone 386-313-4009 or write to: Flagler County Planning Department, 1769 E. Moody Blvd, Building 2, Bunnell, FL 32110 or email to glemon@flaglercounty.org. Please reference application number above.

Copies of the application, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Building 2, Bunnell, Florida 32110, telephone (386) 313-4009.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.
<table>
<thead>
<tr>
<th>ParcelId</th>
<th>Owner</th>
<th>Address</th>
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<tbody>
<tr>
<td>20-12-31-0650-000A0-0010</td>
<td>CARTER DARYL M TRUSTEE</td>
<td>PO BOX 568821</td>
<td>ORLANDO, FL 328568821</td>
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<tr>
<td>20-12-31-0650-000A0-0012</td>
<td>JTL GRAND LANDINGS DEVELOPMENT LLC</td>
<td>16475 DALLAS PKWY STE 155</td>
<td>ADDISON, TX 75001</td>
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<tr>
<td>20-12-31-0650-000B0-0011</td>
<td>CITY OF PALM COAST</td>
<td>160 LAKE AVENUE</td>
<td>PALM COAST, FL 32164</td>
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<tr>
<td>17-12-31-0650-000A0-0012</td>
<td>CITY OF PALM COAST</td>
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<td>PALM COAST, FL 32164</td>
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<td>17-12-31-0650-000A0-0013</td>
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<td>ADDISON, TX 75001</td>
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<tr>
<td>17-12-31-0650-000A0-0014</td>
<td>S.E. CLINE CONSTRUCTION INC</td>
<td>18 UTILITY DRIVE</td>
<td>PALM COAST, FL 32137</td>
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<td>1769 E MOODY BLVD BLDG 2, STE 303</td>
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<tr>
<td>17-12-31-0650-000A0-0010</td>
<td>FLAGLER COUNTY</td>
<td>1769 E MOODY BLVD BUILDING 2</td>
<td>BUNNELL, FL 32110</td>
</tr>
</tbody>
</table>

I hereby affirm mailed notice to each owner on January 12, 2018 for the Planning & Development Board meeting on 2/13/2018 at 6 pm, and the Board of County Commissioners meeting on March 5, 2018 at 9:30 am.

Wendy Hickey, Planner
January 12, 2018

«Owner»
«Address»
«City_State_Zip»

RE: Notice of Public Hearing – Special Use Application #3123

Dear Property Owner:

As an owner of land lying within 300’ of property that is subject of a proposed Special Use, Flagler County hereby gives notice of two public hearings to consider approval of a request by Kevin A. Lee, P.E., Quentin L. Hampton Associates, as agent for City of Flagler Beach for a Special Use approval for Raw Water Well #12 on an easement area within property owned by JTL Grand Landings Development, LLC on parcel number: 17-12-31-0650-000A0-0013 lying west of Seminole Woods Boulevard, north of the Iroquois Waterway and south of the Flagler County Airport.

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

Planning Board Hearing on Tuesday, February 13, 2018 at 6:00 pm
Board of County Commissioners on Monday, March 5, 2018 at 9:30 a.m.

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

You are welcome to attend and express your opinion.

Sincerely,

Wendy Hickey
Planner

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.
APPLICATION # 3123

NOTICE OF PUBLIC HEARING

THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS WILL HOLD A PUBLIC HEARING AT:

FLAGLER COUNTY GOVERNMENT SERVICES BUILDING BOARD CHAMBERS

1769 E. MOODY BOULEVARD, BLDG 2; BUNNELL, FL 32110

FEBRUARY 13, 2018 - 6:00 P.M.

REQUEST: SPECIAL USE
APPLICANT: QUENTIN L HAMPTON ASSOCIATES

Parcel Number: 17-12-31-0650-000A0-0013
Zoning District: PUD (PLANNED UNIT DEVELOPMENT)

THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED. FEF

For additional information visit web page at: www.flaglercounty.org or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE
SUBJECT: QUASI-JUDICIAL – Application #3124 – Request for Special Exception for Business and Professional Offices, Professional Consultants, and Medical and Dental Offices in the R/C (Residential/Limited Commercial) District at 5182 North Oceanshore Boulevard. Parcel #40-10-31-0010-00040-0090; 0.92+/- acres. Owner: Exile on Main St, LLC; Agent: Jay W. Livingston, Esq., Livingston & Sword, P.A.

DATE OF MEETING: February 13, 2018

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is for approval of a Special Exception in the R/C (Residential/Limited Commercial) District for business and professional offices, professional consultants, and medical and dental offices. This parcel is 0.92+/- acres in size, identified as parcel #40-10-31-0010-00040-0090, and is located on the West side of North Oceanshore Boulevard (a/k/a State Road A-1-A), South of 19th Road and North of 20th Road:
On December 27, 2017, Exile on Main St, LLC, through its agent, Jay Livingston, submitted applications for a Special Exception (Application #3124) and variances (Application #3125) for the former Branch Banking and Trust Company (a/k/a BB&T Bank) parcel. The parcel had previously been approved for a Special Exception for a professional office (Application #294) on November 14, 1989. Through a prior Planning Director’s determination, Colonial Bank opened a branch office – without drive-through – on the parcel, with BB&T opening in 2010; the bank use was determined to be analogous to the previously approved professional office.

As initially submitted, the owner intended to request Special Exception approval for a restaurant, together with other uses including retail as allowed within the R/C District; however, the owner’s plans changed and the application was reduced following the January Technical Review Committee meeting to only add medical and dental offices to the previously approved professional office approval. This request also formalizes the prior staff determination on analogous uses by specifically listing permissible uses under this application request. Should a Special Exception for a restaurant or retail use be sought in the future, an application and public notice would be required prior to any review of the request by the Planning and Development Board.

This application was discussed by the Technical Review Committee on January 17, 2018. All staff comments were satisfactorily addressed by the applicant in advance of the Planning and Development Board meeting.

This Special Exception request was presented to the Scenic A1A PRIDE Committee on November 17, 2017 and again on January 26, 2018. A copy of the Committee’s December 5, 2017 and February 2, 2018 review letters are attached to this report. Scenic A1A PRIDE concluded:

“Scenic A1A committee supports the special exception uses listed above with the understanding that each use will be reviewed by the planning department.” (original emphasis).

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

This agenda item is:

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

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

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

RECOMMENDATION: The Planning and Development Board finds that Application #3124, Special Exception for a business and professional office, professional consultant, and medical and dental office in the R/C zoning district at 5182 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 of the subject parcel as a business and professional office, professional consultant, and medical and dental office.

3. Uses will be evaluated at time of business tax receipt sign-off for adequacy of available parking based on the minimum off-street parking requirements of the Land Development Code.

4. All development to occur consistent with the submitted site plan received February 2, 2018, including landscaping installation and fence replacement with an earth tone vinyl fence six feet in height, subject to changes approved by staff based on outstanding agency review comments.

5. 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.

6. Should the parcel to the North and/or South develop with a commercial use (also subject to Special Exception approval), a cross-access easement shall be provided, 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 and/or South 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.

7. New 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.

9. Signs shall be limited as follows:
   a. Subject to variance approval, the existing monument sign may be utilized provided that a permit is issued for a face change (change of copy).
   b. Any new proposed signage will comply with the Flagler County Land Development Code.

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. Technical Staff Report
2. Site Plan
3. Application and supporting documents
4. Public notice
Owner: Exile on Main St, LLC (Michael Goodman, as agent for owner)

Agent: Jay W. Livingston, Esq., Livingston & Sword, P.A.

Parcel size: 40,001 sq. ft. (0.92 acres) (minimum site size of 10,000 sq. ft. required in the R/C zoning district for application for a Special Exception); dimensions of the parcel are 200 feet by 200 feet (each lot is 50 feet wide by 100 feet deep)

Legal Description
Lots 9 through 12 and Lots 25 through 28, Block 4, Artesia Subdivision, Map Book 3, Page 21, Public Records of Flagler County, Florida

Existing Zoning and Land Use Classification:
Zoning: R/C (Residential/Limited Commercial) District
Land Use: MUL (Mixed Use: Low Intensity, Low to Medium Density)

Future Land Use Map Classification/Zoning of Surrounding Land:
North: MUL (Mixed Use: Low Intensity, Low to Medium Density/R/C (Residential/Limited Commercial) District
East: North Oceanshore Boulevard; Conservation/PUD (Planned Unit Development) District
South: MUL (Mixed Use: Low Intensity, Low to Medium Density/R/C (Residential/Limited Commercial) District
West: Sanchez Avenue; RLDRE (Residential Low Density: Rural Estate)/Rural Estate/R-1 (Rural residential) District

Related Application: Application #3125 – Variances in the R/C (Residential/Limited Commercial) District

Land Development Code Sections Affected: Land Development Code (LDC) Section 3.03.13, R/C (Residential/limited commercial use) district, Section 3.07.03, Procedure for variances and special exceptions, and Section 3.07.03.F, Special exception guidelines.

Previous Public Hearings
November 14, 1989 – Planning Board approves Special Exception for a professional office (Application #294), subject to the following conditions:
1. Site Plan compliance with the C-1 development standards and all other County Code requirements; and
2. Expiration of the Special Exception within one year from the date of approval, unless an occupational license has been issued for a professional office at this location.

June 11, 1996 – Planning Board recommends approval of a Semi-Public Use for a Church, utilizing the existing building.
July 15, 1996 – Board of County Commissioners approves the Semi-Public Use for a Church (TRC approves the Site Plan on August 21, 1996).

June 10, 1997 – Planning Board recommends approval of a Deviation from Parking Area Surface Requirements, including six grass spaces (19 paved parking spaces previously installed), exit and entrance definitions, handicapped-accessible parking designations, and beautification of the property.

July 21, 1997 – Board of County Commissioners approves the Deviation from Parking Area Surface Requirements.

Special Exception Guideline Analysis
LDC Section 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:** Access to the property is proposed through an existing FDOT driveway connection to North Oceanshore Boulevard (State Road A1A). A future cross-access easement is depicted on the site plan that would provide future connections to parcels to the North and South should these parcels seek commercial development.

   As a mid-block parcel and absent formal crosswalks, any pedestrian/bicycle access would cross the road to access the existing multi-use greenway trail located along North Oceanshore Blvd.

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:** Existing parking will be utilized, consisting of 21 spaces and one handicap-accessible space. Provided spaces meet the minimum 9 foot by 18 foot dimensions of a standard parking space with curb stops.

3. Refuse and service areas shall be located with consideration for relevant factors in subsections 1. and 2. preceding.

   **Staff Analysis:** Refuse containers are located West (to the rear) of the existing building, screened from the roadway. Containers will be placed curbside as needed.

4. The proposed use shall be compatible with the availability and location of utility services, whether public or private.
Staff Analysis: No new utility connections are anticipated, but if needed, utilities will be placed underground consistent with A1A Scenic Corridor Overlay requirements at LDC Section 3.06.11.

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 preserves existing index tree canopy. Additionally, the applicant has proposed installing an earth tone vinyl fence along the parcel perimeter.

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

Staff Analysis: The existing free-standing monument sign encroaches into the minimum front setback, with the owner requesting a variance through Application #3125 to allow this sign to be permitted in its present location. If the variance is granted, any face change will require permitting. Any future signs, including wall signs, will comply with the requirements of the Land Development Code.

An existing light pole is depicted in the southeast corner of the parking lot. Any new lighting will be required to comply with the County’s marine sea turtle lighting requirements as provided at LDC Section 6.05.00.

7. Required yards and open spaces shall be provided.

Staff Analysis: While the existing building is located closer than the A1A Scenic Corridor Overlay would allow, substantial open space exists to the West (rear) of the building and no new structures are proposed that would further reduce minimum yards and setbacks.

In addition to the variance for the minimum sign setback, variances are also being requested through Application #3125 for the front and North (right) side setbacks. As a developed parcel with no new structures proposed, these variances will not allow additional encroachments, but will permit the replacement of the existing sign and building in the event of catastrophic loss.

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

Staff Analysis: The building consists of a single-story with height less than 35 feet; its height is compatible with adjacent and nearby uses.
9. The economic effect of the proposed use on adjacent and nearby properties shall be positive.

Staff Analysis: The addition of the proposed medical and dental uses are complementary to the existing uses in the area.

Any new construction on this parcel will be required 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 LDC Section 3.06.11.
**APPLICATION FOR SPECIAL EXCEPTION**

**FLAGLER COUNTY, FLORIDA**
1759 E. Moody Boulevard, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009 Fax: (386) 313-4109

Application/Project #: 3624 / 2017.00004

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<tr>
<td>Name(s): Exile On Main St, LLC</td>
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<tr>
<td>Mailing Address: 13 Capri Court</td>
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<tr>
<td>City: Palm Coast</td>
</tr>
<tr>
<td>State: FL</td>
</tr>
<tr>
<td>Zip: 32137</td>
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<tr>
<td>Telephone Number: (561) 852-4220</td>
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<tr>
<td>Fax Number:</td>
</tr>
<tr>
<td>Email Address: <a href="mailto:mikecheese.cake1@gmail.com">mikecheese.cake1@gmail.com</a></td>
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<tr>
<td>Name(s): Jay W. Livingston, Esq./Livingston &amp; Savard, P.A.</td>
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<tr>
<td>Mailing Address: 393 Palm Coast Parkway SW #1</td>
</tr>
<tr>
<td>City: Palm Coast</td>
</tr>
<tr>
<td>State: FL</td>
</tr>
<tr>
<td>Zip: 32137</td>
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<tr>
<td>Telephone Number: (386) 439-2945</td>
</tr>
<tr>
<td>Fax Number: (866) 896-5573</td>
</tr>
<tr>
<td>Email Address: <a href="mailto:jay.livingston3k4e@gmail.com">jay.livingston3k4e@gmail.com</a></td>
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<th>LEGAL DESCRIPTION: (briefly describe, do not use “see attached”):</th>
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<td>Artesia subdiv, blk 4, lots 9-12 &amp; 25-28</td>
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<th>Subject to A1A Scenic Corridor IDO?</th>
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<td><strong>YES</strong></td>
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**Requested Use:**

Restaurant (sit-down only), business and professional offices, professional consultants, medical and dental offices, tax consultants or tax experts, art gallery/artists studio, jewelry store, and pharmacy and retail store-boutique or specialty.

**Signature of Owner/Agent/Attorney:**

**Date:** 12/27/2017

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**OFFICIAL USE ONLY**

**PLANNING BOARD RECOMMENDATION/ACTION:**

APPROVED [ bisher ]

APPROVED WITH CONDITIONS [ bisher ]

DENIED [ bisher ]

**Signature of Chairman:**

**Date:**

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**NOTE:** The applicant or a representative, must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application. Rev. 09/14

Page 1 of 1
Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA
1789 E. Moody Boulevard, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009 Fax: (386) 313-4109

Application/Project # 3/24/2017 3004

Jay W. Livingston / Livingston & Swaro PA, is hereby authorized TO ACT ON BEHALF OF Exile On Main St., LLC, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for Special Exception and/or Variance

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

By:

Signature of Owner

Michael Goodman, Managing Member
Printed Name of Owner / Title (if owner is corporation or partnership)

Signature of Owner

Printed Name of Owner

Address of Owner: Telephone Number (incl. area code)
13 Capri Court (561) 852-4229
Mailing Address
Palm Coast, FL 32137
City State Zip

STATE OF Florida
COUNTY OF Flagler

The foregoing was acknowledged before me this 20th day of December, 2017 by Michael Goodman and who is/are personally known to me or who has produced as identification, and who (did) / (did not) take an oath.

Signature of Notary Public

December 27, 2017

VIA HAND DELIVERY

Adam Mengel
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Bldg. 2, Suite 105
Bunnell, Florida 32110

Subject: 5182 N. Oceanshore Blvd., Palm Coast, FL 32137
Application for Special Exception
Application for Variance

Dear Mr. Mengel:

Applications for special exceptions in the R/C zoning district and for variances for the non-conforming improvements for the above described property are enclosed.

The following are enclosed regarding the application for special exceptions:
- Application for Special Exception
- Copy of the Property Owner's recorded warranty deed
- Application fee of $300.00 made payable to BOCC
- 10 copies of the proposed site plan

The following are enclosed regarding the application for variances:
- Application for Variance
- Copy of the Property Owner's Recorded warranty deed
- Application fee of $345 made payable to the BOCC
- 10 copies of the proposed site plan

The property has non-conforming buildings (main building and shed) and sign. The applicant does not plan on changing these improvements, except interior and cosmetic changes to accommodate the approved uses. Changes and upgrades to the landscaping on the property are shown on the enclosed site plan. The plan as presented has already been considered by the Scenic A1A Committee and approved as well as the proposed use of the property as a restaurant.
A thumb drive/CD is also enclosed that contains electronic copies of the applications, warranty deed and site plan. The applicant and I look forward to staff comments and the opportunity to discuss the project at the January 17, 2018 Technical Review Committee meeting.

Please contact me if you have any questions, comments or require additional information.

Sincerely,

Jay W. Livingston

Enclosures

CC: Michael Goodman
    Michael Beebe
This SPECIAL WARRANTY DEED, made the 19th day of December, 2017, by Branch Banking and Trust Company, a North Carolina banking corporation hereinafter called the Grantor, to Exile on Main St, LLC, a Florida limited liability company, whose address is 13 Capri Court, Palm Coast, FL 32137, hereinafter called the Grantee:

Witnesseth: That the Grantor, for and in consideration of the sum of $10.00 and other valuable consideration, receipt whereof is hereby acknowledged, does hereby sell, grant and convey unto the Grantee all that certain land situate in County of Flagler, State of Florida, viz:

See Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

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

BY ACCEPTANCE OF THIS DEED, GRANTEE ACKNOWLEDGES THAT GRANTOR HAS NOT MADE, DOES NOT MAKE, AND HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (I) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY; (II) THE INCOME TO BE DERIVED FROM THE PROPERTY; (III) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON; (IV) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (V) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (VI) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, OR (VII) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION,
POLLUTION OR LAND USE, LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS MATERIALS AS DEFINED BY LOCAL, STATE OR FEDERAL AGENCIES, LAWS AND REGULATIONS RELATING TO HAZARDOUS SUBSTANCES, TOXIC WASTES AND UNDERGROUND STORAGE TANKS. GRANTEE ACKNOWLEDGES THAT NO SUCH REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, HAVE BEEN MADE, EXCEPT FOR THE WARRANTY OF TITLE EXPRESSLY SET FORTH IN THIS DEED.

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

Grantee acknowledges and agrees that the Property is conveyed subject to the following use restriction: From the date of the recording of this Deed, Grantee, its successors, assigns, tenants and all others with an interest in the Property shall not operate, sell, lease or allow the operation, sale or lease of the Property as or for a Banking Use for a period of one (1) year (the "Use Restriction"). For purposes of the Use Restriction, a Banking Use shall mean a state and/or national bank, national or regional savings bank, national or regional branch banking facility, federally insured credit union, automated teller machine associated with the foregoing ("ATM"), and/or federally chartered savings and loan institution. The Use Restriction shall run with and bind title to the Property for such one (1) year period and the Grantee, its successors, assigns, tenants and all others with an interest in the Property shall incorporate the Use Restriction by reference in any conveyance or leasehold estate of all or any portion of the Property.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor only, other than the exceptions attached hereto as Exhibit B.

In Witness Whereof, the said Grantor has signed and sealed these presents, the day and year first above written.

Signed, sealed and delivered in the presence of:

[Signature]
Witness Signature
Printed Name: Ben Kirkland

[Signature]
Witness Signature
Printed Name: Annie Voth

BRANCH BANKING AND TRUST COMPANY,
a North Carolina banking corporation

[Signature]
Name: Terri Murray
Title: Senior Vice President
STATE OF TEXAS
COUNTY OF COLIN

The foregoing instrument was acknowledged before me this 19 day of December, 2017, by Terri Murray, as Senior Vice President of Branch Banking and Trust Company, a North Carolina banking corporation, who is personally known to me or who has produced known to me as identification.

Alyssia Wynn
Signature of Notary
Printed Name: Alyssia Wynn
My commission expires: 04/19/21

SEAL
EXHIBIT A
(the "Property")

LOTS 9, 10, 11, 12, 25, 26, 27 AND 28, BLOCK 4, ARTESIA SUBDIVISION, ACCORDING TO MAP THEREOF AS RECORDED IN MAP BOOK 3, PAGE 21 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.
EXHIBIT B
Exceptions

Ad valorem property taxes for the current and subsequent years (prorated through the date of Closing), easements, rights of way, restrictions and conditions of record and matters visible from an inspection of the Property or reflected on an accurate survey of the Property, any local, county, state, or federal laws, ordinances or regulations relating to zoning, environment, subdivision, occupancy, use, construction or development of the Property, including existing violations of said laws, ordinances or regulations.
BRANCH BANKING AND TRUST COMPANY

ASSISTANT CORPORATE SECRETARY'S CERTIFICATE

The undersigned Katrina D. Ramey of Branch Banking and Trust Company ("BB&T"), a North Carolina banking corporation, does hereby certify that:

1. That Terri Murray, Senior Vice President, is authorized to execute and deliver (for and on behalf of BB&T) any and all documents including, but not limited to, contracts, deeds, bills of sale, assignments, affidavits and similar agreements (collectively the "Transaction Documents") incidental to the sale and transfer of real property, fixtures and any personal property located at 5182 N. Oceanshore Blvd., Palm Coast, FL as described in Exhibit A attached hereto, and belonging to BB&T and, more specifically, the transfer and conveyance of any and all property subject to that certain Purchase Contract (the "Contract") executed by BB&T on August 22, 2017, as Seller, and Let It Be Realty, LLC, a Florida limited liability company on August 21, 2017, as Buyer.

2. To the extent required, resolutions of BB&T authorizing the execution and delivery of the Contract and the Transaction Documents and the consummation of the transactions contemplated thereunder have been adopted pursuant to appropriate corporate action.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of September, 2017.

BRANCH BANKING AND TRUST COMPANY,
a North Carolina banking corporation

By: [Signature]

Title: Assistant Corporate Secretary
Exhibit A

Property

LOTS 9, 10, 11, 12, 25, 26, 27 AND 28, BLOCK 4, ARTESIA SUBDIVISION, ACCORDING TO MAP THEREOF AS RECORDED IN MAP BOOK 3, PAGE 21 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.
DESCRIPTION:

LOTS N, 11, 12, 25, 26, 27, AND 28, BLOCK 4, ARTESIA SUBDIVISION, ACCORDING TO THE MAP THEROF AS RECORDED IN MAP BOOK 3, PAGE 21, OF THE PUBLIC RECORDS OF FLEADER COUNTY, FLORIDA.

LEGEND:

F D Found Concrete Monument
P Pipe
P Rod
P Plot Bearing & Distance
M Measured Bearing & Distance
C Concrete Step
A/P Edge of Pavement
A/C Air Conditioner

NOTES:

1. Description furnished by client. No title work provided.
2. No overhead/underground improvements or utilities are located, unless shown.
3. Bearings are assumed and are based on plat datum.
4. Dimension category is shown in parentheses ( ), when they differ from record dimensions. Measurements may be subject to local record or personal (as per SJ:17-2012) tolerances
5. Flood Zone A, Map & Panel No. 120858-0.5264, 7/17/06. as best ascertained from the Flood Insurance Rate Map.

Anthony Sanzone, PLSMA 6309
10/23/17

A1A EAST COAST LAND SURVEYING, LLC
1366 US Highway 1 Suite 602, Ormond Beach FL 32174
PHONE (386) 877-3655 or (386) 437-0123 FAX (386) 877-3813
FLAGLER COUNTY
TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 1/17/18

APP #3124 - SPECIAL EXC FOR RESTAURANT, ETC.

APPLICANT: JAY W. LIVINGSTON, ESQ
OWNER: EXILE ON MAIN ST, LLC

Distribution date: Friday, January 12, 2018

Project #: 2017120048
Application #: 3124

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. Any questions regarding any of the comments should be addressed to the department providing the comment.

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

No Comments at this time

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. Parking should be relocated from front of building to rear or redesigned to allow drive isles and not backing into A1A.

2. What material is proposed for the fencing identified as being replaced?

3. Please identify on plans the proposed location for dumpster enclosure.

4. Please identify on plans the location of the vehicular and pedestrian cross-access between this property and neighboring property.

5. Please provide a landscape buffer along the rear property line.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

- Original system permitted in 1984 and can support an estimated sewage flow of 1,183 gallons per day. Estimated flows for a full service restaurant are 40 gal/day/seat or 20 gal/day/seat for establishments using single service articles only, or for bar seats. Office flows are calculated as 15gpd for every 100sqft of floor space or 15gpd per employee, whichever is greater. Stores are calculated as 200gpd per bathroom, and Doctor’s Offices are sized as 250gpd per practitioner. Please note that any increase in sewage flow from the original approval will result in the system being brought up to all current standards.

- An Annual Operating Permit will be required due to the generation of commercial wastewater. Application and issuance of an Annual Operating permit is required prior to operation.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

No comments with regard to the Special Exception for this property

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time
February 2, 2018

VIA HAND DELIVERY

Adam Mengel  
Planning and Zoning Director  
Flagler County Planning and Zoning Department  
1769 E. Moody Blvd., Bldg. 2, Suite 105  
Bunnell, Florida 32110

Subject:  
5182 N. Oceanshore Blvd., Palm Coast, FL 32137  
Application #3124 for Special Exception  
Application #3125 for Variance

Dear Mr. Mengel:

Please find enclosed with this letter ten (10) copies of the updated conceptual site plan, which was revised in response to the comments from the Technical Review Committee. In addition, the TRC comments for both applications that require a response are restated below with my responses in **bold**. As explained at the TRC meeting, the applicant is revising the special exception to remove restaurant and retail uses from the request. The property is already approved for professional offices and professional consultants and the only additional uses being requested are for medical and dental offices. All three of these uses are included in the request to avoid any confusion in the future but the only new special exception uses not already permitted on the property are medical and dental offices.

**Application #3124 – Special Exc For Restaurant, Etc.**

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. Parking should be relocated from front of building to rear or redesigned to allow drive isles and not backing into A1A.

The plan has been revised to show the distance between the parking spaces along the front of the building and A1A. There is sufficient distance for cars parked in this area to backup and turn around without entering the right-of-way.
2. What material is proposed for the fencing identified as being replaced?

   The plan has been revised to include the type of material used to replace the existing fence along the boundary line of the property. The owner will install a vinyl fence which will be an earth tone to minimize staining from the irrigation system.

3. Please identify on plans the proposed location for the dumpster enclosure.

   Due to the revision to the request to only add medical and dental office uses no dumpster will be needed for the property. The owner will use garbage cans to handle its solid waste needs. The garbage and recycling cans will be located at the rear of the building along the existing sidewalk as noted on the revised plans. The cans are not visible from A1A in this location and will not be visible from the surrounding properties due to the vinyl fence and perimeter landscaping. Therefore, no additional screening should be required.

4. Please identify on plans the location of the vehicular and pedestrian cross-access between this property and neighboring property.

   The location of a future vehicular and pedestrian cross-access driveway has been added to the plan in the event it is needed in the future.

5. Please provide a landscape buffer along the rear property line.

   The landscape buffer has been to the revised plan.

**REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT**

- Original system permitted in 1984 and can support an estimated sewage flow of 1,183 gallons per day. Estimated flows for a full-service restaurant are 40 gal/day/seat or 20 gal/day/seat for establishments using single artifacts only, or for bar seats. Office flows are calculated as 15gpd for every 100sqft of floor space or 15gpd per employee, whichever is greater. Stores are calculated as 200gpd per bathroom, and Doctor's Offices are sized as 250gpd per practitioner. Please note that any increase in sewage flow from the original approval will result in the system being brought up to all current standards.

   Duly noted. If any tenant or end users on the property will result in an increase beyond what the permitted system can handle, then the system will be upgraded and brought to current standards.

- Ann Annual Operating Permit will be required due to the generation of commercial wastewater. Application and issuance of an Annual Operating permit is required prior to operation.
Duly noted. The owner will apply for an annual operating permit to support any uses on the property.

Application #3125 - Variances/Setbacks

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

Parking layout may have to be rearranged to allow sufficient drive aisle clearance.

The applicant does not plan on any changes to the existing parking lot. There is sufficient clearance in the main parking area. See the comment above regarding clearance and sufficient distance for vehicles to backup and turn around for the parking spaces along the front of the building.

Please contact me if you have any questions, comments or need additional information before these items are brought before the Planning Board for consideration.

Sincerely,

Jay W. Livingston

Enclosures

CC: Clients
    Michael Beebe
December 5, 2017

Adam Mengel
Flagler County Planning Dept.
1769 E. Moody Blvd, Bldg 2
Bunnell, FL 32110

Rezoning and landscaping of 5182 N Oceanshore. Project # TBD

Dear Mr. Mengel,

At the November 17 meeting of Scenic A1A PRIDE, we reviewed the conceptual site plans for the former BB&T Bank property at 5182 N. Oceanshore Blvd. The plans included the existing building with existing parking, landscaping and buffering, tree retention, and the sign location (see Attachment 1). The property is bordered by R/C zoning with existing single family or mobile home residences on three out of four lots.

The owner (BB&T) wants to sell the property with the provision that it not be used for a bank. Therefore the applicant proposes a change to C-2 zoning which allows enough future uses by right. Each use has its own septic and parking requirements, which may exceed what is there now, so some uses may not be possible as constrained by the size of this parcel. If the applicant does not apply for C-2 zoning, they would like us to pre-approve a restaurant as a special exception.

The Scenic A1A PRIDE committee recommends the continued usage of either the existing R/C or rezoning to C-1 (Neighborhood Commercial) since C-2 (General Commercial/Shopping Center) gives too much latitude to future uses. Scenic A1A PRIDE supports the landscaping plan and supports the future use as a restaurant.

Sincerely,

Dennis Clark, Chair
SCENIC A1A PRIDE
5784 N. Oceanshore Blvd, Palm Coast, FL 32137

C.C. Jay Livingston (jay.livingston314@gmail.com)
Michael Beebe (michael@beebeassociates.com)
February 2, 2018

Adam Mengel
Flagler County Planning Dept.
1769 E. Moody Blvd, Bldg 2
Bunnell, FL 32110

Variance s & Special Exceptions for 5182 N Oceanshore. Project # 2017120048

Dear Mr. Mengel,

This letter is an addendum to our letter of December 5, 2017 regarding rezoning and landscaping of this parcel. At the January 26 meeting of Scenic A1A PRIDE, we reviewed the application for variances and special exceptions for the Hammock Business Center (formerly the BB&T Bank property) at 5182 N. Oceanshore Blvd. The property is bordered by R/C zoning with existing single family or mobile home residences on three out of four lots.

The variances appear to include the following (see attachment 1):
- 20′ for an existing non-conforming sign setback
- 9.1′ (40′ - 30.1′) for the building front setback
- Does not meet 50′ setback with 25′ vegetative buffer for adjacent uncomplimentary land use on the north side.

Scenic A1A PRIDE understands that these non-conformities were preexisting since 1984, no new variances are being requested, and changes would be an unnecessary hardship. Therefore Scenic A1A PRIDE supports these variances with the assumption that appropriate buffers will be provided where possible.

The special exceptions in the R/C zoning district include business and professional offices, professional consultants, medical and dental offices, and pharmacy. We understand that the restaurant special exception is being dropped and parking should be sufficient for these uses.

Scenic A1A PRIDE committee supports the special exception uses listed above with the understanding that each use will be reviewed by the planning department.

Sincerely,

Dennis Clark, Chair
SCENIC A1A PRIDE
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I hereby affirm mailed receipt to each owner on January 29, 2018 for the Planning & Development Board Meeting on February 13, 2018 at 6 pm.

---

**Hasler**

01/29/2018

**US POSTAGE**

$00.00

ZIP 32110

011D11646866
January 29, 2018

«Owner»
«Address_»
«City_State_Zip»

RE: Corrected Notice: Application #3124 —Special Exception Request in the R/C (Residential/Limited Commercial) Zoning District.

Dear Property Owner:

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

A request has been made by Jay W. Livingston Esq. representing Exile on Main Street, LLC for a Special Exception for a, Business & Professional Office, Professional Consultants, Medical & Dental Office, Tax Consultants, Art Gallery/ Artists Studio, Jewelry Store, Pharmacy, Retail Store/Boutique or Specialty. in the R/C (Residential Limited Commercial) district located at 5182 North Oceanshore Boulevard, Parcel Number 40-10-31-0010-00040-00000-0270.

You are hereby notified that a public hearing before the Flagler County Planning and Development Board, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, on February 13, 2018, beginning at 6:00 p.m. or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

Wendy Hickey
Planner

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS ADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.
APPLICATION # 3124

NOTICE OF PUBLIC HEARING

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

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

FEBRUARY 13, 2018 - 6:00 P.M.

REQUEST: SPECIAL EXCEPTION
APPLICANT: LIVINGSTON & SWORD PA

Parcel Number: 40-10-31-0010-00040-0090
Zoning District: R/C (RESIDENTIAL/LIMITED COMMERCIAL)

THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.

For additional information visit web page at: www.flaglercounty.org or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE
FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING / AGENDA ITEM #7

SUBJECT: QUASI-JUDICIAL – Application #3125 – Request for Variances in the R/C (Residential/Limited Commercial) District at 5182 North Oceanshore Boulevard. Parcel #40-10-31-0010-00040-0090; 0.92 +/- acres. Owner: Exile on Main St, LLC; Agent: Jay W. Livingston, Esq., Livingston & Sword, P.A.

DATE OF MEETING: February 13, 2018

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is for approval of variances in the R/C (Residential/Limited Commercial) District for relief from the 40 foot minimum front setback, the 10 foot minimum side yard (North, right) setback, and the setback for the existing freestanding monument sign. This parcel is 0.92 +/- acres in size, identified as parcel #40-10-31-0010-00040-0090, and is located on the West side of North Oceanshore Boulevard (a/k/a State Road A-1-A), South of 19th Road and North of 20th Road:
On December 27, 2017, Exile on Main St, LLC, through its agent, Jay Livingston, submitted applications for a Special Exception (Application #3124) and variances (Application #3125) for the former Branch Banking and Trust Company (a/k/a BB&T Bank) parcel.

As submitted, the owner is seeking the following variances:

1. 9.9 foot variance from the minimum 40 foot front (East) setback (LDC Section 3.03.13.F.2);
2. 3.4 foot variance from the minimum 10 foot side (North) setback (LDC Section 3.03.13.F.2);
3. 6.2 foot variance from the minimum 10 foot side (North) setback for the shed (LDC Section 3.03.13.F.2); and
4. 20 foot variance from the minimum 20 foot setback for a freestanding monument sign (LDC Section 7.03.01.2(c)).

This application was discussed by the Technical Review Committee on January 17, 2018. All staff comments were satisfactorily addressed by the applicant in advance of the Planning and Development Board meeting.

This Variance request was presented to the Scenic A1A PRIDE Committee on January 26, 2018. A copy of the Committee’s February 2, 2018 review letter is attached to this report. Scenic A1A PRIDE concluded:

“Scenic A1A PRIDE understands that these non-conformities were preexisting since 1984, no new variances are being requested, and changes would be an unnecessary hardship. Therefore Scenic A1A PRIDE supports these variances with the assumption that appropriate buffers will be provided where possible.” (original emphasis).

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

This agenda item is:

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

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

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

**RECOMMENDATION:** The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves the following variances for 5182 North Oceanshore Boulevard (Parcel #40-10-31-0010-00040-0090):

1. 9.9 foot variance from the minimum 40 foot front (East) setback;
2. 3.4 foot variance from the minimum 10 foot side (North) setback;
3. 6.2 foot variance from the minimum 10 foot side (North) setback for the shed; and
4. 20 foot variance from the minimum 20 foot setback for a freestanding monument sign.
Alternative Denial Language: The Planning and Development Board finds that all variance criteria as listed in the guidelines at LDC Section 3.07.03.E have not been met and therefore denies the variances for 5182 North Oceanshore Boulevard (Parcel #40-10-31-0010-00040-0090).

ATTACHMENTS:
1. Technical Staff Report
2. Application and supporting documents
3. Public notice
Owner: Exile on Main St, LLC (Michael Goodman, as agent for owner)

Agent: Jay W. Livingston, Esq., Livingston & Sword, P.A.

Parcel size: 40,001 sq. ft. (0.92 acres); dimensions of the parcel are 200 feet by 200 feet (each lot is 50 feet wide by 100 feet deep)

Legal Description
Lots 9 through 12 and Lots 25 through 28, Block 4, Artesia Subdivision, Map Book 3, Page 21, Public Records of Flagler County, Florida

Existing Zoning and Land Use Classification:
Zoning: R/C (Residential/Limited Commercial) District
Land Use: MUL (Mixed Use: Low Intensity, Low to Medium Density)

Future Land Use Map Classification/Zoning of Surrounding Land:
North: MUL (Mixed Use: Low Intensity, Low to Medium Density/R/C (Residential/Limited Commercial) District
East: North Oceanshore Boulevard; Conservation/PUD (Planned Unit Development) District
South: MUL (Mixed Use: Low Intensity, Low to Medium Density/R/C (Residential/Limited Commercial) District
West: Sanchez Avenue; RLDRE (Residential Low Density: Rural Estate)/Rural Estate/R-1 (Rural residential) District

Related Application: Application #3124 – Special Exception in the R/C (Residential/Limited Commercial) District

Land Development Code Sections Affected: Land Development Code (LDC) Section 3.03.13, R/C (Residential/limited commercial use) district, Section 3.07.03, Procedure for variances and special exceptions, and Section 3.07.03.E, Variance guidelines.

Previous Public Hearings
November 14, 1989 – Planning Board approves Special Exception for a professional office (Application #294), subject to the following conditions:
1. Site Plan compliance with the C-1 development standards and all other County Code requirements; and
2. Expiration of the Special Exception within one year from the date of approval, unless an occupational license has been issued for a professional office at this location.

June 11, 1996 – Planning Board recommends approval of a Semi-Public Use for a Church, utilizing the existing building.
July 15, 1996 – Board of County Commissioners approves the Semi-Public Use for a Church (TRC approves the Site Plan on August 21, 1996).

June 10, 1997 – Planning Board recommends approval of a Deviation from Parking Area Surface Requirements, including six grass spaces (19 paved parking spaces previously installed), exit and entrance definitions, handicapped-accessible parking designations, and beautification of the property.

July 21, 1997 – Board of County Commissioners approves the Deviation from Parking Area Surface Requirements.

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

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

   Applicant’s response: “There is an existing non-conforming commercial building, shed and sign that no longer meet the zoning criteria of the R/C zoning district and the A1A Scenic overlay requirements. It would be necessary to tear down the main building and either tear down or relocate the shed and the existing sign to conform to existing zoning regulations and other relevant requirements. It would be an unnecessary hardship to require the property owner to tear down what is a sound and usable structure that has been continuously utilize [sic] for commercial and non-residential uses since it was constructed.”

   Staff analysis: The building is set back 30.1 feet from the front (East) parcel line and 6.6 feet from the side (North, right) parcel line. A 10 foot by 10 foot shed, located northwest of the building, is set back 3.8 feet from the North parcel line, while the existing freestanding monument sign appears to observe a zero setback to the front (East) parcel line. Due to its location proximate to the existing driveway, the sign would observe a 20 foot minimum setback from the front parcel line.

   The parcel itself is not unique, with its 200 foot by 200 foot dimensions. The unique condition is the existing development and the owner’s desire to maintain the status quo through the issuance of variances to formally approve the existing setback encroachments.
2. **Such conditions were not created by the affirmative actions of the applicant and the applicant has acted at all times in good faith; and**

   **Applicant’s response:** “The building was constructed in the late 80’s or early 90’s and has been continuously used for different commercial purposes and briefly as a church. The applicant recently purchased the property and played no role in creating the conditions that require a variance.”

   **Staff analysis:** This property has been developed for several decades with an approved commercial use through a previous Special Exception approval. According to Property Appraiser records, the one story 4,236 square foot commercial building was originally constructed in 1977, with an effective year built of 1995 following permitted improvements. The owner acquired the parcel on December 19, 2017 with these conditions in place (see attached Special Warranty Deed recorded December 21, 2017 at Official Records Book 2248, Page 1488, Public Records of Flagler County, Florida).

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

   **Applicant’s response:** “Granting the variances requested would not change anything about the improvements on the property. The applicant intends to use the property as improved but desires to obtain variances for the existing nonconforming structures. None of the prior commercial uses or the uses permitted as special exceptions in the R/C zoning district would be detrimental to the public health, welfare, safety and morals of the community.”

   **Staff analysis:** The proposed variance, if granted, would not cause substantial detriment to public health, safety, and morals; this variance does not set a precedent for future similar variances.

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

   **Applicant’s response:** “This application is being submitted simultaneously with an application for approval of special exceptions currently permitted in the R/C zoning district. The application is for variances from the applicable setback requirements as they apply to the existing improvements and do not involve any proposed uses.”

   **Staff analysis:** The property is zoned R/C (Residential/Limited Commercial) and is developed with a one-story commercial building and a detached shed. The accompanying Special Exception request considered under Application #3124 provides for the additional use of the parcel as a medical and dental office. Ultimately, if the Special Exception is not approved, then the variance remains applicable so as to establish the reduced setbacks for the existing structures, and the established uses.
However, the Planning and Development Board should also recognize that both the Special Exception and Variance requests may be appealed.

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

**Applicant’s response:** “The applicant is requesting the minimum variances necessary to render the exiting improvements conforming under applicable codes and ordinances. The property was last used as a walk in bank branch but the applicant’s deed contains a provision that prevents this use for one year from the date of closing. Without the approval of new special exception uses and the variances the applicant will be deprived of all reasonable use of the property. In addition, if the property is damaged or destroyed beyond the applicable thresholds it could not be rebuilt without variances for the non-conforming structures."

**Staff analysis:** While these statements are not criteria for the issuance of the variances, these are included in the LDC text as thematic statements providing the framework for the Planning and Development Board’s consideration of variance requests. Arguably this owner is not deprived of all reasonable use in the event of denial of these variances. However, likewise, the requested variances are the minimum relief necessary so as to permit improvement without limitation as to nonconformities (see LDC Section 3.02.04, *Nonconformance*) and replacement of the existing structures in their present locations in the event of catastrophe.
Zoning Map
APPLICATION FOR VARIANCE
FLAGLER COUNTY, FLORIDA
1769 E. Moody Blvd., Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009 Fax: (386) 313-4109

Application/Project #: 3125 / 2017120049

PROPERTY OWNER(S)
Name(s): Exile On Main St, LLC
Mailing Address: 13 Capri Court
City: Palm Coast State: FL Zip: 32137
Telephone Number (516) 862-4229 Fax Number

APPLICANT/AGENT
Name(s): Jay W. Livingston, Esq. / Livingston & Sword PA
Mailing Address: 393 Palm Coast Parkway SW #1
City: Palm Coast State: FL Zip: 32137
Telephone Number (386) 439-2945 Fax Number (866) 896-5573
E-Mail Address: jay.livingston314@gmail.com

SITE LOCATION (street address): 5182 N. Oceanshore Blvd., Palm Coast, FL 32137
LEGAL DESCRIPTION:
(briefly describe, do not use "see attached")
Artesia subd. blk. 4 Lots 9-12 & 25-28
Parcel # (tax ID #): 40-10-31-0010-00040-0090
Parcel Size: 0.9 +/- acres
Current Zoning Classification: R/C
Current Future Land Use Designation: Mixed Use: Low Intensity
Subject to A1A Scenic Corridor IDO? YES

Relief Requested: Variance from the 45 foot (east) setback (approx. 9.9'); variance from side yard (north) setback (approx. 3.4')

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

Signature of Chairman: __________________________
Date: 12/27/2017

**OFFICIAL USE ONLY**

PLANNING BOARD RECOMMENDATION/ACTION:
*APPROVED WITH CONDITIONS DENIED

NOTE: The applicant or a representative, must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application. Rev. 09/16
APPLICATION FOR VARIANCE
FLAGLER COUNTY, FLORIDA
1709 E. Moody Blvd, Suite 105
Bunnell, FL 32110
Telephone: (386) 513-4009 Fax: (386) 313-4109

Subject Property: 5182 N. Oceanshore Blvd., Palm Coast, Florida 32137

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

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

   There is an existing non-conforming commercial building, shed and sign that no longer meet the zoning criteria of the R/C zoning district and the AIA Scenic overlay requirements. It would be necessary to tear down the main building and either tear down or relocate the shed and the existing sign to conform to existing zoning regulations and other relevant requirements. It would be an unnecessary hardship to require the property owner to tear down what is a sound and usable structure that has been continuously utilized for commercial and non-residential uses since it was constructed.

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

   The building was constructed in the late 80's or early 90's and has been continuously used for different commercial purposes and briefly as a church. The applicant recently purchased the property and played no role in creating the conditions that require a variance.

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

   Granting the variances requested would not change anything about the improvements on the property. The applicant intends to use the property as improved but desires to obtain variances for the existing nonconforming structures. None of the prior commercial uses or the uses permitted as special exceptions in the R/C zoning district would be detrimental to the public health, welfare, safety and morals of the community.

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

   This application is being submitted simultaneously with an application for approval of special exceptions currently permitted in the R/C zoning district. The application is for variances from the applicable setback requirements as they apply to the existing improvements and do not involve any proposed uses.

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

The applicant is requesting the minimum variances necessary to render the existing improvements conforming under applicable codes and ordinances. The property was last used as a walk in bank branch but the applicant's deed contains a provision that prevents this use for one year from the date of closing. Without the approval of new special exception uses and the variances the applicant will be deprived of all reasonable use of the property. In addition, if the property is damaged or destroyed beyond the applicable thresholds it could not be rebuilt without variances for the non-conforming structures.

NOTE: The applicant or a representative, must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application. Rev. 09/16
Owner's Authorization for Applicant/Agent

Jay W. Livingston & Livingston & Son, PA, is hereby authorized TO ACT ON BEHALF OF Exile on Main St., LLC, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for Special Exception and/or Variance

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

By:    

Signature of Owner

Michael Goodman, Managing Member
Printed Name of Owner / Title (if owner is corporation or partnership)

Signature of Owner

Printed Name of Owner

Address of Owner:
13 Cap'n Court
Mailing Address
Palm Coast , FL 32137
City State Zip

Telephone Number (incl. area code)
(516) 852 - 4229

STATE OF Florida
COUNTY OF Flagler

The foregoing was acknowledged before me this 20th day of December, 2017, by Michael Goodman, who is (are) personally known to me or who has produced driver's license as identification, and who (did) / (did not) take an oath.

[Signature]
Signature of Notary Public

http://www.flaglercounty.org/doc/dpt/centprmt/landdev/applicant/2017/01/01
Revised 5/08
December 27, 2017

VIA HAND DELIVERY

Adam Mengel
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Bldg. 2, Suite 105
Bunnell, Florida 32110

Subject: 5182 N. Oceanshore Blvd., Palm Coast, FL 32137
Application for Special Exception
Application for Variance

Dear Mr. Mengel:

Applications for special exceptions in the R/C zoning district and for variances for the non-conforming improvements for the above described property are enclosed.

The following are enclosed regarding the application for special exceptions:
• Application for Special Exception
• Copy of the Property Owner's recorded warranty deed
• Application fee of $300.00 made payable to BOCC
• 10 copies of the proposed site plan

The following are enclosed regarding the application for variances:
• Application for Variance
• Copy of the Property Owner’s Recorded warranty deed
• Application fee of $345 made payable to the BOCC
• 10 copies of the proposed site plan

The property has non-conforming buildings (main building and shed) and sign. The applicant does not plan on changing these improvements, except interior and cosmetic changes to accommodate the approved uses. Changes and upgrades to the landscaping on the property are shown on the enclosed site plan. The plan as presented has already been considered by the Scenic A1A Committee and approved as well as the proposed use of the property as a restaurant.
A thumb drive/CD is also enclosed that contains electronic copies of the applications, warranty deed and site plan. The applicant and I look forward to staff comments and the opportunity to discuss the project at the January 17, 2018 Technical Review Committee meeting.

Please contact me if you have any questions, comments or require additional information.

Sincerely,

Jay W. Livingston

Enclosures

CC: Michael Goodman
    Michael Beebe

2 Pine Lakes Parkway, Suite 3
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
PREPARED BY:

Name: Joan M. Belderamos, Esq., Florida Bar No. 0133094
Address: Bell, Davis & Pitt, P.A.
        101 N. Cherry Street, Suite 600
        Winston Salem, North Carolina 27101

RETURN TO:

Covenant Closing & Title Services
4879 Palm Coast Parkway NW, Suite 4
Palm Coast, FL 32137

Folio No.: 40-10-31-0010-00040-0090

This SPECIAL WARRANTY DEED, made the 19th day of December, 2017, by Branch Banking and Trust Company, a North Carolina banking corporation hereinafter called the Grantor, to Exile on Main St, LLC, a Florida limited liability company, whose address is 13 Capri Court, Palm Coast, FL 32137, hereinafter called the Grantee:

Witnesseth: That the Grantor, for and in consideration of the sum of $10.00 and other valuable consideration, receipt whereof is hereby acknowledged, does hereby sell, grant and convey unto the Grantee all that certain land situate in County of Flagler, State of Florida, viz:

See Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

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

BY ACCEPTANCE OF THIS DEED, GRANTEE ACKNOWLEDGES THAT GRANTOR HAS NOT MADE, DOES NOT MAKE, AND HERBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (I) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY; (II) THE INCOME TO BE DERIVED FROM THE PROPERTY; (III) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON; (IV) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (V) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (VI) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, OR (VII) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION,
POLLUTION OR LAND USE, LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS MATERIALS AS DEFINED BY LOCAL, STATE OR FEDERAL AGENCIES, LAWS AND REGULATIONS RELATING TO HAZARDOUS SUBSTANCES, TOXIC WASTES AND UNDERGROUND STORAGE TANKS. GRANTEE ACKNOWLEDGES THAT NO SUCH REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, HAVE BEEN MADE, EXCEPT FOR THE WARRANTY OF TITLE EXPRESSLY SET FORTH IN THIS DEED.

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

Grantee acknowledges and agrees that the Property is conveyed subject to the following use restriction: From the date of the recording of this Deed, Grantee, its successors, assigns, tenants and all others with an interest in the Property shall not operate, sell, lease or allow the operation, sale or lease of the Property as or for a Banking Use for a period of one (1) year (the "Use Restriction"). For purposes of the Use Restriction, a Banking Use shall mean a state and/or national bank, national or regional savings bank, national or regional branch banking facility, federally insured credit union, automated teller machine associated with the foregoing ("ATM"), and/or federally chartered savings and loan institution. The Use Restriction shall run with and bind title to the Property for such one (1) year period and the Grantee, its successors, assigns, tenants and all others with an interest in the Property shall incorporate the Use Restriction by reference in any conveyance or leasehold estate of all or any portion of the Property.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor only, other than the exceptions attached hereto as Exhibit B.

In Witness Whereof, the said Grantor has signed and sealed these presents, the day and year first above written.

Signed, sealed and delivered in the presence of:

BRANCH BANKING AND TRUST COMPANY, a North Carolina banking corporation

[Signature]
Name: Terri Murray
Title: Senior Vice President

Witness Signature
Printed Name: [Signature]
STATE OF TEXAS
COUNTY OF COLUMBIA

The foregoing instrument was acknowledged before me this 19th day of December, 2017, by Terri Murray, as Senior Vice President of Branch Banking and Trust Company, a North Carolina banking corporation, who is personally known to me or who has produced known to me as identification.

[Signature]

Alyssia Wynn
Signature of Notary

Printed Name: Alyssia Wynn

My commission expires: 04/19/21
EXHIBIT A
(the "Property")

LOTS 9, 10, 11, 12, 25, 26, 27 AND 28, BLOCK 4, ARTEA SUBDIVISION, ACCORDING TO MAP THEREOF AS RECORDED IN MAP BOOK 3, PAGE 21 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.
EXHIBIT B
Exceptions

Ad valorem property taxes for the current and subsequent years (prorated through the date of Closing), easements, rights of way, restrictions and conditions of record and matters visible from an inspection of the Property or reflected on an accurate survey of the Property, any local, county, state, or federal laws, ordinances or regulations relating to zoning, environment, subdivision, occupancy, use, construction or development of the Property, including existing violations of said laws, ordinances or regulations.
BRANCH BANKING AND TRUST COMPANY

ASSISTANT CORPORATE SECRETARY’S CERTIFICATE

The undersigned Katrina D. Ramey of Branch Banking and Trust Company ("BB&T"), a North Carolina banking corporation, does hereby certify that:

1. That Terri Murray, Senior Vice President, is authorized to execute and deliver (for and on behalf of BB&T) any and all documents including, but not limited to, contracts, deeds, bills of sale, assignments, affidavits and similar agreements (collectively the "Transaction Documents") incidental to the sale and transfer of real property, fixtures and any personal property located at 5182 N. Oceanshore Blvd., Palm Coast, FL as described in Exhibit A attached hereto, and belonging to BB&T and, more specifically, the transfer and conveyance of any and all property subject to that certain Purchase Contract (the "Contract") executed by BB&T on August 22, 2017, as Seller, and Let It Be Realty, LLC, a Florida limited liability company on August 21, 2017, as Buyer.

2. To the extent required, resolutions of BB&T authorizing the execution and delivery of the Contract and the Transaction Documents and the consummation of the transactions contemplated thereunder have been adopted pursuant to appropriate corporate action.

IN WITNESS WHEREOF, I have hereunto set my hand this 17 day of September, 2017.

BRANCH BANKING AND TRUST COMPANY,
a North Carolina banking corporation

By: Katrina D. Ramey

Title: Assistant Corporate Secretary
Exhibit A

Property

LOTS 9, 10, 11, 12, 25, 26, 27 AND 28, BLOCK 4, ARTESIA SUBDIVISION, ACCORDING TO MAP THEREOF AS RECORDED IN MAP BOOK 3, PAGE 21 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.
DESCRIPTION:
LOTS N. 10, 11, 12, 13, 25, 26, 27, AND 28, BLOCK 4, ARTESSA SUBDIVISION,
ACCORDING TO THE MAP THEROF AS RECORDED IN MAP BOOK 3, PAGE 21,
OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA

LEGEND:

- FD: Found Point
- IR: Iron Rod
- P: Plot Boundary & Distance
- M: Measured Bearing & Distance
- C/S: Concrete Step
- C/P: Corrugated Metal Pipe
- F/P: Fence or Fence Corner
- PE: Passenger Elevator & Washer
- W: Water Meter
- U: Utility Pole
- E/P: Edge of Pavement
- A/C: Air Conditioner
- S: Street
- GB: Gas Meter
- R: Right of Way
- U: Underground Utility
- L: Lift Pit
- M: Manhole
- DB: Drain Box
- D: Drain
- D': Drain or Pipe
- LP: Light Pole
- L: Lift

NOTES:
1. Description furnished by client. No title work provided.
2. No overhead/underground improvements or utilities are located, unless shown.
3. Bearings are assumed and are based on plot datum.
4. Dimension category is shown in parentheses ( ), when they differ from record dimensions. Monuments are to be used as reference points.
5. Flood Zone X, Map & Panel No. 12020C 0129 5, 7/17/04, as best ascertainable from the Flood Insurance Rate Map.

A1A EAST COAST LAND SURVEYING, LLC
1366 US Highway 1 Suite 600, Ormond Beach FL 32174
PHONE: (386) 834-2133 or (386) 437-0123 FAX: (386) 437-3835

Anthony Sanzone, PSSA 6309
LSB1017
Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.
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: DEVELOPMENT ENGINEERING

Parking layout may have to be rearranged to allow sufficient drive aisle clearance.

No further comments regarding the varience.

REVIEWING DEPARTMENT: FIRE INSPECTOR

No Comments at this time.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

No comments at this time

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments at this time
February 2, 2018

VIA HAND DELIVERY

Adam Mengel
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Bldg. 2, Suite 105
Bunnell, Florida 32110

Subject: 5182 N. Oceanshore Blvd., Palm Coast, FL 32137
Application #3124 for Special Exception
Application #3125 for Variance

Dear Mr. Mengel:

Please find enclosed with this letter ten (10) copies of the updated conceptual site plan, which was revised in response to the comments from the Technical Review Committee. In addition, the TRC comments for both applications that require a response are restated below with my responses in **bold**. As explained at the TRC meeting, the applicant is revising the special exception to remove restaurant and retail uses from the request. The property is already approved for professional offices and professional consultants and the only additional uses being requested are for medical and dental offices. All three of these uses are included in the request to avoid any confusion in the future but the only new special exception uses not already permitted on the property are medical and dental offices.

**Application #3124 – Special Exc For Restaurant, Etc.**

**REVIEWING DEPARTMENT: PLANNING DEPARTMENT**

1. Parking should be relocated from front of building to rear or redesigned to allow drive isles and not backing into A1A.

The plan has been revised to show the distance between the parking spaces along the front of the building and A1A. There is sufficient distance for cars parked in this area to backup and turn around without entering the right-of-way.
2. What material is proposed for the fencing identified as being replaced?

The plan has been revised to include the type of material used to replace the existing fence along the boundary line of the property. The owner will install a vinyl fence which will be an earth tone to minimize staining from the irrigation system.

3. Please identify on plans the proposed location for the dumpster enclosure.

Due to the revision to the request to only add medical and dental office uses no dumpster will be needed for the property. The owner will use garbage cans to handle its solid waste needs. The garbage and recycling cans will be located at the rear of the building along the existing sidewalk as noted on the revised plans. The cans are not visible from A1A in this location and will not be visible from the surrounding properties due to the vinyl fence and perimeter landscaping. Therefore, no additional screening should be required.

4. Please identify on plans the location of the vehicular and pedestrian cross-access between this property and neighboring property.

The location of a future vehicular and pedestrian cross-access driveway has been added to the plan in the event it is needed in the future.

5. Please provide a landscape buffer along the rear property line.

The landscape buffer has been to the revised plan.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

- Original system permitted in 1984 and can support an estimated sewage flow of 1,183 gallons per day. Estimated flows for a full-service restaurant are 40 gal/day/seat or 20 gal/day/seat for establishments using single artifacts only, or for bar seats. Office flows are calculated as 15gpd for every 100sqft of floor space or 15gpd per employee, whichever is greater. Stores are calculated as 200gpd per bathroom, and Doctor's Offices are sized as 250gpd per practitioner. Please note that any increase in sewage flow from the original approval will result in the system being brought up to all current standards.

Duly noted. If any tenant on or end users on the property will result in an increase beyond what the permitted system can handle, then the system will be upgraded and brought to current standards.

- Ann Annual Operating Permit will be required due to the generation of commercial wastewater. Application and issuance of an Annual Operating permit is required prior to operation.
Duly noted. The owner will apply for an annual operating permit to support any uses on the property.

Application #3125 - Variances/Setbacks

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

Parking layout may have to be rearranged to allow sufficient drive aisle clearance.

The applicant does not plan on any changes to the existing parking lot. There is sufficient clearance in the main parking area. See the comment above regarding clearance and sufficient distance for vehicles to backup and turn around for the parking spaces along the front of the building.

Please contact me if you have any questions, comments or need additional information before these items are brought before the Planning Board for consideration.

Sincerely,

[Signature]

Jay W. Livingston

Enclosures

CC: Clients
    Michael Beebe
February 2, 2018

Adam Mengel
Flagler County Planning Dept.
1769 E. Moody Blvd, Bldg 2
Bunnell, FL 32110

Variance & Special Exceptions for 5182 N Oceanshore. Project # 2017120048

Dear Mr. Mengel,

This letter is an addendum to our letter of December 5, 2017 regarding rezoning and landscaping of this parcel. At the January 26 meeting of Scenic A1A PRIDE, we reviewed the application for variances and special exceptions for the Hammock Business Center (formerly the BB&T Bank property) at 5182 N. Oceanshore Blvd. The property is bordered by R/C zoning with existing single family or mobile home residences on three out of four lots.

The variances appear to include the following (see attachment 1):

- 20' for an existing non-conforming sign setback
- 9.1' (40' - 30.1') for the building front setback
- Does not meet 50' setback with 25' vegetative buffer for adjacent uncomplimentary land use on the north side.

Scenic A1A PRIDE understands that these non-conformities were preexisting since 1984, no new variances are being requested, and changes would be an unnecessary hardship. Therefore Scenic A1A PRIDE supports these variances with the assumption that appropriate buffers will be provided where possible.

The special exceptions in the R/C zoning district include business and professional offices, professional consultants, medical and dental offices, and pharmacy. We understand that the restaurant special exception is being dropped and parking should be sufficient for these uses.

Scenic A1A PRIDE committee supports the special exception uses listed above with the understanding that each use will be reviewed by the planning department.

Sincerely,

Dennis Clark, Chair
SCENIC A1A PRIDE
5784 N. Oceanshore Blvd, Palm Coast, FL 32137
c.c.  Jay Livingston (jay.livingston314@gmail.com)
      Mike Goodman (mikecheesecake1@gmail.com)

Attachment 1 - Variances
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I hereby affirm mailed receipt to each owner on January 26, 2018 for the Planning & Development Board Meeting on February 13, 2018 at 6 pm.

Wendy Hickey, Planner
January 25, 2018

RE: Application #3125 - Variance Request in the R/C (Residential/Limited Commercial) Zoning District.

Dear Property Owner:

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

A request has been made by Jay W. Livingston Esq. of Livingston & Sword PA. Representing Exile on Main St. LLC for multiple setback variances at 5182 North Oceanshore Boulevard, Parcel Number: 40-10-31-0010-00040-0090.

You are hereby notified that a public hearing before the Flagler County Planning and Development Board, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, on February 13, 2018, beginning at 6:00 p.m. or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

Wendy Hickey
Planner

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS ADE. WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.
APPLICATION # 3125

NOTICE OF PUBLIC HEARING

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

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

FEBRUARY 13, 2018 - 6:00 P.M.

REQUEST: ____________________ VARIANCE
APPLICANT: ___________ LIVINGSTON & SWORD PA

Parcel Number: ___________ 40-10-31-0010-00040-0090
Zoning District: ___________ R/C (RESIDENTIAL/LIMITED COMMERCIAL)

THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.

For additional information visit web page at: www.flaglercounty.org or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE