

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, April 09, 2019 at 6:00 PM**

Adopted June 11, 2019

1 **MEMBERS PRESENT:** Vice-Chair Timothy Conner, Jack Corbett, Michael Goodman, Lauren Kornel,
2 and Mark Langelo (arrived at 6:30 p.m.).

3

4 **MEMBERS EXCUSED:** Chair Michael Boyd and Anthony Lombardo.

5

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

8

9 **BOARD COUNSEL:** Kate Stangle, with Nelson Mullins Broad and Cassel.

10

11 **Vice-Chair Conner** called the meeting to order.

12

13 1. **Roll Call.**

14

15 Attendance was confirmed by Ms. Lemon and a quorum was present.

16

17 2. **Pledge of Allegiance.**

18

19 **Vice-Chair Conner** led the Pledge of Allegiance to the Flag.

20

21 3. **Approval of the March 12, 2019 regular meeting minutes**

22

23 *Motion to approve made by Mr. Corbett, seconded by Mr. Goodman.*

24

25 *Motion carried unanimously.*

26

27 4. Quasi-judicial requiring disclosure of ex parte communication:

28

29 Application #3171 – **SPECIAL EXCEPTION IN THE MH-3 (MOBILE HOME PARK)**
30 **DISTRICT FOR A HOME OCCUPATION** – request for a Special Exception for a Home
31 Occupation for a Handyman at 2982 North Oceanshore Boulevard. Parcel Number: 26-11-31-0000-
32 01050-0000; 6.74+/- acres. Owner: Flagler by the Sea, Inc./Applicant: Shirley A. Straub.

33

34 **Vice-Chair Conner** asked for ex-parte disclosures. None given

35

36 **Mr. Mengel** presented the staff report describing the property and the request for a special exception
37 for a Home Occupation within the MH-3 zoning district. He then proceeded to give staff
38 recommendation that the Planning and Development Board find that based on the testimony and
39 evidence presented that all the Special Exception guidelines have been met and that clear evidence has
been demonstrated to the Board that the applicant will meet on an initial and ongoing basis the County's
Special Exception Regulations for a Home Occupations, and therefore the Board approves Application

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, April 09, 2019 at 6:00 PM**

Adopted June 11, 2019

1 #3171, a Special Exception in the MH-3 (Mobile Home Park) district for a Home Occupation at 2982
2 North Oceanshore Boulevard, subject to the following conditions:

- 3 a. This Special Exception is specific to 2982 North Oceanshore Boulevard and this specific
4 applicant; and
5 b. The applicant shall at all times comply with FCLDC subsection 3.07.03.G, *Special exception*
6 *regulations for home occupations.*
7

8 **Vice-Chair Conner** asked the applicant if they would like to speak.
9

10 **Shirley Straub, 2982 North Ocean Shore Boulevard, Flagler Beach**, applicant, stated that she has
11 read and agrees with all the proposed conditions and was available for questions.
12

13 **Vice-Chair Conner** opened the Public Hearing asked if there was anyone who wanted to speak; seeing
14 none, he closed the Public Hearing.
15

16 *Motion to approve subject to staff conditions made by Ms. Kornel, seconded by Mr. Goodman.*
17

18 *Motion carried unanimously.*
19

- 20 5. Quasi-judicial requiring disclosure of ex parte communication:

21 Application #3172 – **APPLICATION FOR SITE DEVELOPMENT PLAN OVER 5 ACRES IN**
22 **THE C-1 (NEIGHBORHOOD COMMERCIAL) DISTRICT** – request for a review of a site
23 development plan for a storage facility at 5135 Colbert Lane. Parcel Number: 27-11-31-4892-00000-
24 00R0; 5.63+/- acres. Owner: Gurell Land Management/ Shamus Schroeder, E.I., Project Manager,
25 Newkirk Engineering, Inc.
26

27 **Vice-Chair Conner** asked that due to his conflict of interest with this item and the need to pass the
28 gavel and maintain a quorum, he is requesting this item be placed at the end of the agenda in anticipation
29 of Mr. Langello's attendance. He disclosed that he represented Gurell Land Management previously
30 when this applicant came before this Board and represented this applicant during the mediation with
31 the County.
32

33 *A consensus of the Board was provided and the item was moved to the end of the agenda.*
34

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

36 Application #3173 – **APPLICATION FOR REVIEW IN THE PUD (PLANNED UNIT**
37 **DEVELOPMENT) DISTRICT TO AMEND AND RESTATE DEVELOPMENT AGREEMENT**
38 – request to amend and restate the Development Agreement for Renaissance at Hammock Dunes PUD.
39 Parcel Number: 04-11-31-2984-000E1-0180; 7.77+/- acres. Owner: Oare Associates, LLC/Applicant:
40 Robert E. Dickinson, RLA, of Dickinson Consulting, Inc.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, April 09, 2019 at 6:00 PM**

Adopted June 11, 2019

1
2 **Vice-Chair Conner** asked for ex-parte disclosures. None given.
3

4 **Mr. Mengel** presented the staff report noting the previous steps and approvals this development has
5 already gone through. He then described in detail the proposed changes to the Development Agreement
6 and provided a letter of support from the Hammock Dunes Homeowners Association attaches to these
7 minutes as Attachment “A” . He then went onto give the staff recommendation: Based on the provided
8 application and supplemental information, the Planning Department finds that the criteria at the Flagler
9 County Land Development Code Section 3.04.02.F have been met and recommends that the Planning
10 and Development Board recommend to the Board of County Commissioners approval of Application
11 # 3173, the amendment and restating of the PUD Development Agreement for the Renaissance at the
12 Hammock Dunes PUD, to be adopted through an Ordinance titled similar to:

13
14 AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS,
15 FLAGLER COUNTY, FLORIDA, AMENDING AND RESTATING THE PUD (PLANNED UNIT
16 DEVELOPMENT) DEVELOPMENT AGREEMENT FOR RENAISSANCE AT HAMMOCK
17 DUNES; AMENDING FLAGLER COUNTY ORDINANCE NO. 2018-13; PROVIDING FOR
18 FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

19
20 In addition to this recommendation, he also provided the Board with alternative recommendations such
21 as approval with conditions, recommendation for denial, and to table the request.
22

23 **Vice-Chair Conner** asked the applicant if they had a presentation.
24

25 **Robert Dickinson, Dickinson Consulting Inc., 33 Old Kings Road N Suite 1**, for the applicant stated
26 that Mr. Mengel’s presentation was complete and he was available for any questions.
27

28 **Vice-Chair Conner** opened the Public Hearing. Seeing no one approach, he closed the Public Hearing
29 and opened Board comments.
30

31 **Vice-Chair Conner** asked for a motion.
32

33 *Motion to approve made by Ms. Kornel, seconded by Mr. Goodman.*
34

35 *Motion carried unanimously.*
36

- 37 7. Quasi-judicial requiring disclosure of ex parte communication:
38 Application #3176 – APPLICATION FOR SITE DEVELOPMENT PLAN APPROVAL FOR AN
39 EXISTING PUBLIC USE IN THE CITY OF PALM COAST P&G (PARKS AND GREENWAY)
40 DISTRICT – request for review and approval of a site development plan for museum expansion at

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, April 09, 2019 at 6:00 PM**

Adopted June 11, 2019

1 7900 Old Kings Road North. Parcel Number: 09-10-30-0000-01010-0021; 242+/- acres. Owner:
2 Florida Agricultural Museum, Inc./Applicant: Charlie Faulkner.

3

4 **Vice-Chair Conner** asked for ex-parte disclosures. None given

5

6 **Mr. Mengel** presented the staff report stating he gave a brief history and explanation of the proposed
7 request for expansion of the exhibit area. He then went on to state staff recommends The Planning and
8 Development Board approve at 790 Old Kings Road North, an existing Public Use in the City's P&G
9 (Park and Greenway) District.

10

11 **Vice-Chair Conner** asked if anyone on the Board had questions for staff.

12

13 **Mr. Goodman** asked about the temporary restrooms depicted on the site plan were they buildings?

14

15 **Mr. Mengel** replied no they are port-a-let type and will be handicapped accessible. The homestead area
16 of the site has permanent handicapped restrooms but this is too far to meet the requirement. There are
17 plans to add permanent restrooms in the future

18

19 **Mr. Goodman** asked since school groups were mentioned is there sufficient parking for the busses for
20 these groups?

21

22 **Mr. Mengel** responded yes.

23

24 **Vice-Chair Conner** asked the applicant if they had a presentation.

25

26 **Charlie Faulkner, 291 Byrd Road, Crescent City**, for the applicant stated he was available for
27 questions.

28

29 **Vice-Chair Conner** opened the Public Hearing asked if there was anyone else who wanted to speak;
30 seeing none, he closed the Public Hearing.

31

32 *Motion to approve made by Ms. Kornel, seconded by Mr. Corbett.*

33

34 *Motion carried unanimously.*

35

36 **Vice-Chair Conner** asked that if he stepped back from the Board would there still be a quorum.

37

38 **Mr. Kate Stangle, Board Counsel**, responded that you are governed by Roberts Rules and the Land
39 Development Code and the Land Development Code indicated that each decision in which a quorum
40 is in attendance and voting. So, that language is saying that a quorum has to be voting. There is language

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, April 09, 2019 at 6:00 PM**

Adopted June 11, 2019

1 that governs the County Commissioners that indicates the quorum is not lost when someone abstains.
2 She discussed that since some of the Board members are new she compiled a summary of statutory
3 rules that govern the Planning and Development Board which is attached to these minutes as
4 Attachment “B” the summary includes excerpts of the Florida Sunshine Law, Public Records Law and
5 the Code of Ethics for Public Officers and Employees and how these rules apply to them individually
6 and as a Board.
7

- 8 8. Quasi-judicial requiring disclosure of ex parte communication:
9 Application #3172 – **APPLICATION FOR SITE DEVELOPMENT PLAN OVER 5 ACRES IN**
10 **THE C-1 (NEIGHBORHOOD COMMERCIAL) DISTRICT** – request for a review of a site
11 development plan for a storage facility at 5135 Colbert Lane. Parcel Number: 27-11-31-4892-00000-
12 00R0; 5.63+/- acres. Owner: Gurell Land Management/ Shamus Schroeder, E.I., Project Manager,
13 Newkirk Engineering, Inc.
14

15 **Vice-Chair Conner** asked for ex-parte disclosures.
16

17 **Vice-Chair Conner** disclosed that he represented Gurell Land Management previously for this very
18 project when this applicant came before this Board and represented this applicant during the mediation
19 with the County. He then recused himself and passed gavel to Mr. Langelo. [Mr. Langelo arrived at
20 6:30 p.m. as this item was being introduced.]
21

22 **Mr. Mengel** presented the staff report, noting this is the evolution of the project after the denial of the
23 Planned Unit Development by the Board of County Commissioners. He continued giving an in depth
24 description and history of the project including the Mediation Settlement Agreement attached to these
25 minutes as Attachment “C” and how it has come to this point. He then went on to give the staff
26 recommendation that the Planning and Development Board approve Application # 3172 a Site
27 Development Plan in a C-1 (Neighborhood Commercial) District, finding that the requested plan is
28 consistent with the Comprehensive Plan, the Land Development Code, and the Mediated Settlement
29 Agreement . He also provided the Board with alternative recommendation that the Board could find
30 that the plan was not consistent with the Comprehensive plan, the Land Development Code and/or the
31 Mediated Settlement agreement, or the Board could table the request for the submittal of additional
32 information.
33

34 **Shamus Schroeder, E.I., Project Manager, Newkirk Engineering, Inc., 1230 Us Highway 1,**
35 **Ormond Beach,** for the applicant. Stated that Mr. Mengel’s presentation covered all the main points.
36 He noted there will be a minimum 50 foot buffer at front He also noted that there had been some
37 concerns from the neighboring property owners about the configuration of the drive but they have all
38 been resolved. d he was available for any questions.
39

40 **Mr. Goodman** asked what the Buffer widths on the sides?

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, April 09, 2019 at 6:00 PM**

Adopted June 11, 2019

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

Mr. Schroeder responded 25 feet around the subdivided parcel.

Mr. Langelo asked if there was a natural vegetative buffer?

Mr. Schroeder responded that the only natural buffer will be at the front of the property the others will be planted.

Mr. Langelo asked staff if there was a pervious impervious requirement on parking areas.

Mr. Mengel stated that that is only associated with off-street parking. This is not a parking lot.

Mr. Langelo opened the Public Hearing; seeing no one approach, he closed the Public Hearing and entertained a motion.

Motion to approve with conditions as provided by staff made by Ms. Kornel and seconded by Mr. Goodman.

Motion carried unanimously.

9. Board Comments

Mr. Goodman stated that he is not only on this Board, but on the Scenic A1A Pride Committee and he is having a hard time understanding what their responsibilities are because they seem to assert power not only over this Board but also the Technical Review Board. It was his understanding that that group is only supposed to look at the architectural and landscaping of new buildings. They talk about Codes and parking requirements thing that I think are not within their purview. I just wanted a clarification on that

Ms. Stangle stated that would be under the purview of the Board of County Commissioners. This Board does not regulate what an advisory Board can or cannot do. Mr. Mengel could bring this to the attention the County Administrator and ask the County Administrator what the best course of action for getting clarification and to address any issues he may find.

Vice-Chair Conner stated that Mr. Goodman was not alone in his confusion. He added that even on this Board there are conflicting opinions on how Scenic A1A Pride comments are viewed. In my opinion they are an Advisory Board not like any other Citizen Board and have no more power or authority than that. A group of citizens that express their opinions. That is my personal opinion. I do not have anything from staff legal or otherwise that shows me a direct link that they have any direct authority on the decision making of this Board.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, April 09, 2019 at 6:00 PM**

Adopted June 11, 2019

1
2 **Mr. Langelo** added that he too had some concerns, not about their role but the way that particular
3 entity is formed and regulate themselves is outside the ability of the County to have any say so. He
4 questioned if they must review something and we can't get them to do it will that hold up the procedure
5 because they are not doing it. He also apologized for coming in at 6:30.

6
7 10. **Public Comments** - Each speaker will be allowed up to three minutes to address the Planning and
8 Development Board on any item or topic not on the agenda.

9
10 None.

11
12 11. **Adjournment**

13
14 *Meeting adjourned at 7:45 p.m.*

15 Prepared by: Wendy Hickey

16 Reviewed by: Adam Mengel

March 19, 2019

Robert E. Dickinson, RLA
Dickinson Consulting, Inc.
33 Old Kings Road North, Suite 1
Palm Coast, Florida 32137

RE : Oare Associates Parcel 7.77 Acres
Renaissance at Hammock Dunes
Application #3173 Amendment to the PUD Development Agreement (Setbacks)

Dear Mr. Dickinson,

This letter is to provide support for the Amendment to the PUD Development Agreement as submitted for the above referenced property. The request is to modify only the setbacks to previously approved 28 single family Site Plan. This modification is a result of refined residential unit designs for the project. We believe the plan provides for a compatible use to the Hammock Dunes Private Community and will provide for a new residential product that will be well received in the community. We look forward to continued open dialog and communication as the design continues that will insure this new neighborhood will be well received in the community. If we can be of any assistance please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Gill". The signature is fluid and cursive, with the first name "Michael" being larger and more prominent than the last name "Gill".

Michael Gill, President
Hammock Dunes Owners' Association

ATTACHMENT "B"

The following is a brief outline of the primary statutory rules which govern the conduct of Planning and Development Board Members. The intent of this outline is to provide you with an initial introduction into the regulatory concepts. We intend to speak to you at future meetings or work sessions to go through these items in more detail. Of course, if at any time you have questions or concerns regarding any of these matters, please do not hesitate to contact Adam Mengel at amengel@flaglercounty.org, Kate Stangle at: kate.stangle@nelsonmullins.com, or Al Hadeed at ahadeed@flaglercounty.org.

The conduct of the Planning and Development Board Members is governed by three main regulations:

1. The Florida Sunshine Law, which is located in Chapter 286, Florida Statutes, and
2. The Florida Public Records Law, which is located in Chapter 119, Florida Statutes, and
3. The “Code of Ethics for Public Officers and Employees,” which is located in Chapter 112, Part III of the Florida Statutes.

Sunshine Law

The Florida Government in the Sunshine Law, commonly referred to as the Sunshine Law, protects the public from “closed door” decision making and provides the public with a right of access to governmental proceedings of public boards or commissions. The law is applicable to elected and appointed officials and applies to *any* gathering, whether formal or casual, of two or more members of the same board to discuss *any matters that will foreseeably come before the board for action*. The Sunshine Law can also apply, in limited circumstances, to an individual board member or employee who has been formally or informally authorized to exercise any decision making authority on behalf of the Board.

There are three basic requirements of the Sunshine Law:

1. meetings shall be open to the public; and
2. reasonable notice of the meeting must be given; and
3. minutes of the meetings must be taken, promptly recorded, and open to public inspection.

As a result of these requirements, Planning and Development Board Members must avoid engaging in discussions with each other related to business which may foreseeably come before the Board, outside of a public meeting setting. A “discussion” is interpreted broadly and may include, but is not limited to:

- Telephone conversations
- Email conversations
- Discussions in hallways during meeting breaks
- Discussions over a meal

- Exchanges during community, social or political events
- Utilizing a staff person, lobbyist or other means to seek out another Board Member's position about issues
- Communicating indirectly or directly through newspapers, such as through the use of editorials, or social media

The consequences for violating the Sunshine Law can vary, but may include:

- Criminal penalties
 - It is a second degree misdemeanor for knowingly violating the Sunshine Law
 - Punishable with a fine of up to \$500 and up to 60 days imprisonment
- Non-criminal penalties
 - Noncriminal infractions are punishable by fine not exceeding \$500
 - Removal from the Board
 - Being subject to civil actions for injunctive or declaratory relief
 - Payment of attorney's fees incurred by challenging party
 - Invalidation of Board actions

Public Records Law

The Public Records Law requires the disclosure of any document made or received in connection with the transaction of official business. Specifically, the Public Records Law applies to "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with the transaction of official business by the agency." The scope of the Public Records Law includes, but is not limited to:

- Notes and drafts, however prepared, if prepared for the purposes of perpetuating, communicating or formalizing knowledge
- Non-final drafts marked as "preliminary" or "working draft" if circulated for review, comment or information
- Interoffice memos
- Personal notes, if prepared for the purpose of communicating, perpetuating or formalizing knowledge
- Computer records stored on private computers or devices if official business was conducted
- Text messages
- Voice mail messages
- Personal address and contact information if provided in connection with the transaction of official business
- Personal telephone records if phone calls for official business were conducted on personal phone
- Facebook records if communications regarding official business were made
- Most written communication with the Board's legal representation (with some limited exceptions)

The consequences for violating the Public Records Law can vary, but may include:

- Criminal penalties
 - It is a first degree misdemeanor for knowingly violating the Public Records Law
 - Punishable with a fine of up to \$1,000 and up to one year in jail
- Non-criminal penalties
 - Removal from the Board
 - Noncriminal infractions are punishable by fine not exceeding \$500
 - Being subject to civil actions for enforcement
 - Payment of attorney's fees incurred by challenging party

Code of Ethics

The Code of Ethics protects against conflicts of interest and establishes standards for the conduct of public officials. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain. To summarize the applicable rules, as a Planning and Development Board Member:

- You are prohibited from soliciting gifts for your vote or other official action.
- You are prohibited from accepting a gift or compensation for your vote.
- You are prohibited from doing renting, leasing, or selling any realty, goods or services to the County, unless the business is award through sealed, competitive bidding or falls within one of the exemptions set forth in Section 112.313(12).
- You are prohibited from misusing your position. For example -
 - You cannot corruptly use your position to secure a special privilege or benefit for another person or yourself.
 - You cannot use County equipment or supplies for private purposes.
 - You cannot engage in "Do you know who I am" type behavior.
- You are prohibited from having an employment relationship that conflicts with your duties as a Board Member.
- You are prohibited from having a contractual relationship that conflicts with your duties as a Board Member.
- You are prohibited from disclosing or using information that is not available to members of the general public that you gained in your capacity as a Board Member for your personal gain or benefit.
- You are prohibited from voting on a matter that would inure to your private special gain or loss, or which would inure to the private special gain or loss of:
 - any principal by whom you are retained
 - a relative,
 - or a business associate
- You are prohibited from appointing or advancing an individual, or advocating for the appointment or advancement of an individual who is your relative.

The consequences for violating the Code of Ethics can vary, but may include:

- Removal from the Board
- Public censure and reprimand
- A civil penalty not to exceed \$10,000
- Restitution of any pecuniary benefits received because of the violation committed

ATTACHMENT "C"

**MEDIATION SETTLEMENT AGREEMENT
BETWEEN THE BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA
AND GURELL LAND MANAGEMENT LLC**

THIS MEDIATION SETTLEMENT AGREEMENT ("Agreement") dated November 19, 2018 between the Board of County Commissioners of Flagler County, Florida, a political subdivision of the State of Florida, whose address is 1769 East Moody Boulevard, Building 2, Bunnell, Florida 32110 ("County") and Gurell Land Management, LLC, a Florida Limited Liability Company, whose address is 20 Farver Lane, Palm Coast, Florida 32137 ("Gurell").

WHEREAS, Gurell is the owner of Parcel #27-11-31-4892-00000-00R0, comprising of 5.63 acres, more or less, more particularly described at Exhibit "A" and wholly contained within and under the land use jurisdiction and authority of the County ("Parcel"); and

WHEREAS, on March 19, 2018, the County denied Gurell's rezoning application from C-1 (Neighborhood Commercial) to PUD (Planned Unit Development) citing, among other factors, the incompatibility of the proposed use of the Parcel as a recreational vehicle park with an owner/caretaker residence as justification for its denial; and

WHEREAS, Gurell subsequently filed on March 23, 2018 its intent to seek non-judicial relief through the Florida Land Use and Environmental Dispute Resolution Act (Section 70.51, Florida Statutes); and

WHEREAS, following Gurell's filing for relief, both the County and Gurell have worked amicably towards a resolution of the land use dispute that provides Gurell with a use of the Parcel while maintaining the County's land use authority over the Parcel that protects the health, safety, and general welfare of the surrounding neighborhood and the County as a whole; and

WHEREAS, as a result of these negotiations, Gurell has submitted to the County a Mediation Proffer Statement, agreeing to the use and development of the Parcel as described therein; and

WHEREAS, County has reviewed the Mediation Proffer Statement and concurs, through this Agreement, that the proposed use of the Parcel is in the best interest of Gurell and the County; and

WHEREAS, the acceptance of this Agreement by the County and Gurell will settle all claims related to the County's denial of the requested rezoning to PUD; and

WHEREAS, the acceptance of this Agreement shall also finalize the alternative dispute resolution process requested by Gurell following County's denial of the rezoning; and

WHEREAS, both County and Gurell (hereafter "Parties") agree and consent to this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. The above-listed recitals are adopted as findings of fact.
2. Development of the Parcel shall occur in conformance with the Mediation Proffer Statement provided by Gurell and attached hereto as Exhibit "B".
3. Following approval of this Agreement, Gurell shall be obligated to obtain site development plan review by County's Technical Review Committee and site development plan approval by the Planning and Development Board prior to issuance of a land development permit. For purposes of this Agreement, such approval shall not unreasonably be withheld by the County and, in addition to the requirements of the Mediation Proffer Statement, the County's Planning and Development Board shall require that the site development plan demonstrate compliance with such regulations as are appropriate and under the enforcement authority of the County.
4. Nothing contained herein shall prevent or preclude development of the Parcel as provided for in the C-1 (Neighborhood Commercial) District at future time in compliance with all applicable County codes and standards.
5. Approval of this Agreement, its execution by the Parties, its approval by the Mediator, and its recording in the Public Records shall constitute the resolution of the land use dispute between the Parties and shall settle any current claims related thereto. As provided herein, both County and Gurell shall be responsible separately for any legal fees and other expenses in reaching this Agreement, with neither County nor Gurell prevailing over the other. This Agreement has been reached through the mutual negotiations of the Parties and this Agreement shall not inure to, or be subsequently construed or interpreted to, the benefit of either the County or Gurell over the other.
6. In the unlikely event of a breach of this Agreement, the full available remedies for resolution of any dispute shall remain and shall be unaffected by this Agreement.
7. Any notice provided as it relates to this Agreement shall be provided as follows:

For County: Craig Coffey
County Administrator
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

For Gurell: Richard G. Gurell
Gurell Land Management, LLC
20 Farver Lane
Palm Coast, FL 32137

- 8. This Agreement shall be recorded by the County in the Public Records of Flagler County, Florida, upon its adoption and approval by the Mediator.
- 9. This Agreement shall immediately take effect upon recording.

IN WITNESS WHEREOF, the Parties hereto execute this Mediation Settlement Agreement.

RECORDED

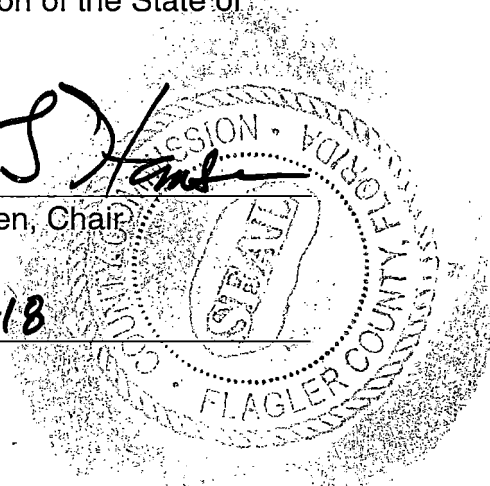
FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida

ATTEST:

Lisa Funicello, DC
Tom Bexley, Clerk of the Circuit Court and Comptroller

Gregory L. Hansen
Gregory L. Hansen, Chair

11-21-18
Date



APPROVED AS TO FORM:

Al Hadeed
Al Hadeed, County Attorney

GURELL LAND DEVELOPMENT, LLC,
a Florida Limited Liability Company

Witness 1

Pauline Beverly
Signature

Pauline Beverly
Print Name

Richard G. Gurell

Richard G. Gurell
Manager

RICHARD GURELL

Print Name

1/10/19
Date

Witness 2

Sonia Sporlock
Signature

Sonia Sporlock
Print Name

RECORDED

[Handwritten signature]

EXHIBIT "A"
Legal Description

Tract R, PALM COAST PLANTATION PUD UNIT 2, as per the map thereof recorded in the Map Book 33, Page(s) 54 through 61, inclusive, of the Public Records of Flagler County, Florida, less and except the Northerly 291 feet of the Westerly 300 feet of said Tract R. Together with an easement for ingress and egress over the Southerly 30 feet of the Northerly 291 feet of the Westerly 300 feet of Tract R and Subject to a 30 foot easement for ingress and egress over the following described property: Commence at the Northwest corner of Tract R, PALM COAST PLANTATION PUD UNIT 2 as aforesaid, thence South 18 degrees 24' 09" East along the East R/W line of Colbert Lane, a distance of 291 feet to the Point of Beginning of this easement description; thence depart the East R/W line of Colbert Lane North 71 degrees 35' 51" East a distance of 300 feet; thence South 18 degrees 24' 09" East a distance of 30 feet; thence South 71 degrees 35' 51" West a distance of 300 feet to the East R/W line of Colbert Lane; thence Northerly along the East R/W line of Colbert Lane a distance of 30 feet, more or less, to the Point of Beginning of this easement description.

Parcel Identification Number: 27-11-31-4892-00000-00R0

FCC RD

EXHIBIT "B"
Mediation Proffer Statement

FCC RD

MEDIATION PROFFER STATEMENT

Legal Confidential as Mediation Proceedings
5135 Colbert Lane
Parcel #27-11-31-4892-00000-00R0

RECORD OWNERS: Gurell Land Management, LLC, 20 Farver Lane, Palm Coast, Florida 32137 (the "Owner" or "Applicant").

APPROVAL DATE OF PROFFER: November 19, 2018

WHEREAS, this proffer statement shall only apply to the property identified as Parcel #27-11-31-4892-00000-00R0, comprising of 5.63 acres, more or less, wholly contained within unincorporated Flagler County as of November 19, 2018 (the "Property"); and

WHEREAS, the undersigned hereby proffer, as part of a mediated settlement agreement with Flagler County, that the use and development of the Property or any portion thereof shall conform with the following conditions, which conditions are reasonably made to create a use compatible with the surrounding lands and which conditions minimize potential adverse effects to nearby residential neighborhoods; and

WHEREAS, this proffer, if accepted by Flagler County as part of the mediated settlement, shall be binding upon the Property as a Land Use Authorization and upon all parties and persons claiming under or through the Owners and Applicants, their heirs, personal representatives, assigns, grantees, and other successors in interest of title; and

WHEREAS, the intent of the proffer, as set forth below, has been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffer; and

WHEREAS, the undersigned will use its best efforts with Flagler County to secure approval of or no objection to the terms of the proffer by the Palm Coast Plantation HOA and other stakeholders as deemed appropriate by Applicant and Flagler County; and

WHEREAS, this proffer is being made to fill a need in Flagler County for an upscale, public, open storage facility that is substantially buffered and attractively maintained and secured, and to that end the proffer sets out the specific provisions that will result in realizing this use as defined herein; and

WHEREAS, this mediated use can yield positive planning benefits when compared to the previous proposed use and other uses within the C-1 zoning district, such as lower amounts of traffic, lower septic tank usage, no residency, and providing a use that is identical to the Palm Coast Plantation outdoor vehicle storage facility; and

Re: 5135 Colbert Lane - Parcel #27-11-31-4892-00000-00R0

November 19, 2018

Page 2 of 6

WHEREAS, the County's approach is to work in good faith with the undersigned to protect the vehicular access and appearance of Colbert Lane, protect the ability of the adjoining property owner (of approximately 2 acres, north and west of the Property) to properly develop in the C-1 zoning district, and appropriately address the concerns of the adjoining residential subdivisions – Palm Coast Plantation and Grand Haven; and

WHEREAS, as a Land Use Authorization, the specific provisions of this proffer may be incorporated into a land use permit and other authorizations from Flagler County to allow development of the Property; and

WHEREAS, the undersigned is making this proffer to induce Flagler County to approve these development conditions as an appropriate means to resolve any pending land use disputes or claims between the undersigned and Flagler County.

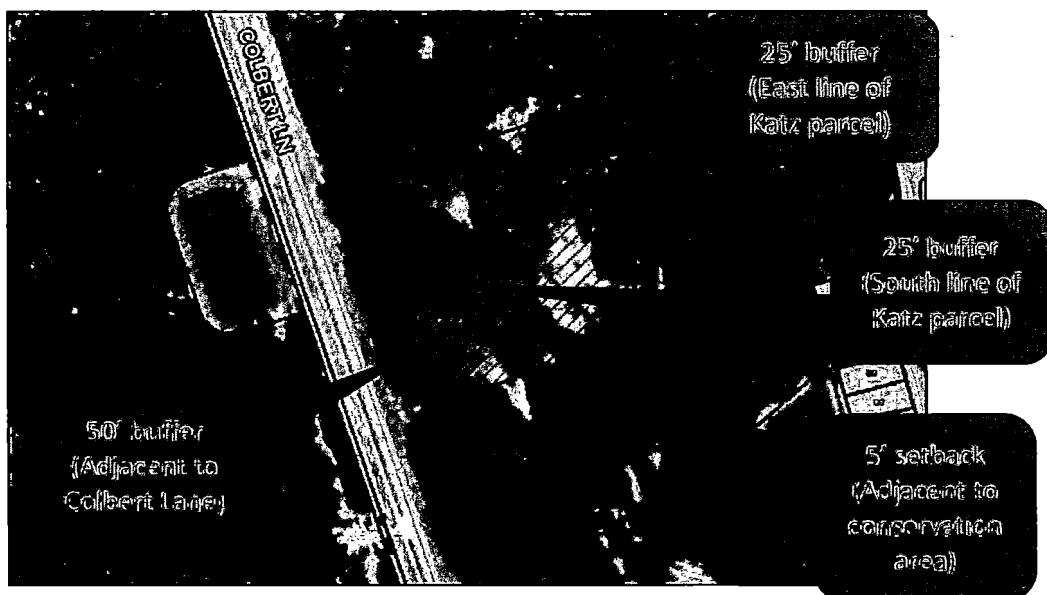
GENERAL PROVISIONS: Upon acceptance by Flagler County of the undersigned's proffer as a Land Use Authorization, the undersigned as Applicant shall construct all improvements in accordance with a site development plan approved by Flagler County which will include the following conditions:

1. A maximum of 100 storage/parking spaces for operable vehicles bearing current tag/registration, with "vehicles" including: Class A, B, and C motorhomes; automobiles; travel trailers; and boats with trailers. No storage/parking of tractor-trailers is permitted. Commercial vehicle storage/parking may not exceed 10% of the total available parking spaces.
2. The Applicant indicates that the vehicular storage yard will be laid out onsite with a large looping drive aisle with potential parking inside and outside the loop. The entrance, drive aisles and all the parking areas between the aisles shall be paved with asphalt or concrete. Spaces on the outside of the drive aisle loop may be developed as non-paved stabilized parking subject to the following:
 - a. Such spaces are developed only after or in conjunction with the paved spaces.
 - b. Such spaces shall not exceed one-half of the total number of spaces.
 - c. Such spaces shall be identified through curb-stops and end-to-end pavers or ribbon curbing to outline the spaces, or other methods acceptable to the County Development Engineer.
 - d. Such spaces shall have a minimum base of six inches (6") of compacted limerock or shell and topped with two inches (2") finer surface aggregate material or alternatively be surfaced with either: paver blocks; permeable reinforcing grid; paved ribbon parking; or similar surface acceptable to the County Development Engineer.
 - e. Stormwater management shall be permitted, constructed and maintained (without recourse to Flagler County or Palm Coast Plantation HOA) in accordance with the

Re: 5135 Colbert Lane - Parcel #27-11-31-4892-00000-00R0
November 19, 2018
Page 3 of 6

Flagler County Land Development Code and St. Johns River Water Management District).

3. Parking spaces may be covered or uncovered, with any structures requiring issuance of building permits. All covered parking spaces shall be paved with concrete or asphalt.
4. A landscaped buffer with a minimum width of fifty feet (50') will be required adjacent to Colbert Lane. The Owner shall keep the landscaped buffer in a natural vegetated condition with intact understory vegetation instead of new landscape plantings. The buffer should be opaque, requiring native vegetation supplemental plantings if necessary to maintain opaqueness. Invasive species must be controlled.
5. A landscaped buffer with a minimum width of twenty five feet (25') will be required adjacent to the east and south (except for the portion of the common access easement developed as the driveway) parcel line of Parcel #27-11-31-4892-00000-00R1 (Katz parcel); this buffer shall be kept in a natural vegetated condition with intact understory vegetation instead of new landscape plantings. The buffer should be opaque, requiring native vegetation supplemental plantings if necessary to maintain opaqueness. Invasive species must be controlled.
 - a. If Parcel #27-11-31-4892-00000-00R1 is subsequently acquired or otherwise developed in conjunction with Parcel #27-11-31-4892-00000-00R0, then this buffer requirement shall be eliminated.
 - b. If a stormwater retention pond is developed along any common parcel line adjacent to Parcel #27-11-31-4892-00000-00R1, then this buffer requirement shall be eliminated for the extent of the portion of the common parcel line developed with the stormwater retention pond.
6. A minimum five foot (5') setback will be required along the south, east, and north property lines adjoining the conservation area. Invasive species must be controlled. The Applicant may place a fence, berm, or site grading within the setback; however, no other structures or site work will be permitted within the minimum five foot (5') setback.



Re: 5135 Colbert Lane - Parcel #27-11-31-4892-00000-00R0

November 19, 2018

Page 4 of 6

7. Interior landscaped planting areas shall be provided at the ends of any covered parking spaces so as to break up the monotony of the parking/storage area and to protect any covered parking structures from damage by vehicles. Where parking/storage adjoins any stormwater retention pond, a minimum five foot (5') wide landscape buffer shall be provided consisting of no less than one understory tree planted every fifty feet (50') together with shrubs and groundcover so as to create a continuous landscaped buffer a minimum of three feet (3') in height at maturity.
8. All non-natural landscaped areas shall be irrigated and maintained in perpetuity.
9. The entire area used for parking/storage is to be fenced with a six foot (6') fence with gated access, including access to emergency services through a Knox Box/lock or Siren Operated Sensor (SOS). (The six foot (6') fence height is in accordance with the County's Land Development Code. As fences serve to deter vandals, for higher fences they simply damage the fence to gain access).
10. The driveway shall use the shared easement as recorded in the Official Records of Flagler County, Florida, and meandered so as to eliminate the sight-line from Colbert Lane. Where the driveway is angled through the buffer (where the driveway is not perpendicular to the Colbert Lane right-of-way), the Owner will either: provide interior plantings opposite the buffer and adjoining the interior portion of the driveway aisle in an equal and reciprocal manner so as to provide the minimum fifty foot (50') buffer width; or provide a combination of interior plantings and/or a wall, fence, or berm adjacent to the driveway aisle so as to be at least 90% opaque when viewed from the Colbert Lane right-of-way.
11. The right-in, right-out driveway requirement will be waived for this use, but may be necessary for a future use. The County reserves the right to require a right-in, right-out driveway configuration in the event that a change of use warrants the right-in, right-out configuration.
12. No deceleration or acceleration lane will be needed for this use unless warranted in the future due to increased trip counts on Colbert Lane.
13. A single freestanding monument sign not to exceed ten feet (10') in height and 32 square feet in sign area, with the sign area measured as a single face of a double-faced sign (e.g., the freestanding monument sign may have two faces, each sign face no greater than 32 square feet in area). If illuminated, the sign shall use LED lighting.
14. Primary electrical feed onto the parcel shall be underground. Covered parking/storage spaces may include electrical hookups of 20 amps or less for connection to motorcoaches and travel trailers for purposes of running appliances and/or air conditioning for climate control, but not for purposes of occupancy: no occupancy is permitted.
15. Lighting in the parking/storage area may be provided. If provided, the lighting shall be LED and of a type that is shielded or aimed downward and limited to no more than thirty feet (30') in height so as to create downcast lighting that reduces lighting effects onto adjacent parcels.

Re: 5135 Colbert Lane - Parcel #27-11-31-4892-00000-00R0

November 19, 2018

Page 5 of 6

16. An office/maintenance facility – less than 1,000 square feet in total conditioned space, with a maintenance shop/shed not to exceed 1,000 square feet in area – may be constructed to provide onsite staffing and storage. If developed, the office may be connected to a well and an onsite sewage disposal system as permitted by the Health Department, but limited in size to the service needed for the office use. The office and maintenance facility may be constructed as one building or two separate buildings. Flexibility in the square footage of each use shall be permitted provided the total square footage does not exceed 2,000 s.f. in total. Neither use shall permit any residency amenities such as kitchen, shower/bath, and similar amenities.
17. One 2A:10B:C fire extinguisher shall be provided at the office/maintenance facility and, if covered parking is constructed, no less than one additional 2A:10B:C fire extinguisher shall be provided for every 200 feet of linear building frontage (as measured on a single building face along its long dimension, and to be mounted on one building side only) or as otherwise required by the County Fire Marshal. Fire extinguishers shall be mounted in a weatherproof mounting with appropriate identification meeting NFPA standards and shall be readily accessible to Owner and their tenants at all times.
18. Security plan to be provided to the County.
19. No onsite residency or overnight occupancy is permitted.
20. No home occupations or roadside vendors are permitted. No businesses shall operate on the parcel, including commercial repair services for vehicles and trailers. However, this shall not prevent ordinary maintenance by the vehicle or trailer owner or offsite providers engaged by the owner.
21. The construction of the development (issuance of a land development permit) is to commence within three (3) years and the project shall be completed within five (5) years.
22. Flagler County will provide a written notice to the Palm Coast Plantation Homeowners Association within seven (7) calendar days of receipt of a site plan application by the County for the parcel.

**REMAINDER OF PAGE INTENTIONALLY BLANK
SIGNATURE PAGES TO FOLLOW**

Re: 5135 Colbert Lane - Parcel #27-11-31-4892-00000-00R0

November 19, 2018

Page 6 of 6

**GURELL LAND MANAGEMENT, LLC
BY OWNER/APPLICANT:**

[Handwritten Signature]
Signature of Owner

RICHARD GURELL
Print Name

Date Signed:
11/19/18

STATE OF FLORIDA)

COUNTY OF FLAGLER)

The foregoing instrument was acknowledged before me this 19TH day of NOVEMBER, 2018, by RICHARD GURELL, who swore or affirmed that he/she is authorized to enter into this Agreement and to bind Gurell Land Management, LLC. Such person:

is/are personally known to me.

produced a current driver license(s).

produced _____ as identification.

(SEAL)

[Handwritten Signature]
Notary Public
Commission No.: GG 132536
My Commission Expires: 8/13/21

