FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
Government Services Building
Board Chambers
1769 East Moody Blvd., Bldg 2, Bunnell, Florida 32110
MEETING

DATE – May 14, 2019 TIME – 6:00 P.M.

1. Roll Call.

2. Pledge to the Flag.

3. Approval of April 9, 2019 regular meeting minutes.

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

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

4. Quasi-judicial requiring disclosure of ex parte communication:
   Application #3172 – **APPLICATION FOR A VARIANCE IN THE AC (AGRICULTURE) DISTRICT** – request for a 14.06 foot front yard setback variance for a shed/pump house at 30 County Road 2006 East. Parcel Number: 34-12-29-4850-00040-0021; 4.77 +/- acres. Owner: Peter A. and Susan Lucente Seitzberg/Applicant: Gary McCain of McCain Homes, Inc.
   Project #2019030016 (TRC, PDB)

5. Staff Comments.

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

8. Adjournment

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.
Draft

MEMBERS PRESENT: Vice-Chair Timothy Conner, Jack Corbett, Michael Goodman, Laureen Kornel, and Mark Langello (arrived at 6:30 p.m.).

MEMBERS EXCUSED: Chair Michael Boyd and Anthony Lombardo.

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

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

Vice-Chair Conner called the meeting to order.

1. Roll Call.

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

2. Pledge of Allegiance.

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

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

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

Motion carried unanimously.

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

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

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

Mr. Mengel presented the staff report describing the property and the request for a special exception for a Home Occupation within the MH-3 zoning district. He then proceeded to give staff recommendation that the Planning and Development Board find that based on the testimony and 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
#3171, a Special Exception in the MH-3 (Mobile Home Park) district for a Home Occupation at 2982 North Oceanshore Boulevard, subject to the following conditions:
   a. This Special Exception is specific to 2982 North Oceanshore Boulevard and this specific applicant; and
   b. The applicant shall at all times comply with FCLDC subsection 3.07.03.G, Special exception regulations for home occupations.

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

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

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

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

Motion carried unanimously.

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

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

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

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

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

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

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

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

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

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

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

Vice-Chair Conner asked for a motion.

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

Motion carried unanimously.

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


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

Mr. Mengel presented the staff report stating he gave a brief history and explanation of the proposed request for expansion of the exhibit area. He then went on to state staff recommends The Planning and Development Board approve at 7900 Old Kings Road North, an existing Public Use in the City’s P&G (Park and Greenway) District.

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

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

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

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

Mr. Mengel responded yes.

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

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

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

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

Motion carried unanimously.

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

Mr. Kate Stangle, Board Counsel, responded that you are governed by Roberts Rules and the Land Development Code and the Land Development Code indicated that each decision in which a quorum is in attendance and voting. So, that language is saying that a quorum has to be voting. There is language...
that governs the County Commissioners that indicates the quorum is not lost when someone abstains.

She discussed that since some of the Board members are new she compiled a summary of statutory rules that govern the Planning and Development Board which is attached to these minutes as Attachment “B” the summary includes excerpts of the Florida Sunshine Law, Public Records Law and the Code of Ethics for Public Officers and Employees and how these rules apply to them individually and as a Board.

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

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

Vice-Chair Conner asked for ex-parte disclosures.

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

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

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

Mr. Goodman asked what the Buffer widths on the sides?
Mr. Schroeder responded 25 feet around the subdivided parcel.

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

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.

None.

11. **Adjournment**

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

Prepared by: Wendy Hickey
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,

[Signature]

Michael Gill, President
Hammock Dunes Owners’ Association
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
  o It is a second degree misdemeanor for knowingly violating the Sunshine Law
  o Punishable with a fine of up to $500 and up to 60 days imprisonment
• Non-criminal penalties
  o Noncriminal infractions are punishable by fine not exceeding $500
  o Removal from the Board
  o Being subject to civil actions for injunctive or declaratory relief
  o Payment of attorney’s fees incurred by challenging party
  o 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
  o It is a first degree misdemeanor for knowingly violating the Public Records Law
  o Punishable with a fine of up to $1,000 and up to one year in jail
- Non-criminal penalties
  o Removal from the Board
  o Noncriminal infractions are punishable by fine not exceeding $500
  o Being subject to civil actions for enforcement
  o 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 -
  o You cannot corruptly use your position to secure a special privilege or benefit for another person or yourself.
  o You cannot use County equipment or supplies for private purposes.
  o 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:
  o any principal by whom you are retained
  o a relative,
  o 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
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 #27-11-31-4892-00000-00RO, comprising of 5.63 acres, more or less, more particularly described at Exhibit "A" and wholly contained within, to 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
WHENAS, the acceptance of this Agreement shall also finalize the alternative dispute resolution process requested by Gurell following County's denial of the rezoning; and

WHENAS, 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.

ATTEST:

Tom Bexley, Clerk of the Circuit Court and Comptroller

Gregory L. Hanson, Chair

APPROVED AS TO FORM:

Al Hadeed, County Attorney

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

Date

11-21-18
Witness 1

Paulina Beverly
Signature
Print Name

Witness 2

Don Spurlock
Signature
Print Name

GURELL LAND DEVELOPMENT, LLC,
a Florida Limited Liability Company

Richard G. Gurell
Manager

Print Name
Date 1/10/19
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
MEDIATION PROFFER STATEMENT

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

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 #27-11-31-4892-00000-00RO, 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
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 Count or Palm Coast Plantation HOA) in accordance with the
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.
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. Six 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.
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.
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)

Notary Public
Commission No.: GG132536
My Commission Expires: 8/13/21
SUBJECT: QUASI-JUDICIAL – Application #3172 – Request for a 14.06 Foot Front Yard Setback Variance in the AC (Agriculture) District at 30 County Road 2006 East. Parcel #34-12-29-4850-00040-0021; 4.77+/- acres. Owner: Peter A. and Susan Lucente Seitzberg/Applicant: Gary McCain of McCain Homes, Inc.

DATE OF MEETING: May 14, 2019

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is for approval of a front yard setback variance in the AC (Agriculture) District for relief from the 50 foot minimum front yard setback. This parcel is 4.77+/- acres in size, identified as parcel #34-12-29-4850-00040-0021 and is located on the South side of County Road 2006 East, East of County Road 305:
On March 14, 2019, Gary McCain with McCain Homes submitted an application for a front yard setback variance, requesting a 14.06 foot variance from the minimum 50 foot front yard setback for a shed/pump house. This is an after-the-fact variance request.

This application was discussed by the Technical Review Committee on April 16, 2019. 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 FCLDC 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.

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 14.06 foot front yard setback variance from the minimum 50 foot front yard setback for shed/pump house at 30 County Road 2006 East (Parcel #34-12-29-4850-00040-0021).

Alternative 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 not been met and therefore denies the 14.06 foot front yard setback variance from the minimum 50 foot front yard setback for shed/pump house at 30 County Road 2006 East (Parcel #34-12-29-4850-00040-0021).

ATTACHMENTS:
1. Technical Staff Report
2. Application and supporting documents
3. Public notice
APPLICATION #3172
FRONT YARD SETBACK VARIANCE IN THE AC DISTRICT
30 COUNTY ROAD 2006 EAST
TECHNICAL STAFF REPORT

Application/Project #: 3172/2019030016

Address: 30 County Road 2006 East

Owner/Applicant: Peter A. and Susan Lucente Seitzberg/Gary McCain of McCain Homes, Inc.

Parcel #: 34-12-29-4850-00040-0021

Parcel Size: 207,918.5 +/- sq. ft. (4.77 +/- acres); 610 feet by 340.85 feet

Legal Description:
Parcel #1 of Malphurs Unrecorded Subdivision, also known as a Portion of Tract 2, Block 4, of St. Johns Development Company’s subdivision of Section 34, Township 12 South, Range 29 East, Plat Book 1, Page 7, Public Records of Flagler County, Florida.

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

Future Land Use Map Classification/Zoning of Surrounding Land:
North: CR 2006 E; A&T (Agriculture & Timberlands)/ AC (Agriculture) District
East: A&T (Agriculture & Timberlands)/ AC (Agriculture) District
South: A&T (Agriculture & Timberlands)/ AC (Agriculture) District
West: CR 305; A&T (Agriculture & Timberlands)/ AC (Agriculture) District

Land Development Code Sections Affected: Land Development Code (LDC) Section 3.07.03, Procedure for variances and special exceptions, and Section 3.07.03.E, Variance guidelines.

Summary of Request: On July 18, 2017, McCain Homes applied for a shed permit at 30 County Road 2006 East. The permit was issued on January 19, 2018 (Permit #2017070131) with its site plan demonstrating compliance with all minimum setbacks and showing a 50 foot front setback. The as-built final survey by Stephenson, Wilcox & Associates, Inc. and signed and sealed by Dan A. Wilcox, P.S.M. No. 5749, on March 13, 2019 – showed the northeast corner of the 267.32 square foot shed (16.3 feet by 16.4 feet) located 35.94 feet off of the front parcel line adjoin County Road 2006 East.

While the shed is wood-frame construction on a concrete slab, the shed cannot be easily moved since the shed houses the well and water treatment system for the parcel. The mistake in the layout of the shed occurred through an error onsite in the placement of a flag indicating the center of the proposed pump house. As described by the contractor, a stake with a yellow ribbon was placed onsite to mark the center of the shed; the contractor built the shed to coincide with the stake’s location, unaware that the stake at
been placed and that the shed – once completed – would not meet the minimum 50 foot front setback. This is an after-the-fact variance, with the completion of the permit awaiting the Board’s decision on the variance: if the variance is approved, the permit will be finaled-out.

**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:** This is a 4.77 acre parcel having more than [sic] half the parcel verified as wetlands. There is a completed 16 x 16 shed that has a 12.94 setback encroachment. The shed is a monolithic slab custom framed log sided structure. The shed has 2 drilled water wells in slab with a filtering system providing treated water for 4 separate buildings (2-dwelling, garage), [sic]. The shed was strategically planned and placed to provide the required separation between the water wells and the septic’s drainage field. The shed was also planned and placed to accommodate FPL’s underground electrical service meter providing electrical service to all structures on property.

   **Staff analysis:** The home was completed in March, 2019 (Permit # 2017070147). While the lot itself is not particularly unique, the presence of the wetlands on the parcel created substantial challenges for the parcel’s development, with required upland buffers to be maintained adjacent to the wetland boundaries. Minimum distances from the septic tank and drainfield also plays a role, but the shed could have been shifted further to the southwest and still meet the minimum front setback and the minimum well-to-septic separation distance.

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:** McCain Homes Inc. paid SWA – Stephenson, Wilcox and Associates, Inc, to go out and mark the location of the shed so the placement would be correct. McCain Homes Inc placed the foundation/shed in the location where the survey company, SWA, has placed the stake with the yellow flag. See attached picture from 12-21-2017. Invoice dated 11/16/17 and 12/26/27 [sic] shows where we paid for wetland location and rough house stake which included shed.
Staff analysis: The Seitzbergs purchased the subject parcel in March, 2017 (see attached Warranty Deed dated March 7, 2017 and recorded on March 16, 2017 at Official Records Book 2192, Page 1709, Public Records of Flagler County, Florida). According to the contractor, he shed was placed on the lot in the location flagged by the surveyor in the field. While an error was made at some point by someone, it was not committed by the owner and likely not committed with ill-intent: staff believes that all parties involved acted at all times in good faith and that the error that was made was incidental to the stake being paced in the wrong location, which was not subsequently discovered until the submittal of the as-built survey.

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: The shed is placed on 4.77 acres of land in a rural community accessed from a dirt road. It will not harm or provide any safety issues.

Staff analysis: The encroachment into the front setback is not easily noticed – with the shed setback a distance of 35 feet off of the front parcel line – and the variance to allow the shed to remain in its location 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. The granting of this variance does not impact adjoining parcels.

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

Applicant’s response: This is an approved building project that is permitted.

Staff analysis: The property is zoned AC (Agriculture) and is developed with a single family dwelling, detached garage, and the shed, all of which are permitted structures and uses within the AC district.

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

Applicant’s response: The hardship is the shed is completed with 2 water wells and water system inside in addition to FPL electrical underground meters are on the shed. The shed has passed subsequent county inspections (wall/roof sheathing, early power, and dry in inspections). This is a minimal variance request.

Staff analysis: The hardship results from the work being completed; had the error been caught earlier, the variance would not be needed. Denial of the variance would result in the need (and expense, both in time and money) to relocate the shed to conform to the minimum front setback, which would require digging new wells and
relocating the parcel’s electric service. The variance of 14.06 feet is the minimal amount of relief necessary to allow the shed to remain 35.94 feet off of the front parcel line.

Future Land Use Map
**APPLICATION FOR VARIANCE**

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

**PROPERTY OWNER(S)**

<table>
<thead>
<tr>
<th>Name(s):</th>
<th>Peter and Susan Seitzberg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>14 Fulton Place</td>
</tr>
<tr>
<td>City:</td>
<td>Palm Coast</td>
</tr>
<tr>
<td>State:</td>
<td>Florida</td>
</tr>
<tr>
<td>Zip:</td>
<td>32110</td>
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<tr>
<td>Telephone Number</td>
<td>386-793-1043</td>
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**APPLICANT/AGENT**

<table>
<thead>
<tr>
<th>Name(s):</th>
<th>Gary McCain - McCain Homes Inc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>15 Weidner Place</td>
</tr>
<tr>
<td>City:</td>
<td>Palm Coast</td>
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<tr>
<td>E-Mail Address</td>
<td><a href="mailto:gary@mccainhomes.com">gary@mccainhomes.com</a></td>
</tr>
</tbody>
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**SITE LOCATION (street address):**

30E CR 2004 Bunnell Fl 32110

**LEGAL DESCRIPTION:**

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

**Parcel # (tax ID #):**

34.12-29-4850-00042-000

**Parcel Size:**

4.77 AC

**Current Zoning Classification:**

AC

**Current Future Land Use Designation:**

Ag + TIM

**Relief Requested:**

12.94 Front Set Back Variance

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

03/14/19

**Date**

**Signature of Chairman:**

*APPROVED WITH CONDITIONS*

**APPROVED**

| DENIED |

**RECEIVED**

MAR 14 2019

**PLANNING BOARD RECOMMENDATION/ACTION:**

**OFFICIAL USE ONLY**

Signature of Chairman: ____________________________

Date: ____________________________ *approved with conditions, see attached.

**NOTE:** The applicant or a representative must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application. Rev. 09/16
APPLICATION FOR VARIANCE
FLAGLER COUNTY, FLORIDA
1789 E. Moody Blvd, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009  Fax: (386) 313-4109

Subject Property: 30 County Road 2006 E Bunnell Fl 32110

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

   This is a 4.77 acre parcel having more than half the parcel verified as wetlands. There is a completed 16x16 shed that has a 12.94 setback encroachment. The shed is a monolithic slab custom framed log sided structure. The shed has 2 drilled water wells in slab with a filtering system providing treated water for 4 separate buildings (2-dwelling, garage). The shed was strategically planned and placed to provide the required separation between the water wells and the septic's drainage field. The shed was also planned and placed to accommodate FPL's underground electrical service meter providing electrical service to all structures on property.

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

   McCain Homes Inc. paid SWA- Stephenson, Wilcox and Associates, Inc, to go out and mark the location of the shed so the placement would be correct. McCain Homes Inc placed the foundation/shed in the location where the survey company, SWA, had placed the stake with the yellow flag. See attached picture from 12-21-2017.
   Invoice dated 11/16/17 and 12/16/27 shows where we paid for wetland location and rough house stake which included shed.

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

   The shed is placed on 4.77 acres of land in a rural community accessed from a dirt road. It will not harm or provide any safety issues.

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

   This is an approved building project that is permitted.

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 hardship is the shed is completed with 2 water wells and water system inside in addition to FPL electrical underground meters are on the shed. The shed has passed subsequent county inspections (wall/roof sheathing, early power, and dry in inspections). This is a minimal variance request.

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
THIS WARRANTY DEED made the 11th day of March, 2017 by

Robert Strong and Teresita Strong, husband and wife
whose street address is P.O. Box 3511384, Palm Coast, Florida 32135
hereinafter called the grantor, to

Peter A. Selzberg and Susan Lucente Selzberg, Husband and Wife
whose street address is 14 Palms Place, Palm Coast, Florida 32137
hereinafter called the grantee:

WITNESSETH, that the grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, removed, released, conveyed and confirmed unto the grantee and grantee's heirs forever the following described land situated in County of Flagler, State of Florida, to wit:

Portion of Tract 2, Block 4, Section 34, Township 12 South, Range 29 East, of the Public Records of Flagler County, Florida, being more particularly described in attached Exhibit "A".

GRANTOR WARRANTS THAT THIS IS NOT HOMESTEAD PROPERTY.

Together, with all the tenements, hereditaments and appurtenances thereto belonging or in otherwise appurtenant

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

And the grantor hereby covenants with the grantee that the grantor is lawfully seized of said land in fee simple, that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomever, and that said land is free of all encumbrances, except taxes assessed subsequent to December 31st, 2016. FURTHER SUBJECT TO Restrictions, Reservations, Covenants, Dedication, Resolutions, Conditions and Easements of record, if any, however this reference shall not operate to impair same.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year last above written.

Signed, sealed and delivered in the presence of:

Jessica D. Westbrook

Teresita Strong

STATE OF FLORIDA
COUNTY OF Flagler
The foregoing instrument was acknowledged before me this 11th day of March, 2017, by Robert Strong and Teresita Strong, husband and wife, as individuals, who is personally known to me or who produced Florida Driver License, as identification, and who did/did not take an oath.

Commission Expires:

JESSICA D. WESTBROOK
Commission # FF 016685
Expires April 22, 2017
Issued Thu, May 10, 2017 10:29:29 AM
PARCEL 1: A portion of Tract 2, Block 4, Section 34, Township 12 South, Range 29 East, described as follows: Commencing at the Northwest corner of said Tract 2, thence South 1 degree 58 minutes 45 seconds East, along the center line of State Road 1305 a distance of 25 feet; thence North 88 degrees 45 minutes 45 seconds East 50 feet to the point of beginning; thence South 1 degree 58 minutes 45 seconds East 340.85 feet; thence North 88 degrees 45 minutes 45 seconds East 610 feet; thence North 1 degree 58 minutes 45 seconds West 340.85 feet; thence South 88 degrees 45 minutes 45 seconds West 610 feet to the Point of Beginning.
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 # __________________________

Gary McCain, is hereby authorized TO ACT ON BEHALF OF Peter Seitzberg, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for ____________________________.

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

By: ____________________________
Signature of Owner

Susan Seitzberg

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

______________________________
Signature of Owner

Peter Seitzberg

Printed Name of Owner

Address of Owner: ____________________________

14 Fulton Place

Mailing Address

Palm Coast, Fl 32137

City    State    Zip

Telephone Number (incl. area code)

386-446-8146

STATE OF Florida

COUNTY OF Flagler

The foregoing was acknowledged before me this 5th day of March, 2019, by Susan Seitzberg and Peter Seitzberg, who is/are personally known to me or who has produced Florida Driver License as identification, and who (did) / (did not) take an oath.

______________________________
Signature of Notary Public

http://www.flaglercounty.org/doc/dpt/centprmt/landdev/ownerauth20auth.nsf
Revised 5/08
Stephenson, Wilcox & Associates, Inc.
P.O. BOX 466
BUNNELL, FL 32110
Phone: (386) 437-2363
Fax: (386) 437-0030

Bill To:
MCCAIN HOMES, INC.
4601 EAST MOODY BLVD B-9
BUNNELL, FL 32110
Company Code: 2653

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Parcel Address
30 EAST COUNTY ROAD 2006
BUNNELL, FL

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<td>Finish Floor Elevation</td>
<td>1.00</td>
<td>$0.00</td>
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<td>Wetland Location</td>
<td>1.00</td>
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Subtotal (before tax): $1,700.00
Total Tax: $0.00
Total Amount: $1,700.00
Amount Paid: $0.00
Amount Due: $1,700.00

Notes: F/W THURSDAY 9/14/17
Terms: Net 30 days
FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 4/16/19

#3177 SEITZBERG- SETBACK VARIANCE

APPLICANT: GARY MCCAIN
OWNER: PETER A. SEITZBERT & SUSAN LUCENTE

Distribution date: Friday, April 12, 2019

Project #: 2019030016

Application #: 3177

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

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING
No comment

REVIEWING DEPARTMENT: BUILDING DEPARTMENT
No comment

REVIEWING DEPARTMENT: PLANNING DEPARTMENT
No Comments

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT
No comments
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<thead>
<tr>
<th>ParcelId</th>
<th>Property Owner</th>
<th>Address</th>
<th>City, State, Zip</th>
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<tr>
<td>28-12-29-5550-00160-0030</td>
<td>DORIS QUINNELL C SHAMBLLEN LIFE ESTATE</td>
<td>3920 CR 305</td>
<td>BUNNELL, FL 32110-6400</td>
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<tr>
<td>33-12-29-5550-00010-0010</td>
<td>KATRINA LIEBEL</td>
<td>3 BURNET PLACE</td>
<td>PALM COAST, FL 32137</td>
</tr>
<tr>
<td>34-12-29-4850-00040-0020</td>
<td>V H &amp; REGINA A HAWKES</td>
<td>PO BOX 423</td>
<td>BUNNELL, FL 32110</td>
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<tr>
<td>34-12-29-4850-00040-0021</td>
<td>PETER A &amp; SUSAN L SEITZBERG</td>
<td>14 FULTON PLACE</td>
<td>PALM COAST, FL 32137</td>
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<tr>
<td>27-12-29-5550-00130-0020</td>
<td>FLAGLER COUNTY</td>
<td>1769 E MOODY BLVD BLDG 2</td>
<td>BUNNELL, FL 32110</td>
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<tr>
<td>27-12-29-5550-00130-0031</td>
<td>DAVID M GOEHL</td>
<td>11625 NE 7TH AVENUE</td>
<td>BISCAYNE PARK, FL 33161</td>
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<tr>
<td>34-12-29-5550-00040-0011</td>
<td>FEDERAL NATIONAL MORTGAGE ASSOC</td>
<td>3900 WISCONSIN AVE NW</td>
<td>WASHINGTON, DC 20016-2892</td>
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<tr>
<td>27-12-29-5550-00130-0030</td>
<td>DANIEL E DECKER</td>
<td>181 CR 2006 E</td>
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<td>34-12-29-5550-00040-0012</td>
<td>AMANDA E &amp; WILLIAM C MAHLER</td>
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<td>27-12-29-5550-00130-0032</td>
<td>LANCEWOOD LLC</td>
<td>PO BOX 2497</td>
<td>BUNNELL, FL 32110</td>
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<td>34-12-29-5550-00040-0010</td>
<td>MAK KHEN</td>
<td>606 BERNARD STREET</td>
<td>CLAYTON, NJ 08312-1710</td>
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<td>27-12-29-5550-00140-0014</td>
<td>WILBUR E &amp; ROSA LEE BALLARD</td>
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<td>BUNNELL, FL 32110</td>
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<td>27-12-29-5550-00140-0013</td>
<td>ALAIN CHARTRAND</td>
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<td>27-12-29-5550-00140-0012</td>
<td>JOHN C &amp; DEBRA MATTHEWS</td>
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<td>27-12-29-5550-00140-0022</td>
<td>PATRICK L &amp; LEONARD MAELLARO TRUSTEES</td>
<td>22 ROXBORO DRIVE</td>
<td>PALM COAST, FL 32164</td>
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<td>27-12-29-5550-00140-0011</td>
<td>WYATT J CUNNINGHAM</td>
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<tr>
<td>27-12-29-5550-00140-0021</td>
<td>CHARLES L JOHNSON &amp; CONNIE S GUZMAN</td>
<td>14 S MAIN STREET</td>
<td>PT MARION, PA 15474-1230</td>
</tr>
<tr>
<td>27-12-29-5550-00140-0020</td>
<td>TIMOTHY M HORNE</td>
<td>355 EAST CR 2006</td>
<td>BUNNELL, FL 32110</td>
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<tr>
<td>34-12-29-5550-00030-0000</td>
<td>TREN'T EDWARD &amp; JOY D WILLIAMS</td>
<td>3908 SOUTHSIDE BLVD</td>
<td>JACKSONVILLE, FL 32216</td>
</tr>
<tr>
<td>27-12-29-5550-00140-0019</td>
<td>JOHN &amp; LAURIE MARLOW</td>
<td>363 E CR 2006</td>
<td>BUNNELL, FL 32110</td>
</tr>
</tbody>
</table>

I hereby affirm mailed notice to each owner on April 25, 2019 for the Planning and Development Board Meeting on May 14, 2019 at 6 pm.
April 25, 2019

RE: Application #3177 - Variance Request in the AC (Agriculture) 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 Mr. Gary McCain of McCain Homes, Inc. representing Property Owners Peter and Susan Seitzberg for a 12.94 foot front yard setback variance from the minimum 50 foot setback requirement for an accessory structure on 4.77 +/- acres located at 30 County Road 2006 E, Identified as parcel #34-12-29-4850-00040-0021.

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 May 14, 2019, 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 # 3177

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

MAY 14, 2019 - 6:00 P.M.

REQUEST: FRONT SETBACK VARIANCE
APPLICANT: MCCAIN HOMES INC.
Parcel Number: 34-13-29-0000-0048-0021
Zoning District: AG (AGRICULTURE)

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

For additional information, contact: Flagler County Planning & Development, 1769 E. Moody Blvd., Bldg 2, Bunnell, 32110.