

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM # 21**

SUBJECT: LEGISLATIVE – Transmittal Hearing – Request to Amend the 2010-2035 Future Land Use Map and Future Land Use Element from Residential Low Density Single Family and Conservation to Commercial High Intensity and Adopt a Parcel-Specific Limiting Policy; Parcel #s 02-12-31-0000-01010-0140 and 02-12-31-0000-01010-0150; Owner: Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust / Agent: Sidney F. Ansbacher, Brunswick Corporation and Sea Ray Boats, Inc. (Application #2972).

DATE OF MEETING: March 16, 2015

OVERVIEW/SUMMARY: This request is for an amendment to the 2010-2035 Future Land Use Map and Future Land Use Element to permit the construction of a parking lot, finished boat staging area, and an office building not to exceed 40,000 s.f. on two parcels of land adjacent to Sea Ray’s industrial facility on Roberts Road.

The subject parcels (Property Appraiser’s Bing aerial photo link, limits of the parcels shown in red below):



Overview

On December 31, 2014, Sea Ray Boats, Inc., through their agent, Sidney Ansbacher, submitted applications for a Future Land Use amendment (Application #2972) and rezoning (Application

#2973) for the 24.4 acres located south of and abutting the existing Sea Ray plant site on Roberts Road. The subject parcels are part of the approved Grand Reserve East Planned Unit Development (PUD), a single-family residential development consisting of a maximum of 300 dwelling units on 139.87 acres (the net remaining acreage, excluding areas designated Conservation; total project area of 165.89 acres) for a density of 2.15 units/acre (the Residential Low Density Single Family (RLDSF) Future Land Use designation allows densities from 1 to 3 units per acre, permitting a maximum build-out of 420 dwelling units).

Just over ten years ago, this area's Future Land Use designation was amended from Industrial to Low Density Residential. The intent at the time was to permit residential development since the economy – then and now for Flagler County – continues to depend on new housing development. This conversion was strongly discouraged through the Department of Community Affairs' Objections, Recommendations, and Comments (ORC) Report, which sought the County and the applicant to be more cautious about the amendment. The County ultimately rezoned the area as the single-family residential Grand Reserve East PUD. In the succeeding years marked by the Great Recession, the former LandMar projects, inclusive of Grand Reserve East, transferred back to their original owners or to successor lenders. Grand Reserve East never developed, and its sister project to the west, Grand Reserve West, likewise sits entitled, but undeveloped.

The County in 2013 sought to generate some interest in industrial development by pursuing an Industrial Future Land Use Map amendment for the northern portion of Grand Reserve East, inclusive of the subject parcels. The hope was that the proactive Industrial amendment could entice marine-related industries, including storage and distribution uses, to locate adjacent to Sea Ray, whether these are suppliers or otherwise. But neighborhood opposition culminating in the April 9, 2013 Planning and Development Board hearing and its recommendation for denial caused the County Planning staff to abandon this approach. The landowner at the time of the amendment request subsequently sold the lands comprising the Grand Reserve East inclusive of the subject parcels to the present owner.

Concurrent with the Great Recession, Brunswick, Sea Ray's parent company, scaled back its various divisions, closing several plants and consolidating boat manufacturing operations here and at several other facilities. Now, the production of more models of boats occurs at the Flagler Sea Ray plant, and consumer demand has increased. As Sea Ray has described its operations, employee parking areas are now constrained by more outside storage, necessitated by the increase in production and the variety of boat models, requiring the use of multiple fiberglass boat molds through the production process. Likewise, employment has increased, although still not at peak pre-Recession levels; multiple shifts are now operating at the plant site. Through the present application, Sea Ray is seeking to expand its footprint – but not its plant site – to accommodate additional storage on its present plant site by shifting its employee parking to the south onto the adjoining subject parcel.

Sea Ray's intent, as stated to Planning staff, is principally to develop a parking lot (setback a minimum of 400 feet from the east or 50 feet from any jurisdictional wetland line, whichever is greater) on the subject parcels to accommodate employee parking, including a finished boat staging area to be located no more than 1,000 feet from Roberts Road, all as presently located on the Sea Ray plant site. Another potential use, although not intended to be developed immediately, would be an office, not to exceed 40,000 square feet; staff proposes that an office, if developed, would not be located more than 1,000 feet from Roberts Road.

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

Technical Review Committee (TRC) review

Staff presented the applicant with comments as part of the January 21, 2015 Technical Review Committee meeting; as of the date of this report, all staff comments have been satisfactorily addressed.

Planning and Development Board review

The Planning and Development Board at their February 10, 2015 regular meeting voted unanimously to recommend to the Board of County Commissioners not to transmit the subject amendment.

Board of County Commissioners review

The Board is considering this request as the County's Local Planning Agency (LPA).

This agenda item is:

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

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

RECOMMENDATION: Request the Board transmit Application #2972, amending the 2010-2035 Future Land Use Map and Future Land Use Element for Parcel #s 02-12-31-0000-01010-0140 and 02-12-31-0000-01010-0150, finding that the proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive Plan.

Note: The Future Land Use amendment shall not become effective until adoption by the County. It is anticipated that the rezoning would be concurrently considered at the same meeting of the Board of County Commissioners as the adoption of the Future Land Use amendment.

ATTACHMENTS:

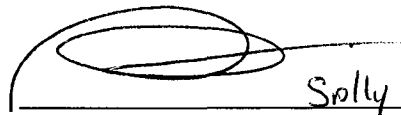
1. Technical Staff Report (TSR)
2. Amendment Summary of Impacts
3. Ordinance and Amendment Map
4. Application and Supplemental Materials
5. February 10, 2015 Planning and Development Board Regular Meeting Minutes (draft, in part)
6. Notification List and Map
7. Correspondence



Adam Mengel, Planning & Zoning Director

3-11-15

Date



Sally Sherman, DCA
Craig M. Coffey, County Administrator

3-11-15

Date

Electronically Approved 03/11/15 by Deputy County Administrator, Sally Sherman
Electronically Approved 03/10/15 by County Attorney's Office as to Form

FLAGLER COUNTY PLANNING DEPARTMENT TECHNICAL STAFF REPORT / APPLICATION # 2972

Related Application

Application #2972 – Amendment of the Future Land Use Map from Residential Low Density Single Family and Conservation to Commercial High Intensity and Amendment of the Future Land Use Element to Adopt a Parcel-Specific Limiting Policy

Location and Legal Description

Generally lying south east of the corner of Roberts Road and Sea Ray Drive lying within Section 2, Township 12 South, Range 31 East, Flagler County, Florida; Parcel #02-12-31-0000-01010-0140 (5.23 acres) and 02-12-31-0000-01010-0150 (18.38 acres); Total project area is approximately 24.39 acres.

Owner and Applicant/Agent

- Owner: Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust
- Applicant: Sidney F. Ansbacher, Brunswick Corporation and Sea Ray Boats, Inc.

Existing Zoning and Land Use Classification

- Zoning: PUD (Planned Unit Development) District
- Land Use: Residential Low Density Single Family and Conservation

Future Land Use Map Classification/Zoning of Surrounding Land

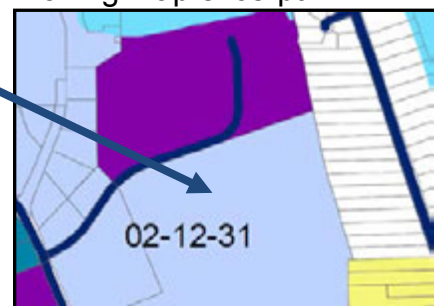
- North: Industrial / I (Industrial)
- East: City of Flagler Beach single-family residential
- South: Residential Low Density Single Family and Conservation / PUD (Planned Unit Development) District
- West: Roberts Road; Mixed Use: High Intensity Medium/High Density / MUH PUD (Mixed Use High Intensity Planned Unit Development) District (Grand Reserve West)

FLU Map excerpt:



SUBJECT PARCEL

Zoning Map excerpt:



Staff Analysis

The Grand Reserve East PUD included a buffer, designated as Conservation on the Future Land Use Map and 250 feet in width (a total of 10.36 acres in area), along a majority portion of the common parcel boundary with Sea Ray. This buffer of Conservation was intended to physically separate the proposed residential uses to the south from Sea Ray's industrial operations to the north. Staff has proposed a minimum

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setback to the east of 400 feet or 50 feet from any jurisdictional wetland line, whichever is greater, and inclusive of existing wetland areas and adjacent upland buffers, within which no development would occur. The Conservation Future Land Use designation would ultimately be applied to wetland areas on both parcels through Comprehensive Plan Policy A.4.1.1.

Consistent with Table A.1 from Policy A.1.1.2, development on this parcel following the amendment to Commercial High Intensity would be limited to a maximum Floor Area Ratio (FAR) of 0.40 and maximum impervious area of 70%, corresponding to a maximum commercial square footage of 424,971.36 s.f. (9.76 acres) and a maximum impervious area of 17.07 acres.

Trip generation would be based, since parking is shifting off of the Sea Ray plant site to this location, first on background traffic currently utilizing the plant site, inclusive of employees, shipments, and deliveries, and then the net trips yielded from the reduction in residential dwelling units in the Grand Reserve East PUD. Applying the PUD's approved 2.15 unit/acre density to the 14.07 acres of Residential Low Density Single Family in this parcel yields 30 dwelling units, resulting in 286 daily trips (based on 9.52 average weekday trips generated by a single-family detached dwelling unit; Land Use 210, ITE Trip Generation, 9th Edition) available to Sea Ray in addition to those presently impacting Roberts Road associated with the plant's operations. The available trips increases to 400 daily trips (based on 42 dwelling units) utilizing the Future Land Use's "worst-case" analysis of impacts based on the maximum density permitted by the existing Residential Low Density Single Family Future Land Use maximum of three units per acre.

The Future Land Use amendment to Commercial High Intensity would permit a higher intensity of use and potential development than the presently approved Residential Low Density Single Family designation. Consideration of a parcel-specific limiting policy in the Future Land Use Element provides assurances to adjacent properties that more intense development will not occur on this parcel than the proposed parking lot, the finished boat staging area, and office building. However, it is staff's contention and recommendation, even absent the limiting policy, that the requested amendment is appropriate in light of the historic Industrial Land Use designation for this parcel amended just over ten years ago.

Previous Public Hearings

February 8, 2005 – Planning Board voted 3-2 (dissenting members not noted in the minutes) to recommend approval of a Future Land Use Map amendment from I (Industrial) to RSFL (Residential Single Family Low Density) on 166.0 acres, subject to:

1. Approximately 26.2 acres of conservation and 139.8 acres of residential low density to provide a buffer to Sea Ray Boats, protection of salt water marsh areas and an overall reduction in gross density.

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2. Participation in Colbert Lane improvements to maintain evacuation time and maintain level of service for future traffic volumes and emergency evacuations (Application #2400).

December 12, 2005 – Board of County Commissioners voted unanimously to approve the Future Land Use Map amendment for 139.8 acres from Industrial to Residential Low Density – Single Family and 26.2 acres from Industrial to Conservation (Application #2400; Ordinance No. 2005-31).

April 9, 2013 – Planning and Development Board voted unanimously to recommend denial of the Future Land Use Map amendment from Residential Low Density and Conservation to Industrial, Conservation, and Residential Medium Density (Application #2920)[Note: Application #2920 was subsequently withdrawn by the County and did not advance to the BCC.].

March 10, 2015 – Planning and Development Board voted unanimously to recommend not to transmit the Future Land Use amendment (Application #2972) [Note: The companion rezoning request from PUD to C-2 was withdrawn by the applicant at the March Planning and Development Board meeting, with the intent to return with a rezoning application following transmittal of the Future Land Use amendment and receipt of comments from the reviewing agencies].

Analysis of Consistency with Florida Statutes

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

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

This request is related to the conflicts originally identified through the State’s review as part of FLUA #05-1 for Application #2400, a/k/a Roberts Landing. The conflict created through amending the area immediately adjacent to Sea Ray has had significant impacts on Sea Ray’s operations. Many of the cautions raised by the DCA in evaluating #05-1 can be resolved through this request.

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

The amendment would represent a permanent decrease in population in the area of 101 persons, using 2.4 persons per household (pph) for the reduced 42 dwelling units.

- “c. The character of undeveloped land.”

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The land is level and composed of poorly drained piney flatwoods. The easternmost portion of the subject parcels is wetland and will ultimately be placed in the Conservation Future Land Use designation and will remain undeveloped.

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

These services are provided by the City of Palm Coast to adjacent parcels.

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

This amendment is not facilitated by a need for redevelopment, but is instead prompted by Sea Ray’s need for additional area on their plant site. This amendment does not renew blighted areas or eliminate nonconforming uses.

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

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

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

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

- “h. The discouragement of urban sprawl.”

Urban sprawl is not relevant here since this request has been previously amended as part of the previous urban service area located east of U.S. Highway 1.

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

Transitioning the Future Land Use Map to an Industrial category for part of the amendment would foster additional job creation and capital investment; however, this amendment only seeks to change existing Residential Low Density Single Family lands to Commercial High Intensity, which could ultimately also create additional jobs. Instead, based on the proposed use of the subject parcel as a parking lot, finished boat staging area, and office building supporting the adjacent Sea Ray plant, this

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amendment request can be viewed as directly supporting Sea Ray's continued operations and serves to strengthen the community's economy by ensuring Sea Ray's continued presence in the area.

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

Not applicable – while this request is part of an antiquated subdivision plat, the amendment request is not linked to or caused by the plat.

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

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

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

No site characteristics would hinder development of the parcel.

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

Approval of this amendment will provide sufficient additional area for Sea Ray's continued operations. Arguably, maintaining the additional residential density as presently designated is unnecessary at this time due to the continuing residential surplus of housing stock within the County.

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

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existing urban areas while not using undeveloped lands that are available and suitable for development.

- (III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.
- (IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.
- (V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.
- (VI) Fails to maximize use of existing public facilities and services.
- (VII) Fails to maximize use of future public facilities and services.
- (VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.
- (IX) Fails to provide a clear separation between rural and urban uses.
- (X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.
- (XI) Fails to encourage a functional mix of uses.
- (XII) Results in poor accessibility among linked or related land uses.
- (XIII) Results in the loss of significant amounts of functional open space.”

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

- “b. The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:
 - (I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.
 - (II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.
 - (III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal

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transportation system, including pedestrian, bicycle, and transit, if available.

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

Staff concludes that this request neither results in the eight “anti-sprawl” objectives being met or not met; the approval of the request would have an overall de minimis impact on the sprawl indicators. The present Future Land Use designation creates an ongoing conflict for adjacent industrial uses.

Analysis of Consistency with the Comprehensive Plan

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

“GOAL A.1: Flagler County shall strive to achieve orderly, harmonious and judicious use of the land through a distribution of compatible land uses, fostering the viability of new and existing communities while maintaining the agricultural pursuits of the County, and recognizing and preserving the integrity of the natural environment.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Objective A.1.2: Flagler County shall eliminate or reduce uses of land within the County which are inconsistent with community character or desired future land uses.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

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

- (1) Parcels being considered for amendment to the Future Land Use Map shall be concurrently evaluated for rezoning to the most appropriate zoning district.
- (2) Parcels seeking site plan approval shall continue to be designed, developed and used for activities allowed by the appropriate zoning district.
- (3) Property owners will be asked to conform to pending land use/zoning regulations as they request development approval.”

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

“Objective A.1.4: Flagler County shall coordinate future land uses with topography, soil conditions, and the availability of facilities and services through the implementation of its Comprehensive Plan, Land Development Code (LDC), and Concurrency Management System.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Policy A.1.4.1: During the review of requests for plan amendments, topography, vegetation, wildlife habitat, flood hazard, the 100-year flood plain, and soils for the areas to be amended will be analyzed and specific findings made as part of the plan amendment process.”

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

“Objective A.1.5: Upon plan adoption, Flagler County shall limit urban sprawl by directing urban growth to those areas where public facilities and services are available.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

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“Policy A.1.5.6: The impact resulting from new non-residential development along collector and arterial roadways shall be managed through access management, shared or joint access, traffic signalization and other similar techniques.”

This policy is satisfied at the time of site plan submittal. Sea Ray Drive will serve as the common access point for the present plant and the proposed parking area.

“Objective A.1.6: Flagler County shall continue to ensure that the Future Land Use Map series and the Comprehensive Plan are implemented through consistent and coordinated land development regulations and the Official Zoning Map.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Policy A.1.6.1: Flagler County shall implement its Comprehensive Plan through land development regulations which maintain the quality of existing and proposed residential areas by establishing regulations for roadway buffers, landscape and natural vegetation buffers, fences and walls, and the use of intervening common open space.”

The County’s Land Development Code provides for appropriate buffers.

“Policy A.1.6.2: Flagler County shall implement its Comprehensive Plan through land development regulations which protect residential neighborhoods from encroachment by incompatible land uses such as commercial and industrial development. This type of protection may require as part of the Land Development Code (LDC) standards for natural and planted landscape buffers and that less intensive office, commercial, or industrial uses be located adjacent to residential development and that the intensity may increase the further the distance away from residential development.”

The County’s Land Development Code does this; commentary that this policy is not met would mean that the County’s Land Development Code does not provide for buffering, but it does provide for buffering.

“GOAL A.3: Flagler County shall use its home rule powers and coordination with other public and private organizations to strive for an economy that is diversified, stable and flexible.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

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“Objective A.3.1: Flagler County shall coordinate with the Economic Development Element to ensure consistency with the implementation of economic development activities throughout the County.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Policy A.3.1.3: Flagler County shall encourage the continued development and improvement of appropriate existing industrial areas, while also providing new sites for industrial development.”

This amendment request encourages the continued operation of an established, conforming, appropriately-zoned industrial use.

“GOAL A.6: In coordination with the Coastal Management Element, Flagler County shall use the Future Land Use Element and Land Development Code to protect, preserve and efficiently manage natural and man-made resources within the coastal areas of the County.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Objective A.6.1: Consistency shall be maintained between Flagler County’s Future Land Use Element, Transportation Element, and Coastal Management Element related to development occurring within the coastal areas of the County.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

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

This analysis satisfies this Policy’s requirements.

“GOAL A.7: Flagler County shall establish and enforce land uses such that the resulting development will be efficiently and effectively served by needed public services and facilities.”

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Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Objective A.7.1: Flagler County shall coordinate the utility needs of the private and public utilities and the need to accommodate dredge spoil disposal sites within the County consistent with the policies and criteria of the Flagler County Comprehensive Plan and consistent with the facility implementation plans of the various utilities and other federal and state agencies.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

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

This analysis satisfies this Policy’s requirements. Potable water requirements are satisfied through permitting by the City of Palm Coast for this use.

“GOAL G.1: Flagler County will strive to maintain a diverse and stable economy by providing for a positive business climate that assures maximum employment opportunities while maintaining a high quality of life.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Objective G.1.2: Flagler County shall continue to support economic development organizations recognized by the Board of County Commissioners in order to promote economic development efforts on behalf of Flagler County.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Policy G.1.2.7: Flagler County shall coordinate economic development efforts with all cities and other applicable agencies within the County and throughout the Northeast Florida region.”

Coordination is accomplished through the required transmittal of this Future Land Use amendment to reviewing agencies, as required by Florida Statutes.

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“GOAL G.5: Flagler County shall promote balanced economic growth while enhancing the quality of life in the County.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Objective G.5.1: Flagler County shall promote the County’s character and quality of life by ensuring the provision of adequate infrastructure.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“GOAL I.1: Flagler County will develop and maintain intergovernmental coordination mechanisms necessary to achieve consistency among local, county and regional plans and policies and coordinate all development activities in order to improve delivery of services, enhance the quality of life and protect the natural environment.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Objective I.1.5: Flagler County shall attempt to resolve inconsistencies between adjacent local governments and state or federal permitting agencies through negotiating techniques.”

Goal and objective statements are not measurable, unlike policy statements that are measurable. This is provided for reference for the implementing policy to follow.

“Policy I.1.5.2: Flagler County shall utilize the Northeast Florida Regional Council (NEFRC) as a mediator when development issues or annexation issues cross-jurisdictional boundaries and cannot be resolved by Flagler County or other local governments involved.”

Should consultation with the NEFRC be ultimately necessary, then the County will pursue the Council’s mediation of any dispute. At this point, the Council’s involvement is premature since the Board has not yet transmitted the amendment request (i.e., the elected body of the local government having jurisdiction over this request has not yet acted on this request).

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Analysis of Compatibility with the Land Development Code

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

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

This request is considered a major plan amendment. Staff has addressed the concurrency-related requirements of Florida Statutes, the Comprehensive Plan, and this section of the LDC through this staff report and the accompanying materials.

Ultimately, the plan amendment process provides a “forward look” at concurrency issues, with the LDC requiring concurrency to be met or programmed at the time of final plat approval or permit issuance, as applicable.

**FUTURE LAND USE AMENDMENT
SUMMARY OF IMPACTS FOR APPLICATION #2972**

Existing FLUM Category	Proposed FLUM Category	Existing Maximum Density (DU/Acre)	Proposed Maximum Density (DU/Acre)	Existing Maximum Intensity (FAR)	Proposed Maximum Intensity (FAR)	Net Increase or (Decrease) in Maximum Density	Non-Residential Net Increase or (Decrease) in Potential Floor Area
Residential: Low Density Single Family – 14.07 acres	Commercial High Intensity – 24.39 acres	3 DU/Acre	N/A	N/A	0.40	-42 units	+424,971.36 square feet [Parcel-specific limiting policy sets FAR limit at 40,000 square feet, less than 10% of maximum potential]
Conservation – 10.36 acres							

Summary:

This request is proposed as a 24.4 acre amendment changing to Commercial High Intensity that provides an area adjacent to Sea Ray for employee parking to be relocated off the existing plant site and an office building. The lands under this amendment were last part of Application #2400 for Roberts Landing (FLUA Amendment #05-1). Analysis of concurrency-related impacts – through Chapter 8 of the Flagler County Land Development Code – indicates that through the parcel-specific limiting policy, the capacity exists within existing public facilities so that an adopted Level of Service (LOS) threshold will not be degraded to a point of failure.

**FUTURE LAND USE AMENDMENT
SUMMARY OF IMPACTS FOR APPLICATION #2972**

Transportation Impacts:

Trip Generation Potential of Parcels Affected by FLUA #2972

Scenario	Land Use Designation	Maximum Allowed Intensity	ITE Land Use Code	Size of Development		Daily Trips
				Acres	Units or Area	
Existing	Residential: Low Density Single Family	3 dwelling units per acre	210	14.07	42 units	-400 trips
Proposed	Commercial High Intensity	0.40 FAR	813	24.39	424,971.36 square feet	+21,569 trips
	Commercial High Intensity with Parcel- Specific Limiting Policy		715		40,000 square feet	+466 trips
Change in Daily Trips (Difference between Existing and Proposed with Limiting Policy)						+66 trips

Note: Estimated impact is the worst-case scenario assuming ITE #813, Free-Standing Discount Superstore, and is based on a daily trip rate of 50.75 trips per 1,000 s.f. GFA. For the parcel-specific limiting policy and its maximum 40,000 s.f. office, ITE #715, Single Tenant Office Building, was used, with a daily trip rate of 11.65 trips per 1,000 s.f. GFA. Trip generation based on Institute of Traffic Engineers (ITE) Trip Generation Manual, 9th Edition.

**FUTURE LAND USE AMENDMENT
SUMMARY OF IMPACTS FOR APPLICATION #2972**

Potable Water:

Water Supply Impacts of Parcels Affected by FLUA #2972

Scenario	Land Use Designation	Maximum Allowed Intensity	Criterion	Size of Development		Daily Potable Water Demand
				Acres	Units or Area	
Existing	Residential: Low Density Single Family	3 dwelling units per acre	125 gals per capita per day	14.07	42 units	-12,600 gallons
Proposed	Commercial High Intensity	0.40 FAR	300 gals per ERU per day	24.39	424,971.36 square feet	+16,575 gallons
	Commercial High Intensity with Parcel- Specific Limiting Policy				40,000 square feet	+1,560 gallons
Change in Potable Water Demand (Difference between Existing and Proposed with Limiting Policy)						-11,040 gallons

Note: Single-family demand based on 2.4 pph. Commercial demand based on non-intensive user (primarily public/employee restrooms) with a 0.130 ERU per 1,000 s.f.

**FUTURE LAND USE AMENDMENT
SUMMARY OF IMPACTS FOR APPLICATION #2972**

Sanitary Sewer:

Sanitary Sewer Impacts of Parcels Affected by FLUA #2972

Scenario	Land Use Designation	Maximum Allowed Intensity	Criterion	Size of Development		Daily Sanitary Sewer Demand
				Acres	Units or Area	
Existing	Residential: Low Density Single Family	3 dwelling units per acre	110 gals per capita per day	14.07	42 units	-11,088 gallons
Proposed	Commercial High Intensity	0.40 FAR	240 gals per ERU per day	24.39	424,971.36 square feet	+13,260 gallons
	Commercial High Intensity with Parcel- Specific Limiting Policy				40,000 square feet	+1,248 gallons
Change in Sanitary Sewer Demand (Difference between Existing and Proposed with Limiting Policy)						-9,840 gallons

Note: Single-family demand based on 2.4 pph. Commercial demand based on non-intensive user (primarily public/employee restrooms) with a 0.130 ERU per 1,000 s.f.

**FUTURE LAND USE AMENDMENT
SUMMARY OF IMPACTS FOR APPLICATION #2972**

Solid Waste:

Solid Waste Impacts of Parcels Affected by FLUA #2972

Scenario	Land Use Designation	Maximum Allowed Intensity	Criterion	Size of Development		Daily Solid Waste Demand
				Acres	Units or Area	
Existing	Residential: Low Density Single Family	3 dwelling units per acre	9.3 pounds per capita per day	14.07	42 units	-937 pounds
Proposed	Commercial High Intensity	0.40 FAR	3.12 pounds per 100 s.f. per day	24.39	424,971.36 square feet	+13,260 pounds
	Commercial High Intensity with Parcel- Specific Limiting Policy		6 pounds per 1,000 s.f. per day		40,000 square feet	+240 pounds
Change in Solid Waste Demand (Difference between Existing and Proposed with Limiting Policy)						-697 pounds

Note: Single-family demand based on 2.4 pph. Commercial demands based SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Matrix Mgmt Group, "Best Management Practices Analysis for Solid Waste" generator for department stores and offices, respectively.

**FUTURE LAND USE AMENDMENT
SUMMARY OF IMPACTS FOR APPLICATION #2972**

Parks and Recreation:

Parks and Recreation Impacts of Parcels Affected by FLUA #2972

Scenario	Land Use Designation	Maximum Allowed Intensity	Criterion	Size of Development		Parks and Recreation Demand
				Acres	Units or Area	
Existing	Residential: Low Density Single Family	3 dwelling units per acre	Resident population	14.07	42 units	-101 persons
Proposed	Commercial High Intensity	0.40 FAR	N/A	24.39	424,971.36 square feet	N/A
	Commercial High Intensity with Parcel- Specific Limiting Policy				40,000 square feet	N/A
Change in Parks and Recreation Demand (Difference between Existing and Proposed with Limiting Policy)						-101 persons

Note: Parks and recreation LOS demand is based on aggregated population counts. Non-residential uses do not generate parks and recreation demand.

**FUTURE LAND USE AMENDMENT
SUMMARY OF IMPACTS FOR APPLICATION #2972**

Educational Facilities:

Educational Facilities Demand of Parcels Affected by FLUA #2972

Scenario	Land Use Designation	Maximum Allowed Intensity	Criterion	Size of Development		Educational Facilities Demand
				Acres	Units or Area	
Existing	Residential: Low Density Single Family	3 dwelling units per acre	FTE	14.07	42 units	-14 students
Proposed	Commercial High Intensity	0.40 FAR	N/A	24.39	424,971.36 square feet	N/A
	Commercial High Intensity with Parcel- Specific Limiting Policy				40,000 square feet	N/A
Change in Educational Facilities Demand (Difference between Existing and Proposed with Limiting Policy)						-14 students

Note: Educational facilities LOS demand is based on FTE counts determined within Concurrency Service Areas (CSAs). This project is located within CSA Number 2. No deficiencies in service have been indicted through the most recent District Work Plan. Non-residential uses do not generate educational facilities demand.

ORDINANCE NO. 2015 - ____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING THE FUTURE LAND USE ELEMENT AND MAP BY AMENDING THE DESIGNATION OF A TOTAL OF 24.4 ACRES, MORE OR LESS, LYING IN SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST; FROM RESIDENTIAL LOW DENSITY AND CONSERVATION TO COMMERCIAL HIGH INTENSITY; PROVIDING FOR FINDINGS; PROVIDING FOR A PARCEL-SPECIFIC LIMITING POLICY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust, is the owner of the following contiguous parcels:

Parcel #02-12-31-0000-01010-0140, 5.23 acres in size; and
Parcel #02-12-31-0000-01010-0150, 18.38 acres in size.

WHEREAS, the parcels identified by Flagler County Property Appraiser parcel numbers above together total 24.4 acres, more or less, more particularly described herein and graphically shown on Exhibit "A" attached hereto; and

WHEREAS, Brunswick Corporation and their subsidiary, Sea Ray Boats, Inc., on behalf of the owner, sought the amendment of the Future Land Use designation of the lands described herein; and

WHEREAS, on February 10, 2015, the Planning and Development Board conducted a public hearing on this amendment and voted to recommend denial; and

WHEREAS, on March 16, 2015, the Flagler County Board of County Commissioners, sitting in their capacity as the Local Planning Agency, conducted a public hearing on this amendment and voted to recommend _____; and

WHEREAS, on March 16, 2015, following the Local Planning Agency hearing, the Flagler County Board of County Commissioners conducted a public hearing on this amendment and voted to transmit the amendment to the State Land Planning Agency and other Agencies as part of the Expedited State Review Process; and

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

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

Section 1. FINDINGS

- a. The Board of County Commissioners finds that the proposed Future Land Use Map amendment and Future Land Use Element policy text amendment are consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan.
- b. This ordinance is adopted in compliance with and pursuant to the Community Planning Act, Sections 163.3161-163.3217, Florida Statutes.

Section 2. FUTURE LAND USE MAP AMENDMENT

The real property containing approximately 24.4 acres, more or less, and legally described herein is hereby amended from Residential Low Density and Conservation to Commercial High Intensity, as graphically shown on Exhibit "A" attached hereto. The 2010-2035 Future Land Use Map of the adopted Comprehensive Plan shall be amended to reflect this amendment. The legal description of the subject property to be amended through this application is:

A parcel of land lying within Government Section 2, Township 12 South, Range 31 East, Flagler County, Florida, being more particularly described as follows:

As a Point of Reference, commence at the southwest corner of Lot 35, River Oaks, Map Book 27, Pages 15 through 17, Public Records of Flagler County, Florida;

Thence departing said corner N16°46'35"W for a distance of 710.04 feet to the Point of Beginning of this description;

Thence S67°12'53"W for a distance of 2228.20 feet to the northeasterly R/W line of Roberts Road (80' R/W); thence along said right of way line N22°24'07"W for a distance of 220.00 feet to the southerly right of way line of Sea Ray Drive thence along said right of way line the following four (4) courses; (1) thence N67°35'53"E for a distance of 21.00 feet to a point of curvature; (2) thence northeasterly along a curve to the left having an arc length of 403.52 feet, a radius of 680.00 feet, a central angle of 34°00'00", a chord bearing N50°35'53"E and a chord distance of 397.63 feet to a point of tangency; (3) thence N33°35'53"E for a distance of 258.04 feet to a point of curvature; (4) thence northeasterly along a curve to the right having an arc length of 97.07 feet, a radius of 570.00 feet, a central angle of 09°45'28", a chord bearing N38°28'37"E and a chord distance of 96.96 feet to a point on a

non-tangent line; thence departing said curve and right-of-way line S46°38'27"E for a distance of 4.99 feet to a point on a non-tangent curve; thence northeasterly along said curve to the right having an arc length of 270.33 feet, a radius of 565.00 feet, a central angle of 27°24'51", a chord bearing N57°03'59"E and a chord distance of 267.76 feet to a point of tangency; thence N70°46'24"E for a distance of 1352.87 feet to a point on the westerly subdivision line of said River Oaks; thence along said subdivision line S11°46'35"E for a distance of 460.36 feet; thence continue along said westerly subdivision line S16°46'35"E for a distance of 29.96 feet to the aforementioned Point of Beginning of this description.

Parcel containing 24.4 acres, more or less.

Section 3. FUTURE LAND USE ELEMENT POLICY AMENDMENT

The Future Land Use Element is hereby amended by the addition of a new policy A.1.1.10(11) that shall read as follows:

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

- (10) FLUM Application #2972, Daryl M. Carter as Trustee of Carter-Flagler Roberts Road Land Trust, limits commercial development through an approved Planned Unit Development (PUD) to:
 - a. a surface parking lot and associated stormwater facilities, setback a minimum of four hundred (400) feet or fifty (50) feet from any jurisdictional wetland line, whichever is greater – with the setback to remain as undisturbed, natural vegetation, consisting of marshland and treed, substantially bottomland hardwood – westward from the easternmost parcel boundary line;
 - b. a finished boat staging area, with no portion extending one thousand (1,000) feet eastward from the Roberts Road right-of-way; and
 - c. an office building, not to exceed 40,000 square feet in size, with no portion of the building extending one thousand (1,000) feet eastward from the Roberts Road right-of-way.

Identified wetlands located on both parcels to be designated as Conservation Future Land Use through the administrative adjustment allowed through Policy A.4.1.1 when wetland boundaries have been certified or otherwise determined consistent with Policy A.4.1.1. Being all of Tax Parcel #02-12-31-0000-01010-0140 and 02-12-31-0000-01010-0150 and totaling 24.4 acres in size.

Section 4. EFFECTIVE DATE

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

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS _____ DAY OF _____, 2015.

**BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA**

Frank J. Meeker, Chairman

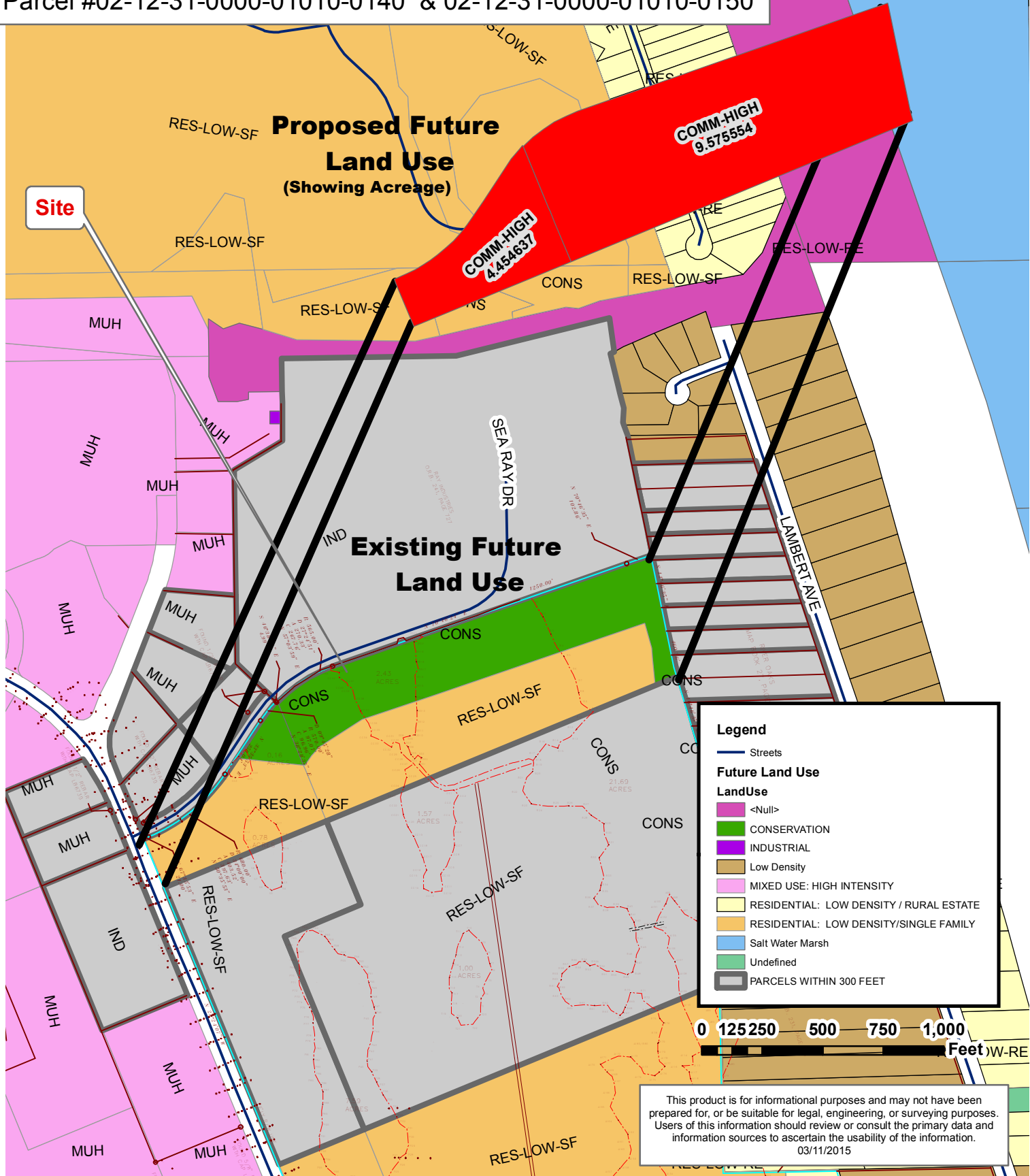
ATTEST:

APPROVED AS TO FORM:

Gail Wadsworth, Clerk of the
Circuit Court and Comptroller

Al Hadeed, County Attorney

Application #2972
 Future LandUse Map Amendment from Residential
 Low Density and Conservation to Commercial
 High Intensity and Conservation
 Owner/Applicant: Daryl Carter
 Parcel #02-12-31-0000-01010-0140 & 02-12-31-0000-01010-0150





APPLICATION FOR FUTURE LAND USE MAP AMENDMENT TEN ACRES OR GREATER

FLAGLER COUNTY, FLORIDA

1769 E. Moody Blvd, Suite 105

Bunnell, FL 32110

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

Application/Project #: 2972 / 2015010002

PROPERTY OWNER(S)	Name(s):	Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust		
	Mailing Address:	3333 S. Orange Avenue, Suite 200		
	City: Orlando	State: Florida	Zip: 32806	
	Telephone Number	407-422-3144	Fax Number	407-422-3155

APPLICANT/AGENT	Name(s):	Sidney F. Ansbacher, Brunswick Corporation and Sea Ray Boats, Inc.		
	Mailing Address:	780 N. Ponce de Leon Blvd.		
	City: St. Augustine	State: Florida	Zip: 32084	
	Telephone Number:	904-829-9066	Fax Number:	904-825-4862
	Email:	SFAnsbacher@ubulaw.com		

SUBJECT PROPERTY	SITE LOCATION (street address):	See attached / Roberts Road
	LEGAL DESCRIPTION:	See attached
	Parcel # (tax ID #):	See attached
	Parcel Size:	24.4 acres

FUTURE LAND USE DESIGNATION	Present Future Land Use Designation(s) Provide acreage of each classification.	Residential Low Density and Conservation
	Proposed Future Land Use Designation (s) Provide acreage of each classification.	Keep Conservation; amend Residential Low Density to Commercial High Intensity



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 # 2972 / 2015010002

Brunswick Corporation, Sea Ray Boats, Inc., and Sidney F. Ansbacher, is hereby authorized TO ACT ON BEHALF OF Daryl M. Carter, Trustee of Carter-Flagler Roberts Road Land Trust, 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 Daryl M. Carter, Trustee of Carter-Flagler Roberts Road Land Trust.

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

By:

Signature of Owner

Daryl M. Carter, Trustee of Carter-Flagler Roberts Road Land Trust

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

Signature of Owner

Printed Name of Owner

Address of Owner:

Telephone Number (incl. area code)

3333 S. Orange Avenue, Suite 200

407-581-6207

Mailing Address

Orlando, Florida 32806-8500

City State Zip

STATE OF Florida

COUNTY OF Orange

The foregoing was acknowledged before me this 23rd day of December, 2014 by Daryl M Carter and N/A who is/are personally known to me or ~~who has produced~~ N/A as identification, and who (~~did~~) / (did not) take an oath.

Pamela Lee Wray

Signature of Notary Public



(Notary Stamp)

<http://www.flaglercounty.org/doc/dpt/centprmt/landdev/owner%20auth.pdf>

Revised 5/08

SKETCH AND DESCRIPTION

RESERVED FOR RECORDING INFORMATION

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 AS A POINT OF REFERENCE, COMMENCE AT THE SOUTHWEST CORNER OF LOT 35, RIVER OAKS, MAP BOOK 27, PAGES 15 THROUGH 17, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA;
 THENCE DEPARTING SAID CORNER N16°46'35"W FOR A DISTANCE OF 710.04 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
 THENCE S67°12'53"W FOR A DISTANCE OF 2228.20 FEET TO THE NORTHEASTERLY R/W LINE OF ROBERTS ROAD (80' R/W); THENCE ALONG SAID RIGHT OF WAY LINE N22°24'07"W FOR A DISTANCE OF 220.00 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SEA RAY DRIVE THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING FOUR (4) COURSES; (1) THENCE N67°35'53"E FOR A DISTANCE OF 21.00 FEET TO A POINT OF CURVATURE; (2) THENCE NORTHEASTERLY ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 403.52 FEET, A RADIUS OF 680.00 FEET, A CENTRAL ANGLE OF 34°00'00", A CHORD BEARING N50°35'53"E AND A CHORD DISTANCE OF 397.63 FEET TO A POINT OF TANGENCY; (3) THENCE N33°35'53"E FOR A DISTANCE OF 258.04 FEET TO A POINT OF CURVATURE; (4) THENCE NORTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 97.07 FEET, A RADIUS OF 570.00 FEET, A CENTRAL ANGLE OF 09°45'28", A CHORD BEARING N38°28'37"E AND A CHORD DISTANCE OF 96.96 FEET TO A POINT ON A NON-TANGENT LINE; THENCE DEPARTING SAID CURVE AND RIGHT-OF-WAY LINE S46°38'27"E FOR A DISTANCE OF 4.99 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE NORTHEASTERLY ALONG SAID CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 270.33 FEET, A RADIUS OF 565.00 FEET, A CENTRAL ANGLE OF 27°24'51", A CHORD BEARING N57°03'59"E AND A CHORD DISTANCE OF 267.76 FEET TO A POINT OF TANGENCY; THENCE N70°46'24"E FOR A DISTANCE OF 1352.87 FEET TO A POINT ON THE WESTERLY SUBDIVISION LINE OF SAID RIVER OAKS; THENCE ALONG SAID SUBDIVISION LINE S11°46'35"E FOR A DISTANCE OF 460.36 FEET; THENCE CONTINUE ALONG SAID WESTERLY SUBDIVISION LINE S16°46'35"E FOR A DISTANCE OF 29.96 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL CONTAINING 24.40 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:

1. BEARINGS BASED ON THE WESTERLY LINE OF RIVER OAKS, MAP BOOK 27, PAGES 15 THROUGH 17, BEING S16°46'35"E.
2. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS SKETCH WHICH MAY BE FOUND IN THE COUNTY PUBLIC RECORDS.
3. THIS IS NOT A BOUNDARY SURVEY
4. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR / MAPPER.

ABBREVIATIONS

C=CURVE	R/W=RIGHT-OF-WAY
D=DELTA	CL= CENTER LINE
R=RADIUS	POB=POINT OF BEGINNING
L=LENGTH	POC=POINT OF COMMENCEMENT
CH=CHORD	PCP=PERMANENT CONTROL POINT
CB=CHORD BEARING	SECT.=SECTION
PC=POINT OF CURVE	RNG.=RANGE
PT=POINT OF TANGENCY	TWP.=TOWNSHIP
PI=POINT OF INTERSECTION	ID=IDENTIFICATION
M.B.=MAP BOOK	CONC=CONCRETE
P.B.=PLAT BOOK	(R)=RECORD
P.G.=PAGE	(F)=FIELD MEASURED
O.R.B.=OFFICIAL RECORD BOOK	(NR)=NON-RADIAL
S.F.=SQUARE FEET	(RAD)=RADIAL
AC.=ACRES	

SIGNED:

Kenneth J. Kuhar
 KENNETH J. KUHAR
 FLA. PROFESSIONAL SURVEYOR/MAPPER #6105



LB #7565

WADE TRIM / TOMOKA

CIVIL ENGINEERING & LAND SURVEYING SINCE 1976
 DAYTONA BEACH FLAGLER/PALM COAST
 Main Office: 1410 LPGA Blvd., Suite 148, Daytona Beach, FL 32117
 Phone: 386-274-1600 Fax: 386-274-1602
 email: tomoka@tomoka-eng.com website: www.tomoka-eng.com

SKETCH
 AND
 DESCRIPTION

PROJECT NO.	GRAND RESERVE
DRAWING REFERENCE NO.	GR-SL1
DATE:	03/03/2011
SHEET NO.	2 OF 2

C:\Projects\KUHAR 13005 - FLCI MISCELLANEOUS\ROBERTS ROAD\GR-SL1.dwg

R:\SharedDocs\Tomoka\Survey\Grand Reserve\deg\GR-SL1.dwg 3/3/2011 7:50:21 AM EST

Inst No: 2013037560; 10/31/13 10:59AM; Book: 1973 Page: 339; Total Pgs: 12
 Doc Stamps-Deed\$20300.00 GAIL WADSWORTH, FLAGLER Co.

PREPARED BY AND RETURN TO:

Michael D. Chiumento, Esquire
Chiumento Sellis Dwyer, P.L.
 145 City Place, Suite 301
 Palm Coast, Florida 32164
 Attn: Kelly DeVore

Property Appraisers Parcel
 Identification Numbers
021231-0000-01010-0152;
021231-0000-01010-0140;
021231-0000-01010-0150;
021231-0000-01010-0142;
021231-0000-01010-0151;
021231-0000-01010-0141;
111231-0650-000A0-0060;

WARRANTY DEED

THIS INDENTURE, Made this 30th day of October, 2013, **Florida Landmark Communities, LLC, a Florida limited liability company**, whose mailing address is 145 City Place, Suite 300, Palm Coast, FL 32164, hereinafter called the Grantor, to **DARYL M. CARTER, TRUSTEE OF CARTER-FLAGLER ROBERTS ROAD LAND TRUST**, pursuant to Section 689.071, Florida Statutes, with full power and authority to protect, conserve and to sell, convey, lease, encumber, and to otherwise manage and dispose of the property hereinafter described, whose mailing address is: Post Office Box 568821, Orlando, Florida 32856-8821, (hereinafter referred to as "Grantee" and/or "Trustee"):

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

WITNESSETH, That said Grantor, for and in consideration of the sum of Two Million Nine Hundred Thousand and 00/100 Dollars \$2,900,000.00 and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Flagler County, Florida, to-wit:

See attached Exhibit "A"

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

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

SUBJECT TO ad valorem real property taxes and assessments of record for the year 2014, which are not yet due and payable and those matters set forth on Exhibit B

attached hereto and by this reference made a part hereof (collectively, the "Permitted Encumbrances").

AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2013.

TO HAVE AND TO HOLD the above-described real estate in fee simple with the appurtenances upon the trust and for the purposes set forth in this Deed and in the Land Trust ("Trust Agreement").

FULL POWER AND AUTHORITY is hereby granted to said Trustee to improve, protect and subdivide said real estate or any part thereof, to dedicate parks, streets, highways or alleys, and to vacate any subdivision or part thereof and to re-subdivide said real estate as often as desired, to contract to sell, to grant options to purchase, to sell on any terms, to convey either with or without consideration, to convey said real estate or any part thereof to a successor or successors in trust, to declare all or any portion of the property to condominium type ownership, and to grant to such successor or successors in trust all of the title, estate, powers and authorities vested in said Trustee, to donate, to dedicate, to mortgage, pledge or otherwise encumber said real estate or any part thereof, to lease said real estate or any part thereof, from time to time, in possession or reversion, by leases to commence *in praesenti* or *in futuro*, and upon any terms and for any period or periods of time not exceeding in the case of any single demise the term of ninety-nine (99) years, and to renew or extend leases and to amend, change or modify leases and the terms and provisions thereof, to contract to make leases and to grant options to lease and options to renew leases and options to purchase the whole or any part of the reversion, and to contract respecting the manner of fixing the amount of present or future rentals, to partition or exchange said real estate or any part thereof for other real or personal property, to grant easements or changes of any kind, to release, convey, or assign any right, title or interest in or about said real estate or any part thereof, and to deal with said real estate in every part thereof in all other ways and for such other considerations as it would be lawful for any person owning the same to deal with the same, whether similar to, or different from, the ways above specified, at any time or times hereafter.

In no case shall any party dealing with the Trustee in relation to the real estate or to whom the real estate or any part of it shall be conveyed, contracted to be sold, leased or mortgaged by Trustee, be obliged to see to the application of any purchase money, rent or money borrowed or advanced on the premises, or be obliged to see that the terms of said Trust have been complied with, or be obliged to inquire into the necessity or expediency of any act of the Trustee, or be obliged or privileged to inquire into any of the terms of the Trust Agreement or the identification or status of any named or unnamed beneficiaries, or their heirs or assigns to whom the Trustee may be accountable; and every deed, trust deed, mortgage, lease or other instrument executed by Trustee in relation to the real estate shall be conclusive evidence in favor of every person relying upon or claiming under any such conveyance lease or other instrument (a) that at the time of its delivery the Trust created by this Deed and by the Trust Agreement was in full force and effect, (b) that the conveyance or other instrument was executed in accordance with the trusts, conditions and limitations contained in this Deed and in the Trust Agreement and is binding upon all beneficiaries under those instruments, (c) that Trustee was duly authorized and empowered to execute and deliver every such deed, trust deed, lease, mortgage or other instrument and (d) if the conveyance is made to a successor or successors in trust, that the successor or

successors in trust have been appointed properly and vested fully with all the title, estate, rights, powers, duties and obligations of the predecessor in trust. If there are co-trustees, it is specifically understood that the signature of only one of the Co-Trustees shall be required to accomplish the foregoing.

Any contract, obligation or indebtedness incurred or entered into by the Trustee in connection with said property shall be as Trustee of an express trust and not individually and the Trustee shall have no obligations whatsoever with respect to any such contract, obligation or indebtedness except only so far as the trust property in the actual possession of the Trustee shall be applicable for the payment and discharge thereof; and it shall be expressly understood that any representations, warranties, covenants, undertakings and agreements hereinafter made on the part of the Trustee, while in form purporting to be the representations, warranties, covenants, undertakings and agreements of said Trustee, are nevertheless made and intended not as personal representations, warranties, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally, but are made and intended for the purpose of binding only the trust property specifically described herein; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Trustee individually on account of any instrument executed by or on account of any representation warranty, covenant, undertaking or agreement of the said Trustee, either expressed or implied, all such personal liability, if any, being expressly waived and released and all persons and corporations whomsoever and whatsoever shall be charged with notice of this condition from the date of the filing for record of this Deed.

The interest of the beneficiary under this Deed and under the Trust Agreement referred to previously and of all persons claiming under them or any of them shall be only in the earnings, avails and proceeds arising from the sale or other disposition of the real estate, and that interest is declared to be personal property, and no beneficiary under this Deed shall have any title or interest, legal or equitable, in or to the real estate as such but only as interest in the earnings, avails and proceeds from that real estate as aforesaid.

In the event of the death of the Trustee, and upon a recording in the public records of Flagler County, Florida of a death certificate of the Trustee, title to the land described herein shall be deemed to be held by the successor trustee and to pass to the successor trustee without the requirement of recording any further or additional documents.

This deed is given and accepted in accordance with Section 689.071, Florida Statutes. The Trustee shall have no personal liability whatsoever for action as Trustee under the trust agreement referred to above or by virtue of taking title to the land described above and the sole liability of Trustee hereunder shall be limited to the property which the Trustee holds under the trust agreement referred to above.

And the Grantor by this deed does hereby fully warrant the title in and to the Property and will defend the same against the lawful claims of all persons whomsoever. "Grantor," "Grantee," "Trustee" and "Beneficiary" are used for singular or plural, as context requires.

IN WITNESS WHEREOF, the Grantor has signed sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Florida Landmark Communities, LLC, a Florida limited liability company

Myra L. McAdams
Witness Name: Myra L. McAdams

By: William I. Livingston
William I. Livingston, President/Manager

Danielle M. Ferguson
Witness Name: Danielle M. Ferguson

State of Florida
County of Flagler

The foregoing instrument was acknowledged before me this 30th day of October, 2013 by William I. Livingston, President/Manager of Florida Landmark Communities, LLC, a Florida limited liability company, on behalf of said firm. He [X] is personally known or [] has produced a driver's license as identification.

[Notary Seal]



Danielle M. Ferguson
Notary Public
Printed Name: Danielle M. Ferguson
My Commission Expires: _____

EXHIBIT A

SKETCH AND DESCRIPTION

LEGAL DESCRIPTION:

RESERVED FOR RECORDING INFORMATION

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF BEGINNING COMMENCE AT THE SOUTHWEST CORNER OF LOT 35, RIVER OAKS, MAP BOOK 27, PAGES 15 THROUGH 17, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE DEPARTING SAID CORNER S88°13'25"W FOR A DISTANCE OF 42.48 FEET; THENCE S01°05'56"E FOR A DISTANCE OF 550.00 FEET; THENCE S88°54'04"W FOR A DISTANCE OF 1516.00 FEET; THENCE S07°50'55"E FOR A DISTANCE OF 662.67 FEET; THENCE S67°35'53"W FOR A DISTANCE OF 340.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ROBERTS ROAD (80 FOOT RIGHT-OF-WAY); THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE N22°24'07"W FOR A DISTANCE OF 1500.00 FEET TO A POINT ON THE INTERSECTION OF SAID ROBERTS ROAD RIGHT-OF-WAY WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SEA RAY DRIVE (60 FOOT RIGHT-OF-WAY); THENCE DEPARTING SAID ROBERTS ROAD RIGHT-OF-WAY ALONG SAID SEA RAY DRIVE RIGHT-OF-WAY FOR THE FOLLOWING FOUR (4) COURSES: (1) THENCE N67°35'53"E FOR A DISTANCE OF 21.00 FEET TO A POINT OF CURVATURE; (2) THENCE NORTHEASTERLY ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 403.52 FEET, A RADIUS OF 680.00 FEET, A CENTRAL ANGLE OF 34°00'00", A CHORD BEARING N50°35'53"E AND A CHORD DISTANCE OF 397.63 FEET TO A POINT OF TANGENCY; (3) THENCE N33°35'53"E FOR A DISTANCE OF 258.04 FEET TO A POINT OF CURVATURE; (4) THENCE NORTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 97.07 FEET, A RADIUS OF 570.00 FEET, A CENTRAL ANGLE OF 09°45'28", A CHORD BEARING N36°28'37"E AND A CHORD DISTANCE OF 96.96 FEET TO A POINT ON A NON-TANGENT LINE; THENCE DEPARTING SAID CURVE AND RIGHT-OF-WAY LINE S46°38'27"E FOR A DISTANCE OF 4.99 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE NORTHEASTERLY ALONG SAID CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 270.33 FEET, A RADIUS OF 565.00 FEET, A CENTRAL ANGLE OF 27°24'51", A CHORD BEARING N57°03'59"E AND A CHORD DISTANCE OF 267.76 FEET TO A POINT OF TANGENCY; THENCE N70°46'24"E FOR A DISTANCE OF 1352.87 FEET TO A POINT ON THE WESTERLY SUBDIVISION LINE OF SAID RIVER OAKS; THENCE ALONG SAID SUBDIVISION LINE S11°46'35"E FOR A DISTANCE OF 460.36 FEET; THENCE CONTINUE ALONG SAID WESTERLY SUBDIVISION LINE S18°46'35"E FOR A DISTANCE OF 740.00 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

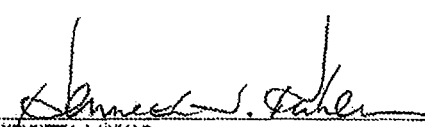
PARCEL CONTAINING 73.52 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:

1. BEARINGS BASED ON THE WESTERLY LINE OF RIVER OAKS, MAP BOOK 27, PAGES 15 THROUGH 17, BEING S16°46'35"E.
2. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS SKETCH WHICH MAY BE FOUND IN THE COUNTY PUBLIC RECORDS.
3. THIS IS NOT A BOUNDARY SURVEY
4. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR / MAPPER.

ABBREVIATIONS

C=CURVE	R/W=RIGHT-OF-WAY
D=DELTA	CL=CENTER LINE
R=RADIUS	PGB=POINT OF BEGINNING
L=LENGTH	PDC=POINT OF COMMENCEMENT
CH=CHORD	PCP=PERMANENT CONTROL POINT
CB=CHORD BEARING	SECT.=SECTION
PC=POINT OF CURVE	RNG.=RANGE
PT=POINT OF TANGENCY	TWP.=TOWNSHIP
PI=POINT OF INTERSECTION	I.D.=IDENTIFICATION
M.B.=MAP BOOK	CONC.=CONCRETE
P.B.=PLAT BOOK	(R)=RECORD
PG.=PAGE	(F)=FIELD MEASURED
O.R.R.=OFFICIAL RECORD BOOK	(NR)=NON-RADIAL
S.F.=SQUARE FEET	(RAD)=RADIAL
AC.=ACRES	

SIGNED: 
 KENNETH J. KUHAR
 FLA. PROFESSIONAL SURVEYOR/MAPPER #6103



WADE TRIM / TOMOKA
 CIVIL ENGINEERING & LAND SURVEYING SINCE 1976
 DAYTONA BEACH FLORIDA/PALM COAST
 18th Ct. W. 1401 PGA Blvd., Suite 104, Daytona Beach, FL 32117
 Phone: 386-274-8600 Fax: 386-274-8602
 Email: tomoka@tomoka-eng.com website: www.tomoka-eng.com

SKETCH AND DESCRIPTION

PROJECT NO.	GRAND RESERVE
DRAWING REFERENCE NO.	GR-SLI
DATE	03/03/2011
SHEET NO.	2 OF 2

SKETCH AND DESCRIPTION

LEGAL DESCRIPTION:

RESERVED FOR RECORDING INFORMATION

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE COMMENCE AT THE SOUTHWEST CORNER OF LOT 35, RIVER OAKS, MAP BOOK 27, PAGES 15 THROUGH 17, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE DEPARTING SAID CORNER S88°13'25"W FOR A DISTANCE OF 42.48 FEET; THENCE S01°05'56"E FOR A DISTANCE OF 550.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE S01°05'56"E FOR A DISTANCE OF 769.27 FEET; THENCE N88°58'11"E FOR A DISTANCE OF 456.54 FEET TO A POINT ON THE WESTERLY SUBDIVISION LINE OF SAID RIVER OAKS; THENCE ALONG SAID SUBDIVISION LINE S16°32'55"E FOR A DISTANCE OF 1307.40 FEET TO A POINT ON THE SOUTH LINE OF SAID GOVERNMENT SECTION 2; THENCE DEPARTING SAID SUBDIVISION LINE ALONG SAID GOVERNMENT SECTION 2 S88°27'05"W FOR A DISTANCE OF 2017.44 FEET TO A POINT ON A CURVE, SAID POINT ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF ROBERTS ROAD (80 FOOT RIGHT-OF-WAY); THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 333.22 FEET, A RADIUS OF 1439.72 FEET, A CENTRAL ANGLE OF 13°40'45", A CHORD BEARING N28°56'29"W AND A CHORD DISTANCE OF 332.50 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N22°24'07"W FOR A DISTANCE OF 1123.91 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE N67°35'53"E FOR A DISTANCE OF 340.00 FEET; THENCE N07°50'55"W FOR A DISTANCE OF 662.87 FEET; THENCE N88°54'04"E FOR A DISTANCE OF 1516.00 FEET TO THE AFOREMENTIONED POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL CONTAINING 92.36 ACRES, MORE OR LESS.

R:\SharedDocs\Tomoka\Survey\Grand Reserve\img\GR-SL2.dwg 3/3/2011 7:50:50 AM EST

SURVEYOR'S NOTES:

1. BEARINGS BASED ON THE WESTERLY LINE OF RIVER OAKS, MAP BOOK 27, PAGES 15 THROUGH 17, BEING S16°32'55"E.
2. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS SKETCH WHICH MAY BE FOUND IN THE COUNTY PUBLIC RECORDS.
3. THIS IS NOT A BOUNDARY SURVEY
4. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR / MAPPER.

ABBREVIATIONS

C=CURVE	R/W=RIGHT-OF-WAY
D=DELTA	C=CENTER LINE
R=RADIUS	POB=POINT OF BEGINNING
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CH=CHORD	PCP=PERMANENT CONTROL POINT
CB=CHORD BEARING	SECT.=SECTION
PC=POINT OF CURVE	RAD.=RADIAL
PT=POINT OF TANGENCY	TWP.=TOWNSHIP
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M.B.=MAP BOOK	CONC=CONCRETE
P.B.=PLAT BOOK	(R)=RECORD
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O.R.B.=OFFICIAL RECORD BOOK	(NR)=NON-RADIAL
S.F.=SQUARE FEET	(RAD)=RADIAL
AC.=ACRES	

SIGNED:

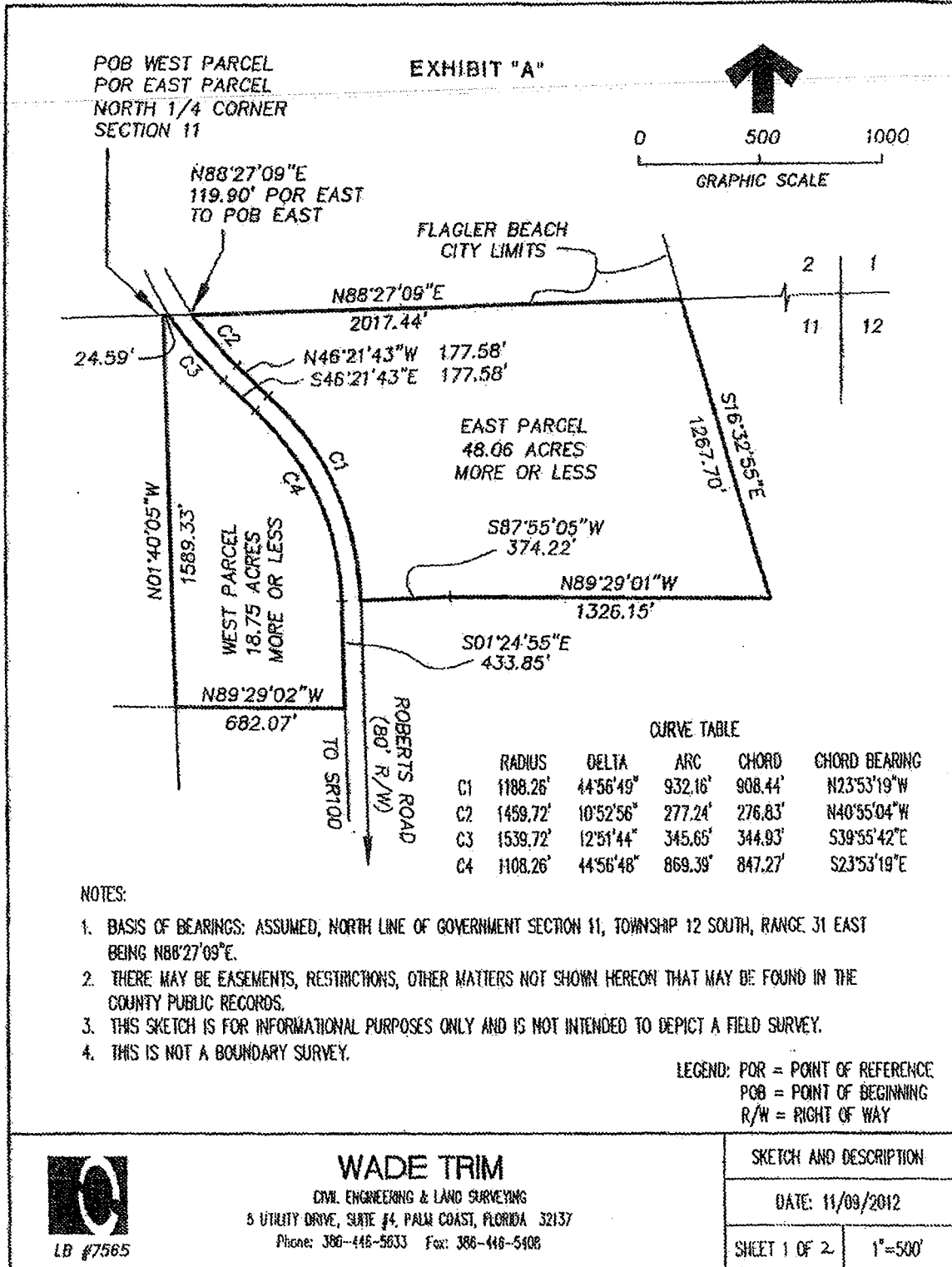
Kenneth J. Kuhar
 KENNETH J. KUHAR
 FLA. PROFESSIONAL SURVEYOR/MAPPER #6105



WADE TRIM / TOMOKA
 CIVIL ENGINEERING & LAND SURVEYING SINCE 1976
 DAYTONA BEACH FLAGLER/PALM COAST
 Main Office: 110 LPGA Blvd, Suite 143, Daytona Beach, FL 32127
 Phone: 386-274-7600 Fax: 386-274-7602
 www.tomokaeng.com website: www.tomoka-eng.com

SKETCH AND DESCRIPTION

PROJECT NO.	GRAND RESERVE
DRAWING REFERENCE NO.	GR-SL.2
DATE:	03/03/2011
SHEET NO.	2 OF 2



EAST PARCEL

A PART OF SECTION 11, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE NORTH 1/4 CORNER OF SAID SECTION 11; THENCE NORTH 88°27'09" EAST ALONG THE NORTH LINE OF SAID SECTION 11, A DISTANCE OF 119.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 88°27'09" EAST CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 2017.44 FEET; THENCE SOUTH 16°32'55" EAST LEAVING SAID NORTH LINE, A DISTANCE OF 1267.70 FEET; THENCE NORTH 89°29'01" WEST, A DISTANCE OF 1326.15 FEET; THENCE SOUTH 87°55'05" WEST, A DISTANCE OF 374.22 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ROBERTS ROAD (AN 80 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), SAID POINT LYING ON A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1188.26 FEET; THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 932.16 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING OF NORTH 23°53'19" WEST AND A CHORD DISTANCE OF 908.44 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 46°21'43" WEST CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 177.58 FEET TO THE POINT OF CURVE OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1459.72 FEET; THENCE NORTHWESTERLY CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 277.24 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING OF NORTH 40°55'04" WEST AND A CHORD DISTANCE OF 276.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 48.06 ACRES MORE OR LESS.

NOTES:

1. BASIS OF BEARINGS: ASSUMED, NORTH LINE OF GOVERNMENT SECTION 11, TOWNSHIP 12 SOUTH, RANGE 31 EAST BEING N88°27'09"E.
2. THERE MAY BE EASEMENTS, RESTRICTIONS, OTHER MATTERS NOT SHOWN HEREON THAT MAY BE FOUND IN THE COUNTY PUBLIC RECORDS.
3. THIS SKETCH IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO DEPICT A FIELD SURVEY.
4. THIS IS NOT A BOUNDARY SURVEY.



LB #7565

WADE TRIM

CIVIL ENGINEERING & LAND SURVEYING
 5 UTILITY DRIVE, SUITE #4, PALM COAST, FLORIDA 32137
 Phone: 386-446-5633 Fax: 386-446-5408

SKETCH AND DESCRIPTION

DATE: 11/09/2012

SHEET 2 OF 2

NO SCALE

EXHIBIT B
PERMITTED EXCEPTIONS

1. Ordinance No. 2007-15 recorded in O.R. Book 1697, Page 514, Public Records of Flagler County, Florida.
2. All matters contained on the Plat of Bunnell Development Company Subdivision, as recorded in Plat Book 1, Page 1, Public Records of Flagler County, Florida.
3. Resolution 2006-59 recorded in O.R. Book 1548, Page 1543, Public Records of Flagler County, Florida.

Via E-Mail: (craig.wall@searay.com)

Ref: 4052.01

TECHNICAL MEMORANDUM

To: Craig Wall, Sea Ray – Palm Coast
From: Matthew West, AICP
Subject: Sea Ray Comprehensive Plan Amendment (CPA) Analysis
Date: February 9, 2015

Lassiter Transportation Group, Inc. (LTG) was commissioned by Sea Ray Boats, Inc. (the CLIENT) to determine the limiting trip generation associated with a CPA for the development known as Sea Ray Parking Expansion (the PROJECT), located in unincorporated Flagler County, on the south side of Sea Ray Drive. The proposed development is a paved parking area on 16.39 acres of land. The PROJECT is the subject of a comprehensive plan amendment from Residential, Low Density to Commercial, High Intensity.

TRIP GENERATION FOR THE EXISTING VS PROPOSED FLUM DESIGNATION

The trip generation for the maximum development scenario for the existing Future Land Use Map (FLUM) designation was calculated using the nationally accepted trip generation publication, the *Trip Generation Manual, 9th Edition*, prepared by the Institute of Transportation Engineers (ITE). It is anticipated that this projected trip generation will be incorporated into a parcel-specific text amendment as a development cap which will accompany the future land use amendment.

The Flagler County Residential, Low Density has a maximum density of three (3) dwelling units per acre as established in the Flagler County Comprehensive Plan. The maximum potential development of the property under the existing land use of Residential, Low Density, would generate 49 single family homes (3 dwelling units X 16.39 acres).

When examining Table 1, the subject parcel could have a maximum traffic generating program 466 daily trips and 49 pm peak-hour trips. Therefore, parcel-specific text amendment could include a provision that development on the subject parcel will be limited to generate no more than 466 daily trips and 49 p.m. peak-hour trips.

Table 1
Gross Trip Generation – Existing FLUM Designation
Sea Ray CPA

County Residential, Low Density	Time Period	Land Use	ITE Land Use Code	Quantity	Units	Trip Rate	Total Trips	Percent Entering	Percent Exiting	Trips Entering	Trips Exiting
	Daily	Single Family Dwelling	210	49	Dwelling Units	T = 9.52 (X)	466	50%	50%	233	233
P.M. Peak-hour			49	Dwelling Units	T = 1.0 (X)	49	67%	33%	33	16	

Source: ITE Trip Generation Manual, 9th Edition

BASELINE TO MEASURE POTENTIAL TRAFFIC INCREASE FROM SUBJECT SITE

Seventy-two hours of traffic counts were recorded at the Sea Ray Drive east of Roberts Road beginning Tuesday, February 3, 2015, through Thursday, February 5, 2015. These counts provide insight into the number of vehicles entering and exiting the site on a daily basis. The hourly counts and counts in fifteen minute increments are attached as Exhibit A to this technical memorandum. The fifteen minute increment counts may be used to estimate the p.m. peak-hour impacts of the existing Sea Ray facility. These counts may be used as a baseline for measuring the future traffic impacts of the development that will take place on the parcel subject to this comprehensive plan amendment (High Intensity Commercial lands).

The total daily trips entering and exiting the site each day are as follows: Tuesday, 1,703 trips; Wednesday, 1,707 trips; and Thursday, 1,619 trips. That averages 1,676 vehicles exiting and entering the existing Sea Ray facility each day. Accounting for a potential increase (20 percent) in vehicle trips from the existing Sea Ray facility site due to increased production and employment, it may be conservatively estimated that the existing facility could have 2,011 vehicles entering and exiting the facility ($1,676 \times 1.2 = 2,011$ trips).

Therefore, when accounting for the potential daily trips from the High Intensity Commercial property based on the parcel-specific text amendment (466 trips) and the existing use, no more than 2,477 vehicles should be entering and exiting Sea Ray Drive on a daily basis ($466 + 2,011 = 2,477$).

Flagler County's Comprehensive Plan measures roadway levels of service using the p.m. peak-hour. The traffic counts in Exhibit A indicate that the p.m. peak-hour for the existing Sea Ray Facility is the 5 p.m. to 6 p.m. hour (Tuesday – 433 trips, Wednesday – 436 trips, and Thursday – 346 trips) for an average of 405 p.m. peak-hour trips. Accounting for a potential increase (20 percent) in vehicle trips from the existing Sea Ray facility site due to increased production and employment, it may be conservatively estimated that the existing facility could have 486 vehicles entering and exiting the facility in the p.m. peak-hour ($405 \times 1.2 = 486$ trips).

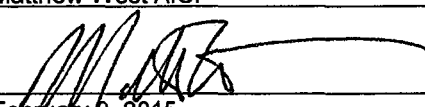
Therefore, when accounting for the potential p.m. peak-hour trips from the High Intensity Commercial property based on the parcel-specific text amendment (49 trips) and the existing use, no more than 535 vehicles should be entering and exiting Sea Ray Drive on a p.m. peak-hour basis ($486 + 49 = 535$).

CONCLUSION

The study was conducted to limit the potential traffic impact of the proposed Comprehensive Plan Amendment on area roadways based on trip generation of the reasonable development potential of the existing future land use designation. There will not be an increase in traffic due to the proposed CPA based on the adoption of parcel-specific text amendment as outlined in this technical memorandum. Therefore, this CPA is recommended for adoption. Concurrency and any required mitigation to support a proposed development plan will be assessed in greater detail during the final development permitting process.

I affirm by my signature that the findings contained herein are, to my knowledge, accurate and truthful and were developed using current procedures standard to the practice of professional planning.

Name: Matthew West AICP

Signature: 
Date: February 9, 2015

DE TRAFFIC
VOLUME SUMMARY
Tue 2/3/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
01:00	3	0	3
02:00	10	2	12
03:00	14	1	15
04:00	12	6	18
05:00	15	226	241
06:00	14	265	279
07:00	4	11	15
08:00	7	15	22
09:00	3	12	15
10:00	18	18	36
11:00	23	17	40
12:00	48	52	100
13:00	22	32	54
14:00	9	17	26
15:00	18	21	39
16:00	121	31	152
17:00	266	167	433
18:00	110	8	118
19:00	38	4	42
20:00	6	4	10
21:00	12	9	21
22:00	2	1	3
23:00	3	0	3
24:00	4	2	6
DAY TOTAL	782	921	1703
PERCENTS	46.0%	54.0%	100%
AM Times	11:15	05:15	
AM Peaks	48	265	
PM Times	16:30	16:15	
PM Peaks	279	167	

DE TRAFFIC
VOLUME SUMMARY
Wed 2/4/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
01:00	4	0	4
02:00	11	1	12
03:00	14	0	14
04:00	12	5	17
05:00	22	227	249
06:00	16	277	293
07:00	8	14	22
08:00	8	14	22
09:00	6	10	16
10:00	12	17	29
11:00	18	20	38
12:00	55	48	103
13:00	28	44	72
14:00	10	16	26
15:00	15	28	43
16:00	104	33	137
17:00	295	141	436
18:00	105	5	110
19:00	24	4	28
20:00	2	3	5
21:00	8	8	16
22:00	3	1	4
23:00	4	1	5
24:00	5	1	6
DAY TOTAL	789	918	1707
PERCENTS	46.3%	53.7%	100%
AM Times	11:15	05:15	
AM Peaks	55	277	
PM Times	16:30	16:00	
PM Peaks	312	143	

DE TRAFFIC
VOLUME SUMMARY
Thu 2/5/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
01:00	4	0	4
02:00	14	1	15
03:00	14	0	14
04:00	20	8	28
05:00	10	221	231
06:00	13	268	281
07:00	8	15	23
08:00	3	12	15
09:00	2	9	11
10:00	7	9	16
11:00	17	11	28
12:00	58	58	116
13:00	26	43	69
14:00	19	27	46
15:00	21	23	44
16:00	156	27	183
17:00	264	82	346
18:00	86	6	92
19:00	16	1	17
20:00	4	5	9
21:00	12	8	20
22:00	1	1	2
23:00	6	0	6
24:00	2	1	3
DAY TOTAL	783	836	1619
PERCENTS	48.4%	51.6%	100%
AM Times	11:15	05:15	
AM Peaks	58	268	
PM Times	16:30	16:00	
PM Peaks	280	83	

DE TRAFFIC
VOLUME SUMMARY
Tue 2/3/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
00:15	0	0	0
00:30	0	0	0
00:45	3	0	3
01:00	0	0	0
Hour Total	3	0	3
01:15	0	0	0
01:30	3	0	3
01:45	5	0	5
02:00	2	2	4
Hour Total	10	2	12
02:15	3	0	3
02:30	4	0	4
02:45	7	1	8
03:00	0	0	0
Hour Total	14	1	15
03:15	1	1	2
03:30	0	0	0
03:45	9	1	10
04:00	2	4	6
Hour Total	12	6	18
04:15	2	14	16
04:30	1	40	41
04:45	5	113	118
05:00	7	59	66
Hour Total	15	226	241
05:15	0	19	19
05:30	3	58	61
05:45	4	119	123
06:00	7	69	76
Hour Total	14	265	279
06:15	1	3	4
06:30	1	3	4
06:45	1	3	4
07:00	1	2	3
Hour Total	4	11	15
07:15	0	0	0
07:30	2	7	9
07:45	3	7	10
08:00	2	1	3
Hour Total	7	15	22
08:15	0	4	4
08:30	1	1	2
08:45	0	5	5

DE TRAFFIC
VOLUME SUMMARY
Tue 2/3/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
09:00	2	2	4
Hour Total	3	12	15
09:15	1	4	5
09:30	7	4	11
09:45	3	2	5
10:00	7	8	15
Hour Total	18	18	36
10:15	2	5	7
10:30	8	2	10
10:45	0	6	6
11:00	13	4	17
Hour Total	23	17	40
11:15	5	5	10
11:30	10	16	26
11:45	11	20	31
12:00	22	11	33
Hour Total	48	52	100
12:15	7	15	22
12:30	4	13	17
12:45	3	3	6
13:00	8	1	9
Hour Total	22	32	54
13:15	2	2	4
13:30	0	3	3
13:45	3	4	7
14:00	4	8	12
Hour Total	9	17	26
14:15	5	2	7
14:30	3	5	8
14:45	7	11	18
15:00	3	3	6
Hour Total	18	21	39
15:15	8	8	16
15:30	23	9	32
15:45	77	10	87
16:00	13	4	17
Hour Total	121	31	152
16:15	17	6	23
16:30	39	14	53
16:45	158	138	296
17:00	52	9	61
Hour Total	266	167	433

DE TRAFFIC
VOLUME SUMMARY
Tue 2/3/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
17:15	30	5	35
17:30	19	0	19
17:45	41	1	42
18:00	20	2	22
Hour Total	110	8	118
18:15	15	0	15
18:30	6	1	7
18:45	5	1	6
19:00	12	2	14
Hour Total	38	4	42
19:15	1	0	1
19:30	2	1	3
19:45	2	2	4
20:00	1	1	2
Hour Total	6	4	10
20:15	1	1	2
20:30	8	2	10
20:45	3	3	6
21:00	0	3	3
Hour Total	12	9	21
21:15	0	0	0
21:30	1	1	2
21:45	1	0	1
22:00	0	0	0
Hour Total	2	1	3
22:15	0	0	0
22:30	0	0	0
22:45	2	0	2
23:00	1	0	1
Hour Total	3	0	3
23:15	0	1	1
23:30	1	1	2
23:45	2	0	2
24:00	1	0	1
Hour Total	4	2	6
DAY TOTAL	782	921	1703
PERCENTS	46.0%	54.0%	100%
AM Times	11:15	05:15	
AM Peaks	48	265	
PM Times	16:30	16:15	
PM Peaks	279	167	

DE TRAFFIC
VOLUME SUMMARY
Wed 2/4/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
00:15	0	0	0
00:30	1	0	1
00:45	3	0	3
01:00	0	0	0
Hour Total	4	0	4
01:15	3	0	3
01:30	0	0	0
01:45	6	0	6
02:00	2	1	3
Hour Total	11	1	12
02:15	2	0	2
02:30	4	0	4
02:45	5	0	5
03:00	3	0	3
Hour Total	14	0	14
03:15	1	1	2
03:30	0	0	0
03:45	9	0	9
04:00	2	4	6
Hour Total	12	5	17
04:15	5	16	21
04:30	2	50	52
04:45	7	102	109
05:00	8	59	67
Hour Total	22	227	249
05:15	1	16	17
05:30	3	72	75
05:45	6	125	131
06:00	6	64	70
Hour Total	16	277	293
06:15	2	2	4
06:30	0	5	5
06:45	2	3	5
07:00	4	4	8
Hour Total	8	14	22
07:15	2	5	7
07:30	3	3	6
07:45	2	0	2
08:00	1	6	7
Hour Total	8	14	22
08:15	3	2	5
08:30	1	3	4
08:45	0	2	2

DE TRAFFIC
VOLUME SUMMARY
Wed 2/4/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
09:00	2	3	5
Hour Total	6	10	16
09:15	2	1	3
09:30	1	6	7
09:45	2	4	6
10:00	7	6	13
Hour Total	12	17	29
10:15	3	2	5
10:30	3	4	7
10:45	3	8	11
11:00	9	6	15
Hour Total	18	20	38
11:15	6	4	10
11:30	16	11	27
11:45	13	20	33
12:00	20	13	33
Hour Total	55	48	103
12:15	17	17	34
12:30	0	15	15
12:45	4	8	12
13:00	7	4	11
Hour Total	28	44	72
13:15	1	2	3
13:30	1	3	4
13:45	6	6	12
14:00	2	5	7
Hour Total	10	16	26
14:15	4	6	10
14:30	4	2	6
14:45	4	13	17
15:00	3	7	10
Hour Total	15	28	43
15:15	5	9	14
15:30	15	7	22
15:45	71	12	83
16:00	13	5	18
Hour Total	104	33	137
16:15	18	6	24
16:30	43	9	52
16:45	179	123	302
17:00	55	3	58
Hour Total	295	141	436

DE TRAFFIC
VOLUME SUMMARY
Wed 2/4/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
17:15	35	2	37
17:30	22	0	22
17:45	31	1	32
18:00	17	2	19
Hour Total	105	5	110
18:15	15	0	15
18:30	1	2	3
18:45	2	2	4
19:00	6	0	6
Hour Total	24	4	28
19:15	2	0	2
19:30	0	2	2
19:45	0	0	0
20:00	0	1	1
Hour Total	2	3	5
20:15	1	1	2
20:30	6	2	8
20:45	1	2	3
21:00	0	3	3
Hour Total	8	8	16
21:15	1	0	1
21:30	2	1	3
21:45	0	0	0
22:00	0	0	0
Hour Total	3	1	4
22:15	0	0	0
22:30	1	1	2
22:45	3	0	3
23:00	0	0	0
Hour Total	4	1	5
23:15	0	0	0
23:30	0	1	1
23:45	5	0	5
24:00	0	0	0
Hour Total	5	1	6
DAY TOTAL	789	918	1707
PERCENTS	46.3%	53.7%	100%
AM Times	11:15	05:15	
AM Peaks	55	277	
PM Times	16:30	16:00	
PM Peaks	312	143	

DE TRAFFIC
VOLUME SUMMARY
Thu 2/5/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
00:15	1	0	1
00:30	0	0	0
00:45	3	0	3
01:00	0	0	0
Hour Total	4	0	4
01:15	1	0	1
01:30	0	0	0
01:45	9	0	9
02:00	4	1	5
Hour Total	14	1	15
02:15	2	0	2
02:30	7	0	7
02:45	3	0	3
03:00	2	0	2
Hour Total	14	0	14
03:15	1	1	2
03:30	11	0	11
03:45	7	2	9
04:00	1	5	6
Hour Total	20	8	28
04:15	0	15	15
04:30	3	40	43
04:45	2	108	110
05:00	5	58	63
Hour Total	10	221	231
05:15	0	23	23
05:30	4	61	65
05:45	4	113	117
06:00	5	71	76
Hour Total	13	268	281
06:15	0	6	6
06:30	3	3	6
06:45	3	2	5
07:00	2	4	6
Hour Total	8	15	23
07:15	1	3	4
07:30	0	4	4
07:45	1	1	2
08:00	1	4	5
Hour Total	3	12	15
08:15	0	2	2
08:30	1	2	3
08:45	0	2	2

DE TRAFFIC
VOLUME SUMMARY
Thu 2/5/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
09:00	1	3	4
Hour Total	2	9	11
09:15	1	0	1
09:30	3	1	4
09:45	0	4	4
10:00	3	4	7
Hour Total	7	9	16
10:15	4	4	8
10:30	2	3	5
10:45	1	3	4
11:00	10	1	11
Hour Total	17	11	28
11:15	5	11	16
11:30	25	7	32
11:45	11	21	32
12:00	17	19	36
Hour Total	58	58	116
12:15	16	19	35
12:30	5	16	21
12:45	2	4	6
13:00	3	4	7
Hour Total	26	43	69
13:15	3	7	10
13:30	3	9	12
13:45	6	8	14
14:00	7	3	10
Hour Total	19	27	46
14:15	4	3	7
14:30	3	4	7
14:45	10	9	19
15:00	4	7	11
Hour Total	21	23	44
15:15	11	5	16
15:30	27	12	39
15:45	94	5	99
16:00	24	5	29
Hour Total	156	27	183
16:15	16	2	18
16:30	53	13	66
16:45	161	63	224
17:00	34	4	38
Hour Total	264	82	346

DE TRAFFIC
VOLUME SUMMARY
Thu 2/5/2015

Machine #: 020220023547
Site ID: Sea Ray Dr
Description: Sea Ray Dr east of Roberts Rd

File: Ray.prn
Street Name: Sea Ray Dr
County: Flagler

TIME	1 WEST	2 EAST	Total
17:15	32	1	33
17:30	24	2	26
17:45	21	0	21
18:00	9	3	12
Hour Total	86	6	92
18:15	6	0	6
18:30	2	1	3
18:45	3	0	3
19:00	5	0	5
Hour Total	16	1	17
19:15	1	2	3
19:30	2	0	2
19:45	0	1	1
20:00	1	2	3
Hour Total	4	5	9
20:15	1	1	2
20:30	6	0	6
20:45	4	6	10
21:00	1	1	2
Hour Total	12	8	20
21:15	1	0	1
21:30	0	0	0
21:45	0	1	1
22:00	0	0	0
Hour Total	1	1	2
22:15	0	0	0
22:30	0	0	0
22:45	5	0	5
23:00	1	0	1
Hour Total	6	0	6
23:15	1	0	1
23:30	0	1	1
23:45	1	0	1
24:00	0	0	0
Hour Total	2	1	3
DAY TOTAL	783	836	1619
PERCENTS	48.4%	51.6%	100%
AM Times	11:15	05:15	
AM Peaks	58	268	
PM Times	16:30	16:00	
PM Peaks	280	83	

FLAGLER COUNTY
TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: JANUARY 21, 2015

APP#2972 - FLUM AMEND - CARTER-FLAGLER ROBTS RD LAND TRUST

**APPLICANT: SIDNEY F. ANSBACHER, ESQUIRE; BRUNSWICK CORPORATION
AND SEA RAY BOATS, INC.**

OWNER: CARTER, DARYL M, TRUSTEE

Distribution date: Friday, January 16, 2015

Project #: 2015010002

Application #: 2972

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	386-313-4067
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: BUILDING DEPARTMENT

No comments.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

Comments by Adam Mengel on January 16, 2015.

1. Please complete an impact analysis based on proposed FLUA, to include TIA; note that Lassiter had completed last TIA in 2004. All data from previous FLUAs will be provided to applicant to facilitate document preparation.
2. Please provide a draft parcel-specific limiting FLUE policy reflecting proposed uses of the parcel. This will be used by staff to limit the impact analysis rather than using the full-intensity capacity of the FLUA without limitation.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

No comments at this time.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

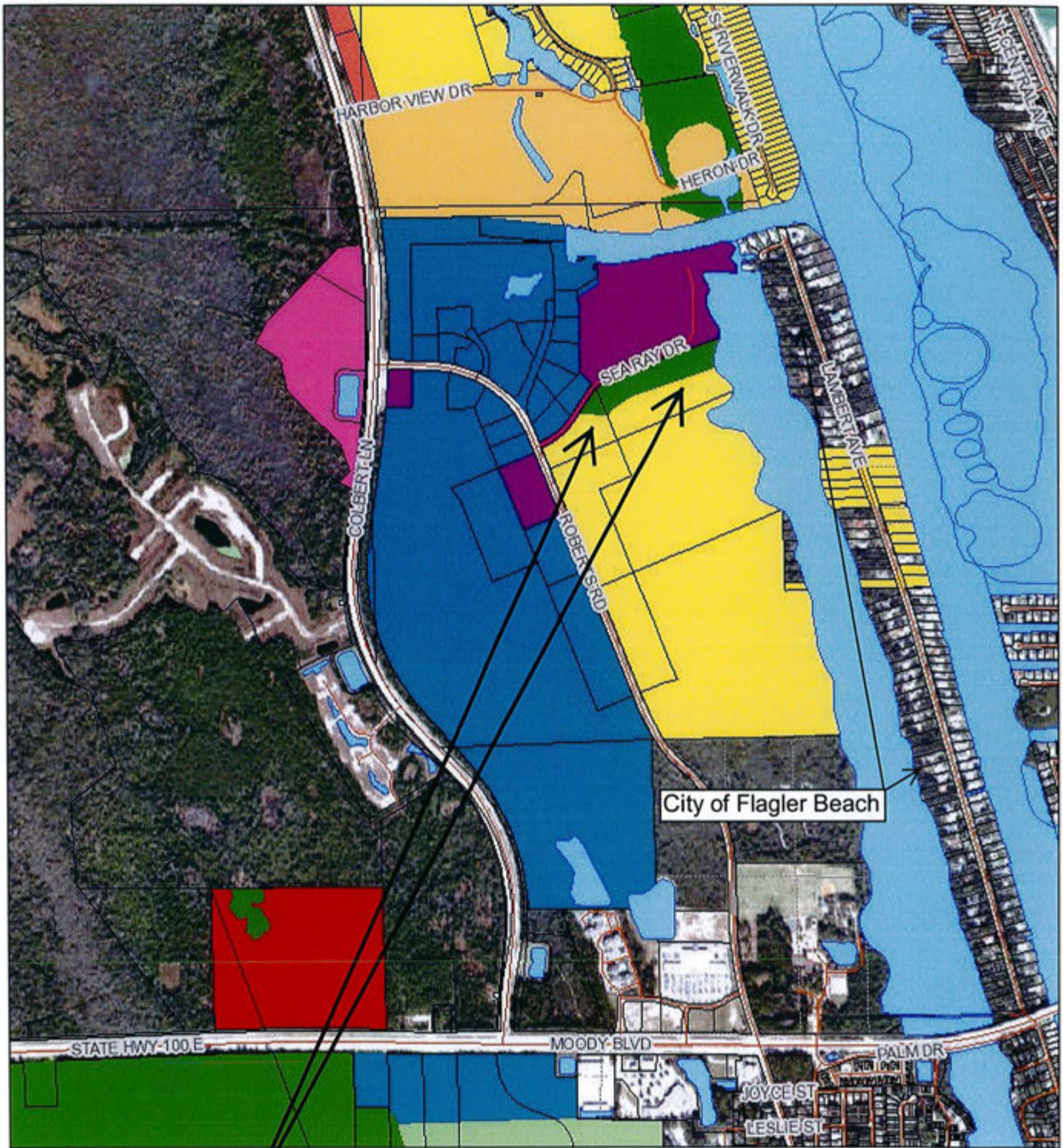
REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments at this time.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

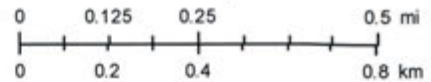
Application #2972 - Future Land Use Map



Subject Property

- Legend**
- FUTURE LAND USE**
 Unincorporated Flagler County
- AGRICULTURE
 - AGRICULTURE & TIMBERLANDS
 - COMMERCIAL: HIGH INTENSITY
 - COMMERCIAL: LOW INTENSITY
 - CONSERVATION
 - EDUCATIONAL USES
 - INDUSTRIAL
 - MIXED USE: LOW INTENSITY
 - MIXED USE: HIGH INTENSITY
 - RECREATION & OPEN SPACE
 - RESIDENTIAL: HIGH DENSITY
 - RESIDENTIAL: LOW DENSITY / RURAL ESTATE
 - RESIDENTIAL: LOW DENSITY/SINGLE FAMILY
 - RESIDENTIAL: MEDIUM DENSITY

1:16,000

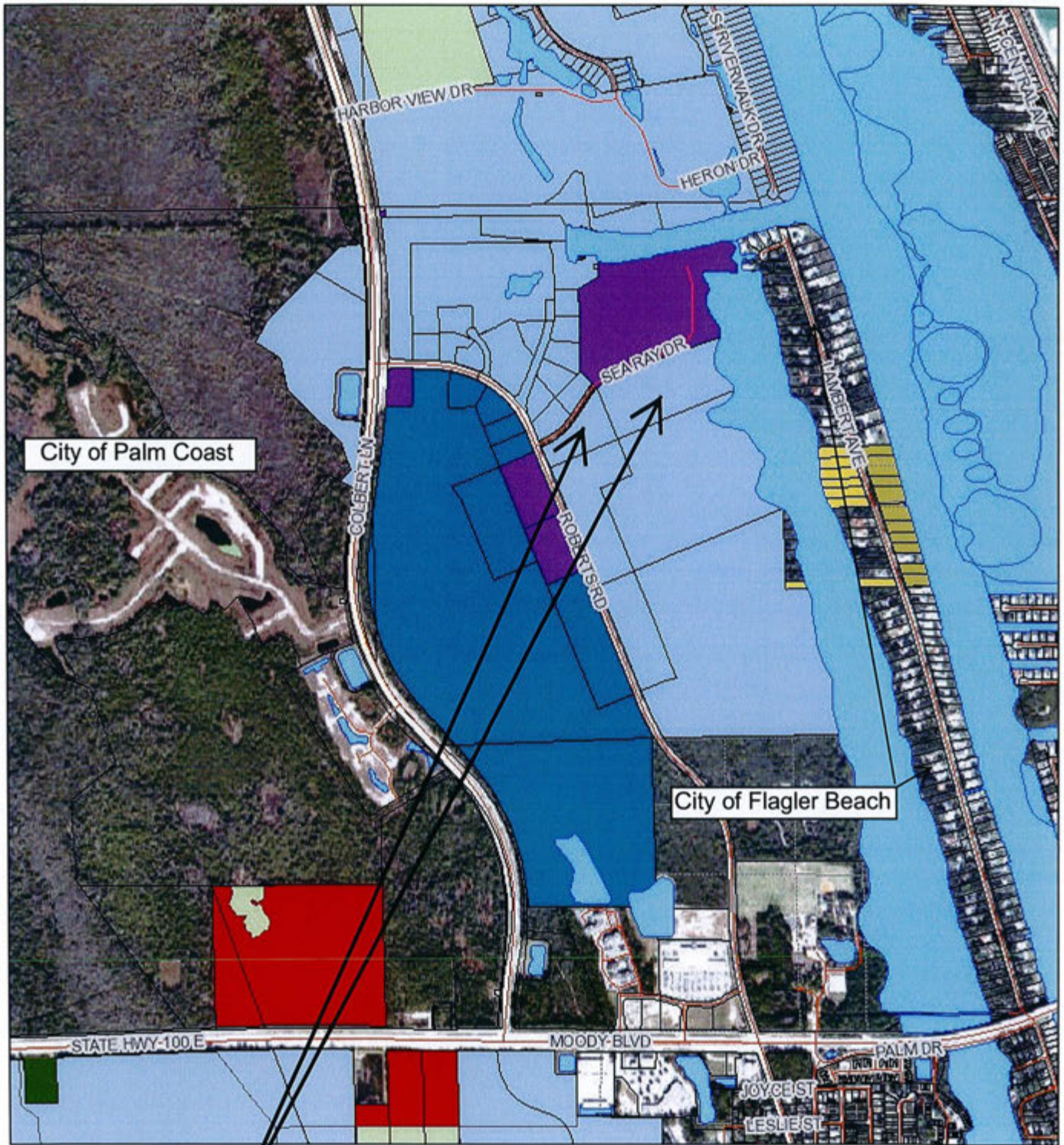


Flagler County, Bruce Harris & Associates



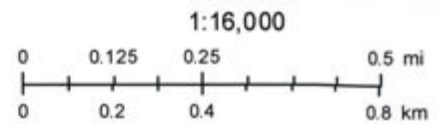
Flagler County, FL
 Copyright: Flagler County

Application #2972 - Zoning Map



FLAGLER ZONING

ZONE CODE	DESCRIPTION
AG	AGRICULTURE
AO	OFFICE
CI	COMMERCIAL INTERMEDIATE
C1	COMMERCIAL GENERAL
EN	ENVIRONMENTAL SENSITIVE
IND1	INDUSTRIAL GENERAL
IND2	INDUSTRIAL MEDIUM DENSITY
IND3	INDUSTRIAL HIGH DENSITY
IO	INSTITUTIONAL OFFICE
IO2	INSTITUTIONAL OFFICE MEDIUM DENSITY
IO3	INSTITUTIONAL OFFICE HIGH DENSITY
PD	PLANNED DEVELOPMENT
R1	RESIDENTIAL SINGLE-FAMILY
R1B	RESIDENTIAL SINGLE-FAMILY BLENDED
R1C	RESIDENTIAL SINGLE-FAMILY CLUSTER
R1D	RESIDENTIAL SINGLE-FAMILY DENSITY
R2	RESIDENTIAL TWO-FAMILY
R3	RESIDENTIAL THREE-FAMILY
RC	RESIDENTIAL COMMERCIAL
SPD	SPECIAL DISTRICT
SPD1	SPECIAL DISTRICT 1
SPD2	SPECIAL DISTRICT 2
SPD3	SPECIAL DISTRICT 3
SPD4	SPECIAL DISTRICT 4
SPD5	SPECIAL DISTRICT 5



Flagler County, Bruce Harris & Associates

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, February 10, 2015 at 6:00 PM**

DRAFT

MEMBERS PRESENT: Michael Boyd, Robert Dickinson, Thad Crowe, Chairman Russ Reinke, Michael Duggins, Laureen Kornel and Pam Richardson.

MEMBERS ABSENT: None.

STAFF PRESENT: Sally Sherman, Deputy County Administrator; Adam Mengel, Planning Director, Doug Gutierrez, Planner and Gina Lemon, Development Review Planner III.

BOARD COUNSEL: Kate Stangle, with Broad and Cassel.

Chairman Reinke called the meeting to order at 6:06 p.m. Chairman Reinke advised the public with regard to the format of the meeting and introduced staff. He advised that meeting guidelines limit meeting time from 6pm to 10pm.

1. **Roll Call.**

Attendance was confirmed by Gina Lemon and quorum was present.

2. **Pledge of Allegiance.**

Chairman Reinke led the Pledge of Allegiance to the Flag.

Discussion by Board members regarding length of meeting, Ms. Kornel advised that she will excuse herself at 10pm. Remaining members advised that they would stay after 10pm.

3. **Quasi-judicial requiring ex parte communication and disclosures:** Application #2966 – **FENCE HEIGHT VARIANCE in the MH-1 (Rural Mobile Home) District;** 1807 County Road 75, Portion Tract 1, Block 13, St. Johns Development Company Subdivision, Section 24, Township 12 South, Range 29 East, Flagler County, Florida; Parcel #24-12-29-5550-00130-0010 containing 1.4± acres; Owner / Applicant: Jack L. and Robin E. Aresco
Project #2014120002 (TRC, PB)

Mr. Mengel presented the staff report and the staff recommendation as follows: The Planning and Development Board finds that criteria 1 and 2 as listed in the guidelines at LDC Section 3.07.03.E have not been met and therefore recommends denial of a four foot (4') foot fence height variance for the fence at 1807 CR 75. Specifically, extraordinary or exceptional conditions do not pertain to the subject parcel that would prevent compliance with the LDC and the applicant/owner erected the ten foot (10') high fence, creating the need for the variance through their affirmative action.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, February 10, 2015 at 6:00 PM**

DRAFT

Board members did not have any disclosures to provide.

Chairman Reinke called for presentation from the applicant.

Mr. Jack Aresco, 1807 County Road 75, advised that he has lived in the county since he was 13 and has lived at this location for 8 years. He explained the history of problems between his dogs and the neighbors' cows.

Chairman Reinke opened the public hearing.

Margaret Migryt, 1911 County Road 75, Bunnell explained that the proposed fence will sit between her property and Mr. Aresco's, she owns the cows. She did not have any problem with the variance. She claimed that the fence lies on her land and asked that Mr. Aresco get a survey.

There being no other speakers Chairman Reinke closed the public hearing.

Mr. Boyd commented that he is familiar with agricultural types of problems that arise in an agricultural type of community. He commented that if the fence location is wrong, that would be a legal issue.

Mr. Boyd MOVED TO APPROVE Application #2966 for a 4' fence height variance in the MH-1 District, SECONDED by Mr. Duggins.

Discussion on the motion: Mr. Crowe questioned the hardship for this request due to the unique features of the property. Mr. Mengel reminded the Board of a previous request for fence height relief where dust was considered a unique feature to that site. Mr. Crowe commented that with this situation erosion is attributable to the activity and is detrimental. Mr. Crowe questioned with regard to the survey or lack thereof. Mr. Mengel responded that the permit application indicates that the fence would be located within the subject property. Mr. Duggins commented that the applicant's hardship is a neighboring property owner that is not taking care of their fence. Chairman Reinke asked if the maker of the motion would amend the motion to include a survey to answer the question of location. The maker of the motion did not amend his motion.

Motion carried unanimously.

Mr. Crowe suggested that staff consider allowing 8' high fences.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, February 10, 2015 at 6:00 PM**

DRAFT

4. **Quasi-judicial requiring ex parte communication and disclosures:** *Application #2970 – AMENDMENTS TO PUD SITE DEVELOPMENT PLAN and PUD DEVELOPMENT AGREEMENT for HUNTINGTON TOWNHOMES PUD in Hunter’s Ridge DRI to increase residential units from 127 units to 155 units; Parcel #22-14-31-0000-01010-0040 and 22-14-31-0000-01010-0050; containing 90.87± acres and lying within the Hunter’s Ridge Development of Regional Impact. Owner: BADC Huntington Communities, LLC / Agent: Mark A. Watts, Esquire, Cobb Cole.*
Project #2014120019 *(TRC, PB, BCC)*

Chairman Reinke asked for disclosures from the Board. Board members did not have any disclosures to provide.

Mr. Mengel presented the staff report and staff recommendation for this item. Staff recommendation was that the Planning and Development Board recommend to the Board of County Commissioners, approval of Application #2970 amendment to the Site Development Plan and Development Agreement in a PUD for Huntington Townhomes at Hunter’s Ridge, now known as Huntington Villas at Hunter’s Ridge, finding that the requested change is consistent with the Comprehensive Plan, the Land Development Code, and the adopted Development Order.

Mark Watts, Esquire, with the firm of Cobb Cole at 351 E. New York Avenue, Suite 200, DeLand, Florida provided the application presentation on behalf of the applicant. He also introduced Mr. Howard Lefkowitz, Vice President of BADC Huntington Communities and Luke Kilic, Engineer with Zev Cohen & Associates.

Chairman Reinke opened the application for Board questions. Members questioned the reduction of tree planting, buffering from Canterbury Woods subdivision, amenity center,

Messrs Watts, Kilic and Lefkowitz answered the Board questions. Mr. Lefkowitz responded to the concerns of the Board Members with regard to tree plantings by committing to locate the tree plantings within the community primarily at common areas rather than on the individual lots due to the small lot sizes.

Chairman Reinke opened the public hearing. There being no one to speak on the item Chairman Reinke closed the public hearing.

There were more comments from Board members regarding the tree plantings.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, February 10, 2015 at 6:00 PM**

DRAFT

Mr. Dickinson MOVED TO RECOMMEND TO THE BOARD OF COUNTY COMMISSIONERS APPROVAL of Application #2970, amendment of the Site Development Plan and Development Agreement in a PUD for Huntington Townhomes at Hunter's Ridge, now known as Huntington Villas at Hunter's Ridge, finding that the requested change is consistent with the Comprehensive Plan, the Land Development Code, and the adopted Development Order subject to including tree language for trees in the non-development areas; provide insurance of buffer along the south property line and reincorporate the bicycle language in the agreement, SECONDED by Ms. Richardson.

Motion carried unanimously.

5. ***Quasi-judicial requiring ex parte communication and disclosures:*** *Application #2971 - AMENDMENTS TO PUD SITE DEVELOPMENT PLAN and PUD DEVELOPMENT AGREEMENT for HUNTINGTON LAKES PUD to reduce residential units from 133 to 102 single family detached units; Parcel #22-14-31-0000-01010-0030; containing 81.04± acres and lying within the Hunter's Ridge Development of Regional Impact. Owner: BDAC Huntington Communities, LLC / Agent: Mark A. Watts, Esquire, Cobb Cole*
Project #2015010001 (TRC, PB, BCC)

Mr. Mengel presented the staff report and staff recommendation for this item. Staff recommendation was that the Planning and Development Board recommend to the Board of County Commissioners, approval of Application #2971 amendment to the Site Development Plan and Development Agreement in a PUD for Huntington Lakes at Hunter's Ridge, finding that the requested change is consistent with the Comprehensive Plan, the Land Development Code, and the adopted Development Order.

Chairman Reinke asked for disclosures from the Board. Board members did not have any disclosures to provide.

Mark Watts, Esquire, with the firm of Cobb Cole at 351 E. New York Avenue, Suite 200, DeLand, Florida provided the application presentation on behalf of the applicant. He offered that language be added to this agreement similar to that previously discussed on App #2970 with regard to street trees.

Board members requested pedestrian/bike path language to remain in the agreement. Mr. Watts acknowledged that the language would remain.

Chairman Reinke opened the public hearing. There being no one to speak on the item Chairman Reinke closed the public hearing.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, February 10, 2015 at 6:00 PM**

DRAFT

Mr. Dickinson MOVED TO RECOMMEND TO THE BOARD OF COUNTY COMMISSIONERS APPROVAL of Application #2971, amendment of the Site Development Plan and Development Agreement in a PUD for Huntington Lakes at Hunter's Ridge, finding that the requested change is consistent with the Comprehensive Plan, the Land Development Code, and the adopted Development Order subject to including tree language for trees in the non-development areas and minimum lot size 7,500 sf; SECONDED by Mr. Boyd.

Motion carried unanimously.

6. ***Legislative not requiring disclosure of ex parte communication:*** *Application #2972 – FUTURE LAND USE MAP AMENDMENT FROM RESIDENTIAL LOW DENSITY AND CONSERVATION TO COMMERCIAL HIGH INTENSITY AND CONSERVATION*; 24.4 acres generally lying south east of the corner of Roberts Road and Sea Ray Drive lying within Section 2, Township 12 South, Range 31 East, Flagler County, Florida; Parcel #s 02-12-31-0000-01010-0140 and 02-12-31-0000-01010-0150; Owner: Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust / Agent: Sidney F. Ansbacher, Brunswick Corporation and Sea Ray Boats, Inc.
Project #2015010002 (TRC, PB, BCC)

Mr. Mengel explained that the collection of correspondence received about this application and the next application has been provided to the Board. Mr. Mengel provided the staff report and the staff recommendation that the Planning and Development Board recommend to the Board of County Commissioners transmittal of Application #2972 a Future Land Use Map amendment from Residential Low Density and Conservation to Commercial High Intensity and Conservation, finding that the request is consistent with the adopted Comprehensive Plan.

Sid Ansbacher, Esquire of with the firm of Upchurch, Bailey, Upchurch at 780 N. Ponce De Leon Boulevard, St. Augustine, FL 32084 representative for Sea Ray for this application and for about 15 years. Mr. Ansbacher requested the opportunity to respond to the public comments following public comment. Mr. Ansbacher also asked that the application for rezoning be continued until after the ORC report is received from the State in order to be able to respond to agency comments. Mr. Ansbacher gave an overview of the request.

Matthew West, Planner with Lassiter Transportation Group 123 Live Oak Avenue, Daytona Beach, FL spoke on behalf of the applicant and provided the Board with traffic analysis information for the request. (Exhibit "A")

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
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DRAFT

Board members questioned the applicant for clarification on the request relative to site conditions, moving the present parking to this location or expanding parking to this site, and purchase or lease of the property.

Mr. Ansbacher explained that the parcel is approximately 24.4 acres with approximately 15 acres of upland. They have no intention of seeking an ERP permit for dredge and fill activities. They will do ERP request for stormwater areas which will be included as part of the uplands and preliminary calculations show that the yield will be 800 spaces available more or less. The parking is sliding to this site and Sea Ray are contract purchasers of the subject property.

Mr. Craig Wall, Operations Manager, Sea Ray Boats clarified that the existing employee parking will be used as storage for tooling and molds; no production is to occur in the parking lot.

Chairman Reinke opened the public hearing for public comment.

Roaseann Stocker 1481 Lambert Avenue, Flagler Beach spoke in opposition to the request. Provided handout to Board (Exhibit "B")

Dan Rutkowski 1431 Lambert Avenue, Flagler Beach spoke in opposition to the request. Provided photographs to Board (Exhibits "C" and "D")

Jerry Vurpillat 5 Lambert Cove, Flagler Beach spoke in opposition to the request.

John Keegan 1511 Lambert Avenue, Flagler Beach spoke in opposition to the request.

Jim Weiss 1465 Lambert Avenue, Flagler Beach spoke in opposition to the request.

Tetsuo Yama 1501 Lambert Avenue, Flagler Beach spoke in opposition to the request.

Rich Smith 1640 Lambert Avenue, Flagler Beach spoke in opposition to the request.

Terry Deal 1580 Lambert Avenue, Flagler Beach spoke in opposition to the request. Played recording of backup alarm from vehicles reportedly taped from within her home approximately one-third mile away.

Debbie Horst 316 Cedar Lane, Flagler Beach spoke in opposition to the request.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
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DRAFT

Don Deal 1580 Lambert Avenue, Flagler Beach spoke in opposition to the request. Provided handout to Board (Exhibit "E")

Rob Merrell, Esquire, CobbCole 149 S. Ridgewood Avenue, Daytona Beach representative for American Momentum Bank expressed concern regarding the amendment and spoke in favor of specific parcel limitations.

Rebecca Mitchell 2719 N. Oceanshore Boulevard, Beverly Beach spoke neutrally about the request and described her observation of pollution while living in south Florida before moving to this area.

Tim Agin 965 Lambert Avenue questioned increase in production and increase in allowable chemical release.

Mark Langello spoke in support of the request.

Ellen Dostellan 7 Perth Place, Palm Coast questioned address of previous speaker.

Mr. Mengel repeated that Mr. Langello responded from the audience that he resides on North Oceanshore Boulevard.

Rose Ann Brennon 1060 Lambert Avenue, Flagler Beach spoke in opposition to the request.

Charlie Faulkner 139 North Palmetto Avenue, Flagler Beach spoke in support of the request.

There being no other public speakers, Chairman Reinke closed public the public hearing.

Mr. Ansbacher spoke on behalf of the applicant in rebuttal to the public comments. Requested the opportunity for transmittal to have commenting agencies review the plan amendment proposal. He proffered a site specific limitation to parking and office.

Due to malfunction of the audio/video equipment the Chairman called for a recess of the meeting at 9:27pm.

Chairman Reinke reconvened the meeting at 9:38 pm and called for Board comments on the request.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
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DRAFT

Mr. Crowe commented that he was opposed to change the subject area to residential but that happened. The people have demonstrated their confidence of that change 10 years ago. He described that he did not object to the west parking pod but objected to the east parking pod.

Mr. Dickinson agreed with Mr. Crowe that the residents have now put their trust in the change to residential and he sought understanding of the long term proposal of the property overall.

Mr. Duggins commented that the area does not need to be an open parking lot adjacent to the marsh land.

Ms. Kornel commented that she had a hard supporting the high intensity based on compatibility with the Comprehensive Plan and commended the public with addressing the policies of the plan; she hoped that the Sea Ray could get to where they want to be through a different avenue.

Ms. Richardson commented that she desired a more defined code to allow a parking lot.

Chairman Reinke commented that he also desired more definition.

Mr. Boyd commented about the proposed request and compatibility with the comprehensive plan and the citizens along having purchased property along Lambert Avenue thinking they would be adjacent to residential property.

Mr. Crowe MOVED TO RECOMMEND TO THE BOARD OF COUNTY COMMISSIONERS DENIAL OF Application #2972 due to incompatibility with the Comprehensive Plan; SECONDED by Mr. Boyd.

Motion carried unanimously.

7. **Quasi-judicial requiring ex parte communication and disclosures:** *Application #2973 – REZONING FROM PUD (PLANNED UNIT DEVELOPMENT) DISTRICT TO C-2 (COMMERCIAL AND SHOPPING CENTER) DISTRICT*; 24.4 acres generally lying south east of the corner of Roberts Road and Sea Ray Drive lying within Section 2, Township 12 South, Range 31 East, Flagler County, Florida; Parcel #s 02-12-31-0000-01010-0140 and 02-12-31-0000-01010-0150; Owner: Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust / Agent: Sidney F. Ansbacher, Brunswick Corporation and Sea Ray Boats, Inc.
Project #2015010003 (TRC, PB, BCC)

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
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DRAFT

Mr. Ansbacher, on behalf of the applicant, requested that public notice be provided prior to this application returning to the Planning and Development Board.

Mr. Crowe MOVED TO POSTPONE INDEFINATELY Application #2973 due to incompatibility with the Comprehensive Plan; SECONDED by Ms. Richardson.

Motion carried unanimously.

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
Rich Smith questioned the indefinite postponement of an application. Ms. Stangle responded that essentially the application has been tabled, all public hearing requirements will be adhered to prior to bringing this item back.

Rich Smith questioned if the transmittal will be forwarded to the County Commission. Ms. Stangle confirmed that the Planning and Development Board's recommendation not to transmit will be forwarded to the Board of County Commissioners for decision. The application for rezoning will not be forwarded to the Board of County Commissioners until a recommendation from the Planning and Development Board has been provided.

9. Board Comments.
Mr. Crowe read into the record his letter of resignation from the Planning and Development Board, effective this day.
8. Staff Comments.
11. Adjournment. Chairman Reinke adjourned the meeting at 10:00 p.m.

Drafted by: Gina Lemon

Exhibit A to Minutes: [Lassiter Transportation Analysis](#)
Exhibit B to Minutes: [Handout from Roseanne Stocker](#)
Exhibit C to Minutes: [Photograph from Dan Rutkowski](#)
Exhibit D to Minutes: Photograph from Dan Rutkowski
Exhibit E to Minutes: [Handout from Don Deal](#)

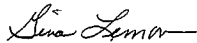
Attachment 6

App #2972
 Future Land Use Map Amendment

Surrounding Property Owner
 Information from Property
 Appraiser website

Parcel Number	Owner Name	Address	Address 2	City	State	Zip
	Sea Ray Boats, Inc. - Sea Ray Boats #16 -					
02-12-31-0000-01010-0010	Brunswick Boat Group	Attn: Sue Joslin	P. O. Box 1950	Knoxville	TN	37901-0000
02-12-31-0000-01010-0020	James A. and Julia M. Allen Smith		557 N. Beach Street	Ormond Beach	FL	32174
02-12-31-0000-01010-0100	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-0000-01010-0140	Daryl M. Carter, Trustee		P. O. Box 568821	Orlando	FL	32856-8821
02-12-31-0000-01010-0142	Daryl M. Carter, Trustee		P. O. Box 568821	Orlando	FL	32856-8821
02-12-31-0000-01010-0150	Daryl M. Carter, Trustee		P. O. Box 568821	Orlando	FL	32856-8821
02-12-31-0000-01010-0152	Daryl M. Carter, Trustee		P. O. Box 568821	Orlando	FL	32856-8821
02-12-31-0000-01010-0160	Sea Ray Boats, Inc.		100 Sea Ray Drive	Flagler Beach	FL	32136
02-12-31-4938-00000-0030	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-4938-00000-0040	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-4938-00000-0050	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-4938-00000-0060	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-4938-00000-0070	Florida Landmark Communities LLC		145 City Place, Suite 300	Palm Coast	FL	32164
02-12-31-4938-00000-0080	Florida Landmark Communities LLC		145 City Place, Suite 300	Palm Coast	FL	32164
11-12-31-5325-00000-0380	Daniel D. and Ramona R. Rutkowski		1431 Lambert Avenue	Flagler Beach	FL	32136
11-12-31-5325-00000-0400	James Weiss		Post Office Box 427	Flagler Beach	FL	32136
11-12-31-5325-00000-0410	Thomas and Roseanne Stocker		1481 N. Lambert Avenue	Flagler Beach	FL	32136
11-12-31-5325-00000-0430	Tetsuo Yama		1501 Lambert Avenue	Flagler Beach	FL	32136
11-12-31-5325-00000-0440	John B. and Freda Keegan, H & W		1511 Lambert Avenue	Flagler Beach	FL	32136
11-12-31-5325-00000-0450	Paul M. Spanier		P. O. Box 1445	Southampton	NY	11969
11-12-31-5325-00000-0460	Daniel T. and Ginger B. Whalen, H&W		1551 Lambert Ave	Flagler Beach	FL	32136-3045
11-12-31-5325-00000-0470	Stephen A. and Victoria Y. Aubert, H&W		1309 Hidden Brook Court	Abingdon	MD	21009

I hereby affirm that mailed notice was sent to each property owner on this list on 1/26/2015 advising of public hearing for App #2972 on 2/10/2015 before the Planning Dev. Board.



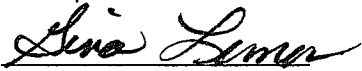
Gina Lemon, Development Review Planner III

App #2972
 Future Land Use Map Amendment

Surrounding Property Owner
 Information from Property
 Appraiser website

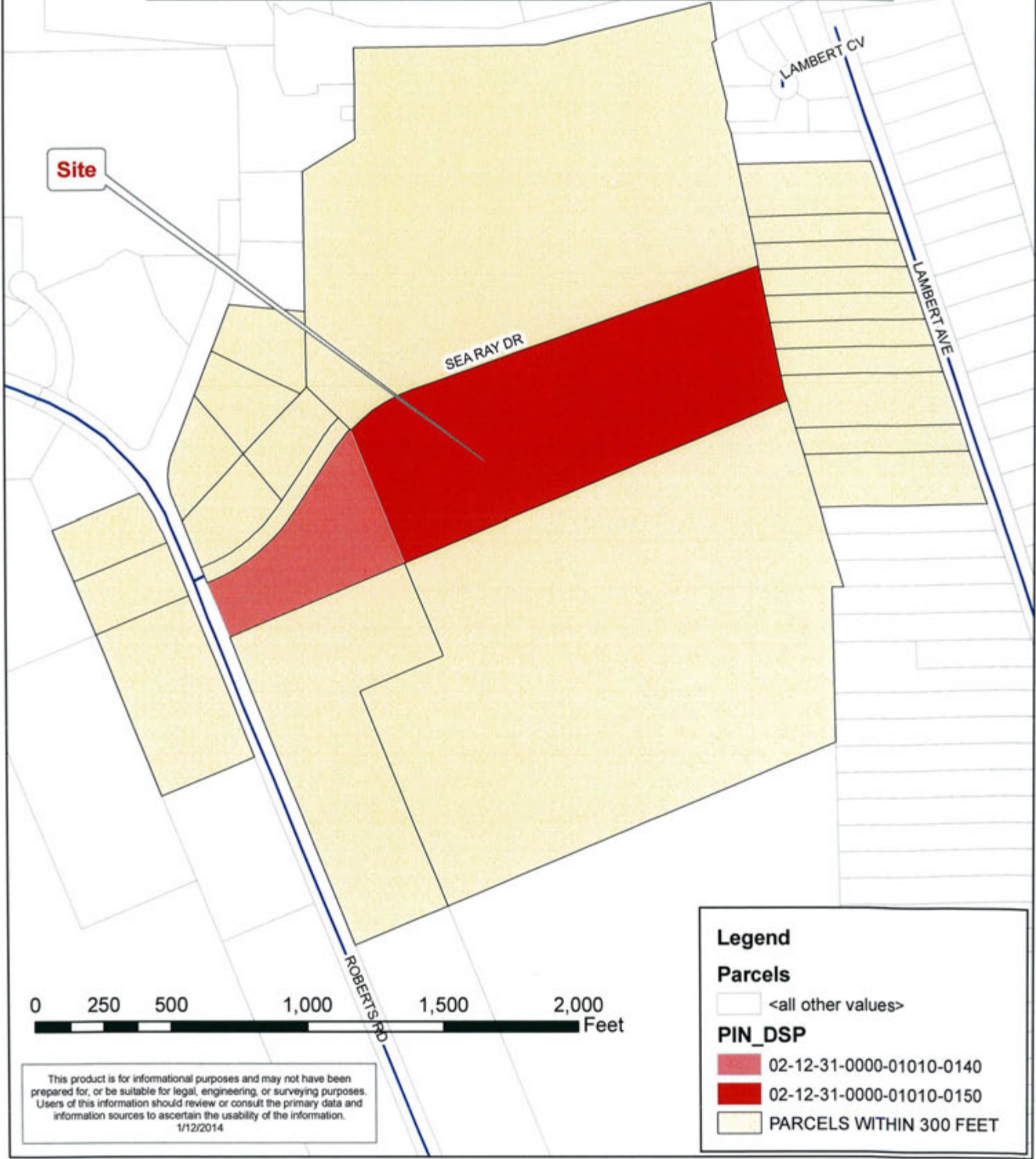
Parcel Number	Owner Name	Address	Address 2	City	State	Zip
	Sea Ray Boats, Inc. - Sea Ray Boats #16 -					
02-12-31-0000-01010-0010	Brunswick Boat Group	Attn: Sue Joslin	P. O. Box 1950	Knoxville	TN	37901-0000
02-12-31-0000-01010-0020	James A. and Julia M. Allen Smith		557 N. Beach Street	Ormond Beach	FL	32174
02-12-31-0000-01010-0100	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-0000-01010-0140	Daryl M. Carter, Trustee		P. O. Box 568821	Orlando	FL	32856-8821
02-12-31-0000-01010-0142	Daryl M. Carter, Trustee		P. O. Box 568821	Orlando	FL	32856-8821
02-12-31-0000-01010-0150	Daryl M. Carter, Trustee		P. O. Box 568821	Orlando	FL	32856-8821
02-12-31-0000-01010-0152	Daryl M. Carter, Trustee		P. O. Box 568821	Orlando	FL	32856-8821
02-12-31-0000-01010-0160	Sea Ray Boats, Inc.		100 Sea Ray Drive	Flagler Beach	FL	32136
02-12-31-4938-00000-0030	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-4938-00000-0040	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-4938-00000-0050	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-4938-00000-0060	Brazos XVI LLC		4830 W. Kennedy Blvd, Ste 200	Tampa	FL	33609
02-12-31-4938-00000-0070	Florida Landmark Communities LLC		145 City Place, Suite 300	Palm Coast	FL	32164
02-12-31-4938-00000-0080	Florida Landmark Communities LLC		145 City Place, Suite 300	Palm Coast	FL	32164
11-12-31-5325-00000-0380	Daniel D. and Ramona R. Rutkowski		1431 Lambert Avenue	Flagler Beach	FL	32136
11-12-31-5325-00000-0400	James Weiss		Post Office Box 427	Flagler Beach	FL	32136
11-12-31-5325-00000-0410	Thomas and Roseanne Stocker		1481 N. Lambert Avenue	Flagler Beach	FL	32136
11-12-31-5325-00000-0430	Tetsuo Yama		1501 Lambert Avenue	Flagler Beach	FL	32136
11-12-31-5325-00000-0440	John B. and Freda Keegan, H & W		1511 Lambert Avenue	Flagler Beach	FL	32136
11-12-31-5325-00000-0450	Paul M. Spanier		P. O. Box 1445	Southampton	NY	11969
11-12-31-5325-00000-0460	Daniel T. and Ginger B. Whalen, H&W		1551 Lambert Ave	Flagler Beach	FL	32136-3045
11-12-31-5325-00000-0470	Stephen A. and Victoria Y. Aubert, H&W		1309 Hidden Brook Court	Abingdon	MD	21009
11-12-31-5325-00000-0480	Nan A. Nebel		1799 John Anderson Hwy	Flagler Beach	FL	32136
11-12-31-5325-00000-0490	Nan Allison Nebel		1799 John Anderson Hwy	Flagler Beach	FL	32136

I hereby affirm that mailed notice was sent to each property owner on this list on 2/27/2015 advising of public hearing for App #2972 on 3/16/2015 before the Board of Co Com.



Gina Lemon, Development Review Planner III

Application #2972
 FUTURE LAND USE MAP AMENDMENT FROM RESIDENTIAL
 LOW DENSITY AND CONSERVATION TO COMMERCIAL
 HIGH INTENSITY AND CONSERVATION
 Owner/Applicant: Daryl Carter
 Parcel #02-12-31-0000-01010-0140 & 02-12-31-0000-01010-0150



Site

SEA RAY DR

LAMBERT CV

LAMBERT AVE

ROBERTS RD



Legend

Parcels

<all other values>

PIN_DSP

02-12-31-0000-01010-0140

02-12-31-0000-01010-0150

PARCELS WITHIN 300 FEET

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.
 1/12/2014

THE NEWS-JOURNAL

Published Daily and Sunday
Daytona Beach, Volusia County, Florida

**State of Florida,
County of Volusia**

Before the undersigned authority personally appeared

Cynthia Anderson

who, on oath says that she is

LEGAL COORDINATOR

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

PUBLIC NOTICE

L 2116661

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

JANUARY 24, 2015

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

.....*Cynthia Anderson*.....

Sworn to and subscribed before me

This **26TH** of **JANUARY**

A.D. 2015

.....*C. E. Maley*.....

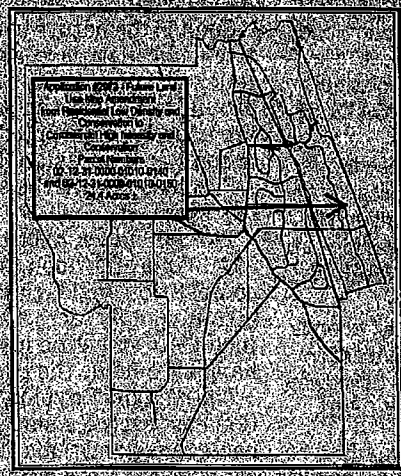
49D



**NOTICE OF FUTURE LAND
USE MAP AMENDMENT
APPLICATION #2972**

Pursuant to Section 153.3164, Florida Statutes, the Flagler County Board of County Commissioners hereby gives notice of a proposal to adopt the following Ordinance affecting the area shown in the map below:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING THE FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP BY AMENDING THE DESIGNATION OF A TOTAL OF 24.4 ACRES MORE OR LESS LYING IN SECTION 02, TOWNSHIP 12 SOUTH RANGE 31 EAST FROM RESIDENTIAL LOW DENSITY AND CONSERVATION TO COMMERCIAL HIGH INTENSITY AND CONSERVATION, PROVIDING FOR FINDINGS, PROVIDING FOR A PARCEL-SPECIFIC LIMITING POLICY AND PROVIDING FOR AN EFFECTIVE DATE.



Application #2972 / Applicants: Sidney F. Ansbacher, Esquire, Brunswick Corporation and Sea Ray Boats, Inc. / Owner: Daryl Carter, Trustee of Carter-Flagler-Roberts Road Land Trust

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

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
- February 10, 2015 @ 6:00 p.m. in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Building 2, Bunnell, Florida, 32110.

Information relating to this matter is available for inspection at the Planning and Zoning Department located at 1769 E. Moody Boulevard, Building 2, Ste 105, Bunnell, Florida during the hours of 8:00 a.m. - 5:00 p.m. Monday through Friday.

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

Adam Mengel, Planning Director
1769 E. Moody Boulevard, Bldg 2, Ste 105
Bunnell, FL 32110
(386) 313-4009
Email: amengel@flaglercounty.org

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

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE MEETINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT (386) 313-4009 AT LEAST 48 HOURS PRIOR TO THE MEETING.

**Flagler/Palm Coast
NEWS-TRIBUNE**

Published Each Wednesday and Saturday
Flagler County, Florida

**State of Florida,
County of Flagler**

Before the undersigned authority personally appeared

Cynthia Anderson

who, on oath says that she is

LEGAL COORDINATOR

of The Flagler/Palm Coast NEWS-TRIBUNE, a twice weekly newspaper, published in Flagler County, Florida; that the attached copy of advertisement, being a

PUBLIC NOTICE

NT 2121927

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

FEBRUARY 25, 2015

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

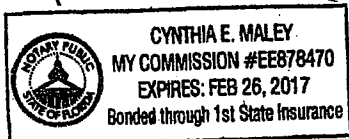
Cynthia Anderson

Sworn to and subscribed before me

This **25TH** of **FEBRUARY**

A.D. 2015

Cynthia E. Maley

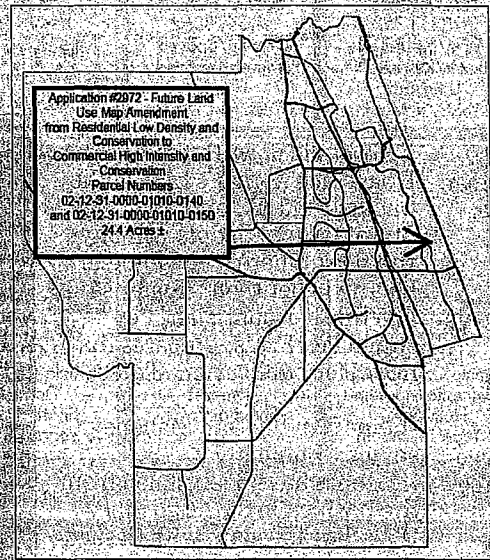


0002121927

**NOTICE OF FUTURE LAND
USE MAP AMENDMENT
APPLICATION #2972**

Pursuant to Section 163.3184, Florida Statutes, the Flagler County Board of County Commissioners hereby gives notice of a proposal to adopt the following Ordinance affecting the area shown in the map below:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT AND MAP BY AMENDING THE DESIGNATION OF A TOTAL OF 24.4 ACRES, MORE OR LESS, LYING IN SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FROM RESIDENTIAL LOW DENSITY SINGLE-FAMILY AND CONSERVATION TO COMMERCIAL HIGH INTENSITY AND CONSERVATION; PROVIDING FOR FINDINGS; PROVIDING FOR A PARCEL-SPECIFIC LIMITING POLICY; AND PROVIDING FOR AN EFFECTIVE DATE.



Application #2972 / Applicants: Sidney F. Ansbacher, Esquire, Brunswick Corporation and Sea Ray Boats, Inc. / Owner: Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust

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

BOARD OF COUNTY COMMISSIONERS - March 16, 2015 @ 5:30 p.m. in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Building 2, Bunnell, Florida, 32110

Information relating to this matter is available for inspection at the Planning and Zoning Department located at 1769 E. Moody Boulevard, Ste 105, Bunnell, Florida during the hours of 8:00 a.m. - 5:00 p.m. Monday through Friday.

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

Adam Mengel, Planning Director
1769 E. Moody Boulevard, Bldg 2, Ste 105
Bunnell, FL 32110
(386) 313-4009
Email: amengel@flaglercounty.org

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

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE MEETINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT (386) 313-4009 AT LEAST 48 HOURS PRIOR TO THE MEETING.

Application #2972

**Future Land Use Map amendment
RLDSF and CN to CHI and CN**

Correspondence file

**Correspondence received
prior to
February 10, 2015
Planning and Development Board
meeting**

Adam Mengel

From: mdeal13797@aol.com
Sent: Friday, January 30, 2015 5:23 PM
To: Adam Mengel
Subject: Application #2972 and 2973 before the Planning and Development Board

Dear Mr. Mengel,

At your earliest convenience, please forward me the link to your written packet for this request. At this time, I do not see it on the website.

Sincerely,

Don Deal

Adam Mengel

From: mdeal13797@aol.com
Sent: Monday, February 02, 2015 12:26 PM
To: Adam Mengel
Subject: Re: Application #2972 and 2973 before the Planning and Development Board

Mr. Mengel,

Thank you for the response. Also, in researching the muni code online for Flagler County, I did not see Commercial High Intensity zoning, only the Commercial High Intensity PUD. Could you please reference the number for me in the code? I am most concerned with allowable uses in that zoning district.

Sincerely,

Don Deal

-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>
To: 'mdeal13797@aol.com' <mdeal13797@aol.com>
Sent: Fri, Jan 30, 2015 6:20 pm
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

Hi Mr. Deal:

It will not be ready likely until the end of next week; I will send the link when it is published.

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Adam Mengel

From: Adam Mengel
Sent: Monday, February 02, 2015 1:41 PM
To: 'mdeal13797@aol.com'
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

Hi Mr. Deal:

There is no Commercial High Intensity zoning category; this is a Future Land Use category. The companion zoning is likely C-2 or PUD.

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Adam Mengel

From: tcrowe6@cfl.rr.com
Sent: Tuesday, February 03, 2015 9:46 AM
To: mdeal13797@aol.com
Cc: Adam Mengel
Subject: Re: Upcoming Board Meeting

Mr. Deal - with an abundance of caution due to Florida's Sunshine Laws, I choose not to discuss upcoming items outside the context of noticed public hearings. I will certainly give you every consideration at the upcoming meeting.

Thad Crowe

----- mdeal13797@aol.com wrote:

>

Dear Mr. Crowe,

I would like the opportunity to sit down with you a few minutes and discuss the FLUM amendment and rezoning request that will appear on your agenda February 10th.

Please let me know when it would be convenient. I am more than happy to meet anywhere of your choice.

Sincerely,

Don Deal

Adam Mengel

From: mdeal13797@aol.com
Sent: Wednesday, February 04, 2015 7:36 AM
To: Adam Mengel
Subject: Re: Application #2972 and 2973 before the Planning and Development Board

Dear Adam,

Thank you for the response. Could you please direct me to the County's Noise Ordinance that would apply to the C-2 zoning district or PUD you referenced below?

Sincerely,

Don Deal

-----Original Message-----

From: Adam Mengel <amengel@flaglercounty.org>
To: 'mdeal13797@aol.com' <mdeal13797@aol.com>
Sent: Mon, Feb 2, 2015 1:40 pm
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

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From: Adam Mengel
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To: 'mdeal13797@aol.com'
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

Hi Mr. Deal:

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As for the PUD district, noise standards could be written into the text agreement for the development.

Please contact me with any questions.

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From: Adam Mengel
Sent: Wednesday, February 04, 2015 9:54 AM
To: 'mdeal13797@aol.com'
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

Resending, I received an undeliverable response on last attempt...

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Sent: Wednesday, February 04, 2015 9:53 AM
To: 'mdeal13797@aol.com'
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

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To: 'mdeal13797@aol.com' <mdeal13797@aol.com>
Sent: Mon, Feb 2, 2015 1:40 pm
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

Hi Mr. Deal:

Adam Mengel

From: Adam Mengel
Sent: Wednesday, February 04, 2015 9:55 AM
To: 'mdeal13797@aol.com'
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

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Sent: Mon, Feb 2, 2015 1:40 pm
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

Hi Mr. Deal:

Adam Mengel

From: Adam Mengel
Sent: Wednesday, February 04, 2015 7:04 PM
To: 'mdeal13797@aol.com'
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

Resending, I received an undeliverable response on last attempt...

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Subject: RE: Application #2972 and 2973 before the Planning and Development Board

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To: 'mdeal13797@aol.com' <mdeal13797@aol.com>
Sent: Mon, Feb 2, 2015 1:40 pm
Subject: RE: Application #2972 and 2973 before the Planning and Development Board

Hi Mr. Deal:

Adam Mengel

From: mdeal13797@aol.com
Sent: Wednesday, February 04, 2015 10:01 PM
To: Adam Mengel
Subject: Fwd: Application #2972 and 2973 before the Planning and Development Board

Dear Adam,

I know you are very busy, but if you could possibly take a minute and answer the below e-mail as it relates to the County's noise ordinance that would apply and C-2 zoning uses, it would be much appreciated. Highlighted in block directly below.

Sincerely,

Don Deal

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From: mdeal13797 <mdeal13797@aol.com>
To: amengel <amengel@flaglercounty.org>
Sent: Wed, Feb 4, 2015 7:35 am
Subject: Re: Application #2972 and 2973 before the Planning and Development Board

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Sent: Monday, February 02, 2015 12:26 PM
To: Adam Mengel
Subject: Re: Application #2972 and 2973 before the Planning and Development Board

Adam Mengel

From: Adam Mengel
Sent: Thursday, February 05, 2015 7:45 AM
To: 'mdeal13797@aol.com'
Subject: RE: Application #2972 and 2973 before the Planning and Development Board
Attachments: Fwd: Application #2972 and 2973 before the Planning and Development Board; Undeliverable: RE: Application #2972 and 2973 before the Planning and Development Board; Undeliverable: RE: Application #2972 and 2973 before the Planning and Development Board; Undeliverable: RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board

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I have tried several times to reply...

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Don Deal

Adam Mengel

From: Adam Mengel
Sent: Thursday, February 05, 2015 8:33 AM
To: 'dondeal@gmail.com'; 'terrideal@gmail.com'
Subject: FW: Application #2972 and 2973 before the Planning and Development Board
Attachments: Fwd: Application #2972 and 2973 before the Planning and Development Board; Undeliverable: RE: Application #2972 and 2973 before the Planning and Development Board; Undeliverable: RE: Application #2972 and 2973 before the Planning and Development Board; Undeliverable: RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board; RE: Application #2972 and 2973 before the Planning and Development Board

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Dear Adam,

Adam Mengel

From: MDeal13797@aol.com
Sent: Friday, February 06, 2015 11:09 AM
To: Adam Mengel
Cc: Albert J. Hadeed; mdeal13797@gmail.com
Subject: A couple questions regarding Sea Ray's expansion and FLUM amendment & re-zoning
Attachments: Sea Ray1.jpg; Sea Ray4.jpg; SeaRay5.jpg

Dear Adam,

I wish to ask a couple of questions and trace back a little history of the Industrial Performance Standards as it relates to HAP's and their resultant odors. However, before I digress, having a hard time wrapping my head around a FLUM amendment from PUD Low Density residential to Commercial High Intensity and the resultant rezoning request to C-2 zoning for a **proposed 24 acre parking lot**.

Question (1) What is the current size of Sea Ray's existing parking lot in approximate acreage? I know you mentioned an upcoming 3rd shift addition. However, Sea Ray has added a third shift in the past and their resultant parking lot serviced the additional 3rd shift. Thus, my concern regarding what the intent may be for a future potential use and the additional resultant impact on the residential community abutting this property? **(2) How is Sea Ray/County going to control the noise from 18 wheelers, including the back up alarms, on this property from spilling over to it's residential abutting neighbors if the FLUM is changed from Low Density residential to Commercial High Intensity and the resultant much more intense companion C-2 zoning?** **(3) Once the FLUM and companion zoning is changed to a much more intensive use, what is to prevent continuing down the road to additional incompatible more intensive uses coming along at future dates?** **(4) Less than two years ago, the Flagler County Planning and Development Board voted 5 to 0 against a FLUM amendment and resultant zoning change to a much more intensive use citing compatibility issues, along with the protection of maintaining property values with abutting Lambert residents, along with comp. plan inconsistencies, even though you recommended the change. The board, at that time, recognized the fact that Lambert residents on the west side abutting this property had done their homework and researched what their property backed up to, which was Low Density Residential PUD. They made very, very significant purchases at that time, which has now become their nest egg. **With all do respect, what has changed other than the applicant's name to overcome the much more intensive use and comp. plan inconsistencies and the protection of property values of Lambert residents that back up to this property?** Understand from our earlier conversation the county has no noise ordinance that would apply to this C-2 zoning district nor a DB meter to enforce the Industrial Performance Standards as it relates to the noise ordinance. I have an audio which I will share upon request that clearly demonstrates, in my bedroom with the window open the disturbing noise from heavy equipment with back up alarms and other related industrial noise. My residence is located a much greater distance from Sea Ray's current operations than the property owners on the west side of Lambert will be from the proposed parking, that includes 18 wheelers that have back up alarms. **(4) Does the industrial performance standard for odor apply to Sea Ray's expansion of additional consolidations and expansion of HAP releases?** (Page 1 and Page 5 of DEP permit) I am going on memory, rather than the research of documents. When the BOC passed the Industrial Performance Standards a number of years ago, we worked with Mike Collins of Sea Ray to grandfather their existing emissions. However, any expansion of additional HAP's would have to meet a more stringent standard. What made this County standard more stringent was the fact this standard would be measured over a shorter average period of time than the DEP/EPA modeling uses, thus becoming a more stringent average modeling release. Believe an Engineer would need to verify Sea Ray will meet the County new stricter standard. I have attached documentation that verifies Sea Ray's intent to relocate additional expansion operations that will increase their HAP's very significantly. In addition, their DEP permit states their is no add on control device to control the HAP's and VOC's emissions from the boat manufacturing activities. (page 4 DEP permit)**

In closing, I have a number of documents I will send over that I would like you to distribute to the Planning and Development Board members before the weekend. Having served on the Planning and Architectural Board in Flagler Beach, one thing I do not like is either an applicant or member of the public providing documentation to us at the time of the meeting and then expecting us to digest that information immediately.

Sincerely,

Don Deal

PS I have copied Mr. Al Hadeed, County Atty.



FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

NORTHEAST DISTRICT
8800 BAYMEADOWS WAY WEST, SUITE 100
JACKSONVILLE, FLORIDA 32256

Sent by Electronic Mail – Received Receipt Requested

PERMITTEE:

Sea Ray Boats, Inc.
100 Sea Ray Drive
Flagler Beach, Florida 32136

Air Permit No.: 0350003-011-AC
Issuance Date: July 11, 2013
Expiration Date: July 11, 2018

Authorized Representative:

Mr. Dan Goddard, Vice President, General Manager

Palm Coast Facility

Air Construction Permit

* This is the final air construction permit which authorizes an increase in facility material usage and production such that volatile organic compound (VOC) potential to emit increases emissions 249 to 489.0 tons per any consecutive 12-month period. This construction permit establishes a total facility-wide VOC emissions limit of 489.0 tons per any consecutive 12-month period. This construction permit authorizes construction associated with the relocation of additional boat manufacturing operations from other Brunswick Corporation facilities to the Palm Coast facility.

* The boat manufacturing operations to be relocated to the Palm Coast facility consist of Resin/Lamination Operations, Gel Coat Operations, Adhesive Operations, Mold Cleaning and Preparation Operations, Equipment Cleaning Operations, Material Mixing Operations, and Miscellaneous Operations.

The existing facility, Palm Coast facility, is a fiberglass boat manufacturing facility (Standard Industrial Classification No. 3732). The existing facility is located in Flagler County at 100 Sea Ray Drive, Flagler Beach. The UTM Coordinates are Zone 17, 485.49; N-3262.93; and, Latitude: 29° 29' 45" North and Longitude: 81° 08' 59" West.

This final permit is organized by the following sections.

- Section 1. General Information
- Section 2. Administrative Requirements
- Section 3. Facility-Wide Conditions
- Section 4. Emissions Unit Specific Conditions
- Section 5. Appendices

Because of the technical nature of the project, the permit contains numerous acronyms and abbreviations, which are defined in Appendix A of Section 4 of this permit.

Upon issuance of this final permit, any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel (Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000) and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate

Catalyst injection flow coaters are used in this Sea Ray facility. They mix accelerated resin and the catalyst to the proper proportion inside the gun spray handle and then force the mixture through a single nozzle with multiple orifices.

A chopper gun has been developed and will be used to simultaneously apply non-atomized resin and chopped strands of glass reinforcement. Brushers and rollers are then used to spread the mixture and remove entrapped air. This process is repeated until the desired thickness is obtained.

The advantage of using woven roving or cloth laminate over chopped fiberglass is that a product with a higher strength to weight ratio is produced. However, the fabrication process takes longer when the woven roving or cloth laminate is used. A common practice of Sea Ray is to combine these two techniques. With this combination, parts of a boat that need to be strongest are fabricated using woven roving or cloth laminated while parts that do not need as much strength, such as small parts, are fabricated using chopped fiberglass. This results in a relatively lightweight boat this is produced in the minimum amount of time.

Sea Ray utilizes various closed molding processes to manufacture some of the small parts that are produced at the facility. Examples of closed molding include Resin Transfer Molding (RTM), light RTM, Compression Molding, Cold Press, Vacuum-Assisted Resin Transfer Molding (VARTM), Virtual Engineered Composites (VEC), Seaman Composites Resin Infusion Molding Process (SCRIMP), and other similar closed molding techniques.

*This Sea Ray facility does not have an add-on control device to control the HAPs and VOCs emissions from the boat manufacturing activities.

The Lamination Building does have a single, 8-foot diameter, 75-foot high stack (Emissions point E54) with an approximate 300,000 acfm flow rate to reduce the odorous impact to the nearby area.

A workshop area has cutting and grinding tools that are used to cut various boards, as needed. The particulate matter emissions from this operation are vented to baghouses for control.

The existing facility consists of the following emission units.

Facility ID No. 0350003	
ID No.	Emission Unit Description
001	Boat manufacturing facility with resin and gel coat operations and carpet and fabric adhesive operations.

Proposed Project

* The purpose of this construction permit is to authorize the construction associated with the relocation of additional boat manufacturing operations from other Brunswick Corporation facilities to the Palm Coast facility.

* The boat manufacturing operations to be relocated to the Palm Coast facility consist of Resin/Lamination Operations, Gel Coat Operations, Adhesive Operations, Mold Cleaning and Preparation Operations, Equipment Cleaning Operations, Material Mixing Operations, Polyurethane Painting and Finishing Operations, and Miscellaneous Operations:

- o Gelcoat booths with associated application equipment
- o Gelcoat application robots
- o Adhesive spray booths with associated application equipment
- o Paint/lacquer spray booths with associated application equipment
- o Bottom paint application booth with associated application equipment
- o Expanded or additional spray lamination bays with associated application equipment
- o Reconfigure lamination bays with associated application equipment to accommodate various boat sizes
- o Possible expansion of buildings to accommodate the safe and efficient movement of boats
- o Possible expansion and/or construction of adjacent buildings to accommodate the preparation, painting (Polyurethane), and finishing of boats
- o Any equipment or changes necessary to mitigate objectionable odor should it become a verifiable concern

Polyurethane Painting Process Description: Scouring pads, rags, and solvent are used to dewax and clean the gelcoat surface of the fiberglass boat/part to be painted. A minimal amount of fairing material (fiberglass fillers, putties), may be used to fill in gaps on the gelcoat surface. This is usually followed by sanding to create a smooth surface for painting operations.

Prior to applying the two-part polyurethane paint, two or three coats of primer are spray applied to the gelcoat surface of the boat or part. Once the boat/part is primed, the surface is sanded again and the dust wiped off with a solvent. The final step involves spray applying three coats of polyurethane topcoat paint along with any final touch-up (spot) repairs.

The primer and topcoat paint is applied inside a spray booth.

FACILITY REGULATORY CATEGORIES

- * o The facility is a major source of hazardous air pollutants (HAP).
- o The facility does not operate units subject to the acid rain provisions of the Clean Air Act.
- * o The facility is a Title V major source of air pollution in accordance with Chapter 213, F.A.C.
- o Upon permit issuance, the facility is classified as a major stationary source in accordance with Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality.

Sea Ray Boats, Inc.
Palm Coast Facility

Air Permit No. 0350003-011-AC
Air Construction Permit

Adam Mengel

From: George Hanns
Sent: Friday, February 06, 2015 3:57 PM
To: Adam Mengel; Craig Coffey; Albert J. Hadeed; Sally A. Sherman
Subject: FW: FLUM Amendment from Residential to Comm High Intensity App 2972 - Sea Ray
Attachments: image001.png; image002.jpg; Rob1.jpg; rob3.jpg

From: CasaIsla [casaisla@gmail.com]
Sent: Friday, February 06, 2015 2:16 PM
To: George Hanns
Subject: FLUM Amendment from Residential to Comm High Intensity App 2972 - Sea Ray

Dear Commissioner Hanns:

I am writing to express concern over the proposed FLUM Amendment App 2972 & 2973, which would allow Sea Ray to further expand its operations at its fiberglass manufacturing plant in Flagler Beach. My family lives nearby on Lambert Ave. where we pay significantly high property taxes to enjoy the fresh air and good quality of life that street has offered in the past.

As I read the Fla. DEP correspondence concerning this plant in 2013, the facility is considered a "major source of hazardous air pollutants." When I sat in on meetings years ago concerning Sea Ray and odors from its plant, questions were raised about why Sea Ray didn't increase its vent stack height or use blowers to push its pollutants higher into the atmosphere so they wouldn't be as concentrated right around the plant. While I applaud the county's efforts to bring clean industry and jobs to this county, I have heard first hand accounts from employees or former employees to suggest that this fiberglass plant might not be what citizens have in mind when creating more jobs is discussed, due to the nature of the chemicals, processes, and materials used here.

As you can see in the Google aerial, the plant is in a sensitive area with residential areas along Lambert, Colbert, Heron Dr., S. Riverwalk Dr., and of course, Flagler Beach, involved, along with wetlands, marsh areas, and waterways. Increased noises, fumes, or pollutants from this plant don't need to be encouraged with a drastic amendment of the FLUM from Residential to Comm High Intensity !

Please let staff know that this is not an amendment that is good for this county, or one that you support.

Thank you,

Marvin Clegg

[cid:image002.jpg@01D04217.68AAF620]

Search bar with a magnifying glass icon and a close 'X' icon. Below the search bar, a text box contains the text "ay Drive" and the phone number "(386) 439-3401".



Adam Mengel

From: Rich Smith [rsmith@hammockcommunities.com]
Sent: Sunday, February 08, 2015 4:10 PM
To: Adam Mengel
Subject: FW: Roberts road rezoning

Adam, I hope this email finds you well.

Where is the staff report to the original 2008 PUD agreement and when can I obtain it? How can staff be in tune with the 2008 recommendation then and now be in tune with a new C2 recommendation for the exact same property. I don't know if you remember the turn out opposed to the East Side PUD approval, but in consideration of those persons whom about Roberts Road, the East Side PUD zoning eloquently appeased them with low density residential. So, now consider we have gone from I/MHU back in 2002ish to a more reasonable Low density residential in 2008, to now requesting commercial C2, without a site plan or DO? Who does this, who is allowing the changes to the land use map, who is encouraging this, what commissioner could support this, who is supporting this spot zoning, this is completely against the planning values of this county? There is c2 zoning already to the west of Sea Ray, that is the direction they should go! Furthermore, this disrupts the integrity of the existing PUD and the balance of the property which will still be in the PUD. How does that PUD survive, what changes will be made to it to bring it in compliance now being short 24 acres and when? I'd prefer not to detail this on Tuesday Night. I respectfully request this item be pulled from the agenda until these answers and many I have in reserve can be explained. Tuesday night is not the venue for vetting. This needs more work if you want the commissions full support.

Best regards, Rich

Gina. I have a million questions as to how the county thinks it can spot zone the low density residential section of a PUD zoning into a commercial parcel. Especially without a site plan or considering the effect on the integrity of the existing PUD zoning. This is so contrary to everything we have ever done in my history it has me very frustrated. I've stayed out of the politics of Flagler County for the past 6 years, this one however has my attention. Its right in my backyard. I'd like to discuss before this goes public Tuesday night. None of it makes since or is rational. Where is the existing PUD agreement and how can I obtain a copy.

Best regards,

Rich

Hammock Communities, Inc.
PO Box 1035
Flagler Beach, FL 32136
386-931-1905
386-846-2162 (F)

Adam Mengel

From: Adam Mengel
Sent: Monday, February 09, 2015 11:04 AM
To: 'Rich Smith'
Cc: Gina Lemon
Subject: RE: Roberts road rezoning
Attachments: 20090106-OR1697P0514-PRFCF-Ord 2007-15-GRE PUD DA.pdf; 3-13-07 App #2687 PUD Modification for Grand Reserve East.doc

Hi Rich:

It is good to hear from you and I hope you and your family are doing well.

I'll try to answer your questions to Gina first: this won't be a spot zoning, since it steps down from the existing Industrial that is already there. If anything the thought of a single-family residential zoning next to industrial would have been the incompatible spot zoning, but hindsight is always 20/20. And hindsight is where we have headed with any discussion on this property over the last few years. When the County attempted to amend the Future Land Use Map back in 2013 (with the consent of the then-owner Landmark a/k/a Allete) to Industrial, the folks on Lambert adamantly objected citing quality of life impacts, when the reality was that the Industrial Land Use had historically been in place, at least up until 2002.

The site plan is the next requirement for them, if the Future Land Use amendment and the rezoning go through. As to the effect on the integrity of the existing PUD zoning, it will become necessary for the PUD to be modified if this is approved and the sale of these parcels takes place; the PUD will effectively shed its density proportional to its loss of acreage and its site plan and preliminary plat will need to be adjusted accordingly, through the public hearing process. I have attached the 2007 PUD development agreement.

Now for your questions for me: I have attached the 2007 staff report. The best explanation I can offer for why staff is "in tune" now with this request is that conditions change; we are under a new Comprehensive Plan, and we have all suffered through the Great Recession which hit the local housing market very hard, something that we both witnessed firsthand. By some miracle, Sea Ray has stayed here, expanded their operations to more boat models, hired more people, and now are looking to expand their footprint by shifting their parking southward, utilizing their onsite parking for outside storage. The County, as you can imagine, would like to be accommodating to Sea Ray.

Of course, the buffer between Lambert and the future development of areas to the west of Lambert was always the old mosquito ditches. We know there are limits that prevent development along the eastern edge of these parcels, these being the identified wetlands. These wetlands will be encumbered by the SJRWMD in a conservation easement and will be designated by the County as Conservation Future Land Use. This proposal, as you can also imagine, is in large part linked to Sea Ray as the applicant, the nature of their application, and what they hope to get out of this. This may ultimately move forward as a PUD, with the certainty of a PUD site plan and development agreement (the DO you are seeking, but which the County reserves for DRIs, which this is not part of); however, as you are also aware, everyone deserves the opportunity to make a request and get their opportunity for a public hearing.

I appreciate your email and your concerns, and I will share your email with the Planning and Development Board members.

Please contact me with any questions.

Thank you,

Adam

ORDINANCE NO. 2007 - 15

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING ORDINANCE NO. 2006-15; AMENDING THE DEVELOPMENT AGREEMENT FOR THE GRAND RESERVE EAST PUD; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Landmark Communities, Inc. and Roberts Road, LLC collectively as the owner and applicant submitted Application #2670 for approval of a Planned Unit Development (PUD) Site Development Plan and Application #2687 for amendment to the PUD Development Agreement for a 165.89 acre parcel described herein; and

WHEREAS, said parcel was rezoned to PUD by Ordinance No. 2006-15 on June 19, 2006; and

WHEREAS, the owner and the County are desirous of amending the previously approved PUD Development Agreement included with Ordinance No. 2006-15; and

WHEREAS, the Planning Board reviewed this amendment as part of their regular business on August 14, 2007 and unanimously recommended approval of the request; and

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

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

Section 1. FINDINGS

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

- 1. The proposed amendment to the PUD Development Agreement does not adversely affect the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies; and,**
- 2. The proposed amendment to the PUD Development Agreement will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood.**

Section 2. AMENDMENT TO THE DEVELOPMENT AGREEMENT

- A. The Board of County Commissioners hereby amends Ordinance No. 2006-15 by amending and replacing in its entirety the PUD Development Agreement for the Grand Reserve East PUD adopted at Exhibit 1 with the Amended Planned Unit Development Agreement attached at Exhibit 1 to this Ordinance.
- B. Development within the boundaries of the PUD District as approved shall take place in accord with the Flagler County Land Development Code as may be modified or amended and the PUD Conceptual Site Plan prepared by Powers Design Architects, received May 24, 2006 by Flagler County Planning & Zoning Department and the Grand Reserve East PUD Development Agreement executed by owner and Flagler County pursuant to this Ordinance. A copy of said Agreement containing the PUD Conceptual Site Plan is attached hereto as Exhibit 1 and made a part hereof.
- C. The applicant shall signify its acceptance of this PUD designation by filing for recording into the Public Records of Flagler County, Florida, the attached Agreement with the Clerk of the Circuit Court within thirty (30) days.

Section 3. EFFECTIVE DATE

This Ordinance shall take effect upon Official Acknowledgement by the Secretary of State that the Ordinance has been filed.

PASSED AND GRANTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS 5TH DAY OF NOVEMBER, 2007.

**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: James M. O'Connell
James M. O'Connell, Chairman

ATTEST:

Approved as to Form:

By: Gail Wadsworth
Gail Wadsworth, Clerk and
Ex-Officio Clerk to the Board

Albert J. Hadeed
Albert J. Hadeed, County Attorney

1 plan for The Grand Reserve East is generally outlined below and depicted on the Conceptual
2 Site Plan which is attached as **Exhibit "B"** hereto (the "Site Plan").

3 Single family attached units shall be arranged with party walls in blocks of two to
4 eight units. Supplemental performance standards for these units shall be as set forth below. The
5 single family attached homes may be developed for either condominium or fee simple form of
6 ownership. Covenants, conditions and restrictions shall be placed upon the exterior appearance
7 and maintenance of each unit and lot. Single family and single family attached homes shall have
8 a one-car garage or larger.

9 **2.2 Temporary Sales and Construction Trailers** - Temporary sales and construction
10 trailers may be located within the site, subject to review and approval at the time of site
11 development plan approval.

12 **2.3 Common Areas** - Common areas are located throughout the Property and shall
13 include open space, wetlands, landscape areas and conservation areas.

14 **2.4 Recreation** - Active recreation for the project shall be provided by facilities
15 constructed on site or within adjacent developments owned by the Developer. Individual pocket
16 parks, including open space and park benches, shall be located throughout the project within
17 walking distance of project neighborhoods and shall be identified on the Site Development Plan.

18 **3.0 Development Plan**

19 **3.1 Plan Overview**

20 (a) The Site Plan depicts the general layout of the entire development. The
21 exact location of structures, lot lines, roadways, internal landscape buffers, a 250' buffer along a
22 portion of the northern edge of the property, wetlands, drainage facilities and other
23 improvements shown on the Site Plan may be modified during review of the site development
24 plans and plat(s). The 250' buffer is generally located on the eastern one thousand-five hundred
25 and twenty feet (1,520') of the north boundary of the property and designated as Conservation on

1 the Flagler County Future Land Use Map shall maintain existing vegetation or may be improved
2 with supplemental landscaping and/or berms and fences/walls within the upland portions of the
3 buffer as required to provide appropriate screening to the adjacent Sea Ray facility.

4 (b) Adjustments to the Site Plan are anticipated to occur during the site
5 development plan and plat review processes. Revisions which meet the intent and purpose of the
6 County's Comprehensive Plan and Land Development Regulations shall be approved, as long as
7 the substantial integrity of the original Site Plan and the development standards contained herein
8 are maintained. Any modification to the Site Plan that increases the intensity or types of
9 development or uses reduces the total amount of open space, or decreases the size of any
10 perimeter buffer within the Property shall require the approval of the County Commission
11 following the review and recommendation of the Planning Board.

12 (c) The Grand Reserve East Property may be developed in multiple phases.
13 All infrastructure necessary to support each phase of the project shall be constructed with that
14 phase as a condition of site development plan approval by Technical Review Committee.
15 Adequate emergency vehicle access and turn-arounds shall be provided at all times.

16 **4.0 Land Development Code Applicability**

17 4.1 The Flagler County Land Development Code ("FCLDC") applies to The Grand
18 Reserve East Property and development within it, unless expressly otherwise provided in this
19 PUD Agreement.

20 4.2 The requirements of this PUD Agreement supersedes Flagler County Ordinance
21 No. 2006-15. Unless expressly otherwise provided, this Development Agreement shall be
22 consistent with the FCLDC and where inconsistent provisions exist, the requirements of the
23 FCLDC shall prevail.

24 (a) Wetlands and Wetland Buffer. Subsequent to the issuance of an
25 Environmental Resource Permit by the St. Johns River Water Management District ("District"),

1 a conservation easement in favor of the District shall be recorded over all wetlands and
2 associated upland buffers identified for preservation. Protected wetlands shall not be included
3 within development lots, tracts or parcels, however, minimal impacts for project road crossings
4 as shown on the Site Plan shall be permitted. Not more than 10' of an upland buffer may be
5 included within any lot and no lot deeper than the minimum required may extend into an upland
6 buffer. A minimum 25' upland buffer shall be provided around all wetlands remaining on the
7 site, except where road crossings are necessary. Activities within the upland buffer shall be
8 limited to removal of invasive vegetation, installation of essential utilities and road crossings and
9 permitted trail crossings. In addition, the project shall include approximately 26.02 acres of
10 property designated as Conservation on the Flagler County Future Land Use Map. For those
11 portions of the conservation area which are wetlands, they shall remain in their natural vegetative
12 state, except that elevated walkways may be constructed within these areas to connect pedestrian
13 trails between upland areas, subject to approval by the District.

14 (b) Stormwater. The Property is being developed with privately maintained
15 roads and a privately maintained drainage system. Stormwater runoff, from the development,
16 will be conveyed to on site stormwater retention systems by means of grassed swales, curb
17 gutters and an underground drainage pipe system. The stormwater retention systems onsite may
18 be interconnected with such systems on adjacent sites, subject to approval of the District and the
19 County Development Engineer.

20 (c) Roadways/Rights-of-Way. Internal access to all residential structures and
21 the amenities shall be provided by fifty foot (50') rights-of-way to be maintained by the
22 Associations or Community Development District ("CDD"). Cul-de-sacs shall be 100' diameter.
23 All roadways will be constructed in accordance with applicable County standards. Turn lanes
24 and signalization at project entrances shall be constructed as required by "County Public Works
25 Manual." Emergency vehicle access shall be permitted through the Property at all times. An

1 emergency access connection to Roberts Road shall be provided near the northwest corner of the
2 property. The Owner agrees to construct a kiosk shelter for school bus pick up at the project
3 entrance.

4 (d) Landscape. Efforts to preserve and enhance the project design will be
5 achieved through adjustments of building, parking, roadway and stormwater location (as outlined
6 below) and through supplemental landscaping that will blend with the natural look yet carefully
7 accentuate the residential areas, entrances, and other common spaces. All reasonable efforts
8 shall be made to preserve existing native trees and vegetation on the site.

9 General landscaping around parking lots, roadways, entrances, residential
10 buildings, and other common areas will be landscaped with ornamental and native plant
11 materials and in accordance with the FCLEDC. These areas will be landscaped to include pockets
12 of preserved trees, enhanced street frontage landscaping, garden courtyards, foundation and other
13 types of landscaping to reflect outdoor spaces and to blend with the natural vegetation. All
14 ornamental landscape beds and lawn areas will have supplemental irrigation. Flexibility of this
15 PUD plan allows for further refinement of site development, landscaping and preservation of
16 existing vegetation. Waterwise landscaping will be used where feasible.

17 (e) Signage. Residential portions of The Grand Reserve East development
18 may be identified by either one double-faced or two single faced entrance signs to be located at
19 each project entrance. Such signs may be lighted (with lighting directed away from traffic), and
20 shall be a maximum of six feet (6') tall, with a message area no greater than fifty (50) square feet
21 in size. Directional, identity, and information signs for recreation and other amenities will be
22 provided throughout the development, providing that none of these signs exceed six (6) square
23 feet in size, including advertising and/or for sale signs. Neighborhood identity signs may be
24 located along the main internal roads and shall be no larger than six feet (6') in height and thirty-

25

1 two (32) square feet of message area. All signage will be consistent and uniform in design. All
2 signs will comply with the setbacks and sight clearance requirements of the FCLDC.

3 (f) Site Development Requirements. The dimensional requirements within
4 The Grand Reserve East will be as set forth in the table at Section 5.3 below.

5 (g) Entry Features. Entrance/exit roadways to the development shall be
6 constructed from Roberts Road in the approximate location as shown on the Site Plan. The
7 Owner reserves the right to construct secured entry gates. Vehicular access shall be designed to
8 accommodate emergency vehicle access at both access locations, pursuant to dimensional
9 requirements defined by application of Flagler County Codes and Ordinances and section 4.2(c)
10 of this Agreement.

11 (h) Roadway Improvements. The Property is being developed with privately
12 maintained roads. Required right and left turn lanes and tapers meeting County Standards shall
13 be provided at the main entrance road. Off-site transportation improvements include the
14 Owner's participation in the Colbert Lane Fair Share Program for capacity improvements to
15 Colbert Lane, including transitions. A final report including cost estimates and beneficiaries is
16 being finalized with the Owner, other property owners, Flagler County and the City of Palm
17 Coast. Proportionate share payments shall be based upon net external trip generation. The final
18 agreement shall provide for the amount and timing of Owner contributions as well as for
19 concurrency vesting and impact fee credits, as applicable.

20 (i) Open Space. A minimum of 20% of the Property will be open space,
21 including active and passive recreation, common areas, wetlands and trails. Pedestrian trails
22 shall be permitted throughout the Property.

23 (j) Pedestrian Access. A minimum of five foot (5') wide concrete sidewalks will
24 be constructed on one side of all major internal roads and cul-de-sacs to provide reasonable
25

1 access between residential structures and amenities, and for access and passive recreation needs.
2 A minimum eight foot (8') wide concrete sidewalk will also be constructed on the eastern right-
3 of-way of Roberts Road abutting and adjacent to the Property, at the time of commencement of
4 infrastructure improvements on the subject property.

5 (k) Lighting. Decorative pole mounted lighting fixtures no more than 14' high
6 shall be provided throughout the Property. Additional landscape lighting may include low level
7 lighting and occasional accent lighting. The locations of such fixtures shall be further described
8 at the time of site development plan approval.

9 **5.0 Site Development Plan**

10 **5.1 Plan Overview** – The Site Plan depicts the general layout of The Grand Reserve
11 East, including the location of roads and development areas. All roads, utilities and stormwater
12 structures shall be constructed within five (5) years of approval of this Site Plan.

13 A preliminary plat for one or more of the residential areas of The Grand Reserve
14 East will be submitted within twelve (12) months from the effective date of this PUD
15 Agreement. The Project may be phased as shown on approved engineering drawings. Individual
16 phases may be developed separately so long as adequate infrastructure is in place to serve such
17 phase (including roads, water and sewer, and stormwater). The Final Plat shall not be approved
18 until the Roberts Road connection to Colbert Lane is under construction and scheduled for
19 completion. Alternatively, the Owner may bond and initiate construction of the sixty foot (60')
20 east-west collector being part of the Owner-owned property west of Roberts Road connecting the
21 Grand Reserve East development entrance to Colbert Lane.

22 **5.2 Zoning and Future Land Use Map (FLUM) Category** The County's
23 Comprehensive Plan designates the Property as Residential-Low Density/Single Family (139.87
24 acres) and Conservation (26.02 acres). The Property is currently zoned PUD per Flagler County
25 Ordinance No. 2006-15.

1 The secondary road frontage (frontage without a driveway) shall have a 10'
2 setback.

3 **** Townhomes shall have a minimum front property line width of
4 25' including curves and cul-de-sacs.**

5 ***** Based on average roof height**

6 ****** This coverage is determined over the total area of Townhome Lots
7 combined for each Townhome Building.**

8 Townhomes shall never total greater than 20 % of the lots, limited to the location
9 indicated on the Site Plan. The 50 Foot Lots shall never total greater than 15% of the lots. The
10 number of Lots of each type will be shown on the accompanying Site Development Plan. Corner
11 lots shall be 15% wider than the minimum lot width provided above.

12 (d) Any structure shall have a minimum finished floor elevation of 1' above
13 the Base Flood Elevation (as shown on the Flood Insurance Rate Maps for Flagler County) or 1'
14 above the center line of the adjoining street, whichever is higher, including garages or other
15 uninhabited structures.

16 (e) All setbacks as stated above will be measured from the exterior wall to the
17 lot line at its closest point unless stated otherwise in this Agreement and will apply to principal
18 structures but not sidewalks, driveways, patios and similar non-vertical elements.

19 (f) A 250' green space buffer shall be provided along a one thousand five
20 hundred and twenty feet (1,520') portion of the northern boundary of the PUD as shown on the
21 Site Plan. The buffer shall serve as a light and noise buffer between the residential homes within
22 the PUD and the adjacent Sea Ray plant.

23 (g) Accessory structures such as swimming pools, screen enclosures and spas
24 shall be located in side or rear yards. The rear setbacks for accessory structures shall be five feet
25

1 (5') except ten feet (10') where the rear lot line abuts another residential lot. Side setbacks shall
2 be the applicable side setback for the lot type.

3 (h) No portion of any principal or accessory structure shall be located within
4 any easement.

5 5.4 Emergency Services Fire protection requirements for the site will be met through a
6 system of fire hydrants installed on the site by the Owner in accordance with County standards.
7 The locations of fire hydrants will be shown on the final site plans. The water necessary for fire
8 protection will be provided and serviced by the City of Palm Coast.

9 5.5 Parking A minimum of two (2) parking spaces per unit will be provided within
10 driveways for single family residences with a minimum space of eight feet (8') wide x twenty
11 feet (20') deep for each vehicle. Each attached single family unit shall provide off site parking as
12 required by the FCLDC.

13 5.6 Maintenance The Common Areas and other land that are owned or controlled by
14 a property owner's association will be maintained by the property owner's association or CDD.

15 5.7 Services All services for the Property, including utilities, fire protection, solid
16 waste, telephone, electricity, cable television, fiber optics, and stormwater management shall be
17 provided by the responsible parties. All new utilities serving the project shall be installed
18 underground. Potable water and sanitary sewer will be provided by the City of Palm Coast
19 Utilities.

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**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: James M. O'Connell
James M. O'Connell, Chairman

Signed this Friday day of November, 2007

ATTEST:

By: Gail Wadsworth
Gail Wadsworth, Clerk and
Ex-Officio Clerk to the Board

Approved as to Form:

Albert J. Hafeed
Albert J. Hafeed, Flagler County Attorney

per Development Services

RECORDED

1 OWNER'S/APPLICANT'S CONSENT AND COVENANT:

2
3 COMES NOW, the Owner on behalf of itself and its successors, assigns and transferees
4 of any nature whatsoever, and consents to and agrees with the covenants to perform and fully
5 abide by the provisions, terms, conditions and commitments set forth in this PUD Agreement.

6
7 Dated July 29, 2008, FLORIDA LANDMARK COMMUNITIES, INC.,
8 a Florida corporation

9 By: William Livingston
10 Its: President

11 STATE OF FLORIDA
12 COUNTY OF FLAGLER

13 The foregoing instrument was acknowledged before me this 29th day of
14 July, 2008 by WILLIAM I. LIVINGSTON, as PRESIDENT of FLORIDA
15 LANDMARK COMMUNITIES, INC., who is personally known to me or has produced a
16 driver's license as identification.

17 Eileen L. Linehan
18 Notary Public
19 My commission expires:



1 OWNER'S/APPLICANT'S CONSENT AND COVENANT:

2
3 COMES NOW, the Owner on behalf of itself and its successors, assigns and transferees
4 of any nature whatsoever, and consents to and agrees with the covenants to perform and fully
5 abide by the provisions, terms, conditions and commitments set forth in this PUD Agreement.

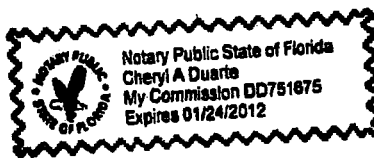
6 Dated 7/22/08, 2008 ROBERTS ROAD, LLC, a Delaware limited
7 liability company

8
9 By: [Signature] Jim CULLIF
10 Its: VICE PRESIDENT

11 STATE OF FLORIDA
12 COUNTY OF FLAGLER

13 The foregoing instrument was acknowledged before me this 22nd day of
JULY, 2008 by JAMES T. CULLIF, as V.P. of ROBERTS ROAD,
14 LLC, who is personally known to me or has produced a driver's license as identification.

15 [Signature]
16 Notary Public
17 My commission expires: 1/24/2012



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EXHIBIT "A"
LEGAL DESCRIPTION

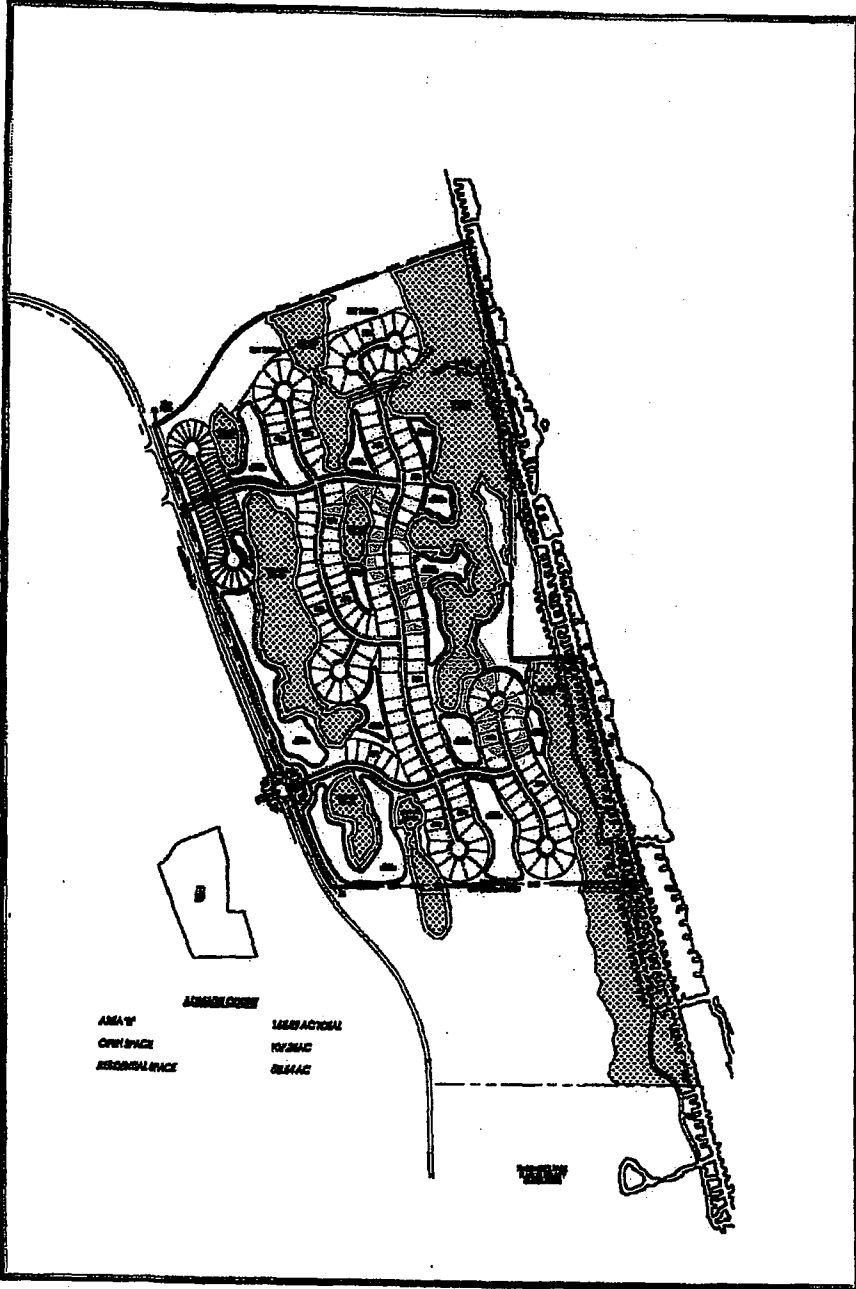
DESCRIPTION:

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: A POINT OF REFERENCE BEING THE SOUTH QUARTER (1/4) CORNER OF SAID SECTION 2, THENCE NORTH 88°27'05" EAST A DISTANCE OF 119.89 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF ROBERTS ROAD (80' R/W) RECORDED IN OFFICIAL RECORDS BOOK 235, PAGES 947 THROUGH 949, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING THE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT BEING ON A CURVE, THENCE NORTHERLY 333.22 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE NORTHEASTERLY) HAVING A CENTRAL ANGLE OF 13°04'46", A RADIUS OF 1459.72 FEET, A CHORD BEARING OF NORTH 28°56'28" WEST AND A CHORD DISTANCE OF 332.50 FEET TO A POINT OF TANGENCY, THENCE NORTH 22°24'07" WEST ALONG THE EAST RIGHT-OF-WAY OF SAID ROBERTS ROAD A DISTANCE OF 2623.91 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SEA RAY ROAD, THENCE DEPARTING ROBERTS ROAD NORTH 67°35'53" EAST ALONG SAID SEA RAY ROAD A DISTANCE OF 21.00 FEET TO A POINT OF CURVATURE, THENCE 403.52 FEET ALONG THE ARC OF A CURVE TO THE LEFT (CONCAVE NORTHWESTERLY) HAVING A CENTRAL ANGLE OF 34°00'00", A RADIUS OF 880.00 FEET, A CHORD BEARING OF NORTH 50°35'53" EAST AND A CHORD DISTANCE OF 397.63 FEET TO A POINT OF TANGENCY, THENCE NORTH 33°39'53" EAST A DISTANCE OF 298.04 FEET TO A POINT OF CURVATURE, THENCE NORTHEASTERLY 97.07 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE SOUTHEASTERLY) HAVING A CENTRAL ANGLE OF 09°45'28", A RADIUS OF 570.00 FEET, A CHORD BEARING OF NORTH 38°28'37" EAST AND A CHORD DISTANCE OF 96.98 FEET TO A POINT ON THE WESTERLY BOUNDARY OF LAND NOW OR FORMERLY OWNED BY RAY INDUSTRIES RECORDED IN OFFICIAL RECORDS BOOK 241, PAGES 727 AND 728, THENCE SOUTH 46°38'27" EAST A DISTANCE OF 4.89 FEET TO A POINT BEING THE MOST SOUTHWESTERLY CORNER OF LAND NOW OR FORMERLY OWNED BY RAY INDUSTRIES SAID POINT BEING ON A CURVE, THENCE NORTHEASTERLY 270.33 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE SOUTHERLY) HAVING A CENTRAL ANGLE OF 27°24'51", A RADIUS OF 565.00 FEET, A CHORD BEARING OF NORTH 57°03'59" EAST AND A CHORD DISTANCE OF 287.78 FEET TO A POINT OF TANGENCY, THENCE NORTH 70°46'24" EAST ALONG THE SOUTHERLY BOUNDARY LINE OF SAID RAY INDUSTRIES LANDS A DISTANCE OF 1238.00 FEET, THENCE NORTH 70°46'35" EAST A DISTANCE OF 102.86 FEET TO A POINT ON THE WESTERLY BOUNDARY LINE OF THE PLAT RIVER OAKS, RECORDED IN MAP BOOK 27, PAGES 15 THROUGH 17, THENCE DEPARTING RAY INDUSTRIES LANDS SOUTH 11°48'35" EAST A DISTANCE OF 460.36 FEET, THENCE SOUTH 18°46'35" EAST A DISTANCE OF 740.00 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF LANDS RECORDED IN OFFICIAL RECORDS BOOK 231, PAGES 481 THROUGH 489, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, THENCE SOUTH 89°13'25" WEST A DISTANCE OF 42.48 FEET, THENCE SOUTH 01°05'56" EAST A DISTANCE OF 1319.27 FEET, THENCE NORTH 88°58'11" EAST ALONG THE SOUTH LINE OF SAID LANDS RECORDED IN OFFICIAL RECORDS BOOK (ORB) 231, PAGES 481 THROUGH 489, A DISTANCE OF 458.54 FEET, THENCE DEPARTING SAID LANDS AT ORB 231, SOUTH 16°32'55" EAST ALONG THE WESTERLY LINE OF RIVER OAKS A DISTANCE OF 1387.40 FEET TO A POINT ON THE SOUTHERLY LINE OF GOVERNMENT SECTION 2, THENCE DEPARTING RIVER OAKS SOUTH 88°27'05" WEST ALONG SAID SOUTHERLY LINE OF SECTION 2, A DISTANCE OF 2017.44 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 165.89 ACRES OF LAND MORE OR LESS.

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EXHIBIT "B" SITE PLAN



LandMar
GROUP LLC

Exhibit "B"

Grand Reserve East Conceptual Site Plan
POWERS DESIGN

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EXHIBIT "C"
FLAGLER COUNTY
GOPHER TORTOISE RELOCATION STANDARDS

The following standards shall apply to projects within the unincorporated area of Flagler County unless alternative standards are accepted by the Board of County Commissioners:

- a) If any gopher tortoise burrows are observed on site a 100% gopher tortoise survey will be required.
- b) All gopher tortoise burrows found shall be identified on said survey.
- c) A Management Plan or Relocation Plan shall be required for any activity within 25' of a burrow.
 1. Management Plans must provide for the relocation of any found gopher tortoises and/or their commensals, as FWC permits. Relocations on site are preferred. Onsite relocations shall require the receiving areas to be placed in a deed restriction in favor of the County or State or Federal agency and long term management plan. Said management plan shall also provide a funding mechanism approved by the County to ensure the management plan activities are adequately and securely funded. In addition, the receiving area must be appropriate gopher tortoise habitat.
 2. All onsite or offsite receiving areas must be approved by the County.
 - a) Receiving areas shall not have greater than an overall 60% canopy, shrub, or wiregrass cover.
 - b) Receiving area vegetative ground cover should consist of 80% or greater gopher tortoise forage species with moderate or greater diversity. Open areas not vegetated by herbaceous ground cover should not occupy greater than 20% of the receiving area.
 - c) Receiving area soils should be well drained, fine grained, with a low clay and organic content.
 - d) Receiving area water table should be at least 0.5 meters below the surface.
 3. All planting, vegetation removal, and prescribed burning necessary to prepare the site for gopher tortoise receipt shall be included in the Management Plan.
- d) The environmental consultant performing the relocation must be approved by Flagler County staff.
- e) Excavation of the burrow must be performed unless it is reasonably determined complete excavation is impossible due to proximity to utilities, property lines, or safety considerations. In such situations bucket traps may be utilized.
- f) Tortoises should be examined for symptoms of disease, parasites or malnutrition and appropriate data collected. During relocation tortoises should be placed in a plastic container with lid that allows air to flow freely. Open containers, group boxing, or general unsecured relocations are prohibited.

**Flagler County Government
Planning and Zoning Department
Staff Report**

TO: Chairperson and Planning Board Members

FROM: Planning and Zoning Department

DATE: March 13, 2007

SUBJECT: Application #2687 – Amendment to PUD Development Agreement and Flagler County Ordinance 2006-15 for Grand Reserve East

- I. **Requested Action & Purpose:** The request is for an amendment to Flagler County Ordinance 2006-15 and PUD Development Agreement for Grand Reserve East.
- II. **Location and Legal Description:** East of Roberts Road and north to State Road 100. Parcel #'s 02-12-31-0000-01010-0140, 02-12-31-0000-01010-0150, 02-12-31-0000-01010-0141 and 02-12-31-0000-01010-0151.
- III. **Owner / Applicant:** Palm Coast Holdings and Roberts Road LLC, respectively, are listed as owners of the above parcels in current Property Appraiser records; however, The Reserve LLC is the applicant
- IV. **Parcel Size:** 165.89 ± acres.
- V. **Existing Zoning & Land Use(s):**
Zoning – PUD (Planned Unit Development)
Land Use – Residential Low Density Rural Estate and Conservation
- VI. **Future Land Use Map Classification/Zoning of Surrounding Land:**
North: Industrial / Industrial (manufacturing, Sea Ray Boats).
East: City of Flagler Beach / City of Flagler Beach (single family residential).
South: City of Flagler Beach / City of Flagler Beach, City of Palm Coast (municipal services, utility plant).
West: Mixed Use: High Intensity Medium-High Density / MUH PUD (vacant) and Industrial District (manufacturing).
- VII. **Land Development Code Sections Affected:** Land Development Code 2.04.04: "The Planning Board shall review and act upon applications for development review pursuant to the county land development code and other applicable county ordinances."

VIII. Report in Brief: On January 29, 2007, Roberts Road LLC made application to amend the Development Agreement for Grand Reserve East Planned Unit Development. This PUD was adopted by the BOCC through Ordinance 2006-15 on June 19, 2006. The applicant is desirous of amending portions of the Development Agreement relative to recreation amenities, some lot depths and timing of plat approval. Due to coordination of public notice requirements and meeting schedules all public notice for this application had to be completed prior to the February 21, 2007 Technical Review Committee (TRC) meeting.

The applicant's representatives at the TRC meeting reported that they had been recently assigned the project and advised that revisions to the submittal were forthcoming. The revisions will need to be reviewed by the TRC prior to being rescheduled before the Planning Board for recommendation to the County Commission.

IX. Staff Recommendation: Staff recommends that the Planning Board defer making a recommendation on Application #2687, Ordinance Amending Ordinance 2006-15 with respect to Exhibit 1, Grand Reserve East PUD Development Agreement until the anticipated re-submittal is reviewed by the Technical Review Committee and the application is publicly noticed for hearing.

X. Suggested Adoption Language: The Planning Board defers recommendation on Application #2687, Ordinance Amending Ordinance 2006-15 with respect to Exhibit 1, Grand Reserve East PUD Development Agreement.

Attachments

1. Application and supporting documents

Adam Mengel

From: Rich Smith [rsmith@hammockcommunities.com]
Sent: Monday, February 09, 2015 12:54 PM
To: Adam Mengel
Cc: Gina Lemon
Subject: RE: Roberts road rezoning

From: Adam Mengel [mailto:amengel@flaglercounty.org]
Sent: Monday, February 9, 2015 11:04 AM
To: 'Rich Smith'
Cc: Gina Lemon
Subject: RE: Roberts road rezoning

Hi Rich:

It is good to hear from you and I hope you and your family are doing well.

I'll try to answer your questions to Gina first: this won't be a spot zoning, since it steps down from the existing Industrial that is already there. That is not true, it is a more intense zoning than what now exist and is only less than the adjacent Industrial Zoning. If anything the thought of a single-family residential zoning next to industrial would have been the incompatible spot zoning, but hindsight is always 20/20. And hindsight is where we have headed with any discussion on this property over the last few years. When the County attempted to amend the Future Land Use Map back in 2013 (with the consent of the then-owner Landmark a/k/a Allete) to Industrial, the folks on Lambert adamantly objected citing quality of life impacts, when the reality was that the Industrial Land Use had historically been in place, at least up until 2002. Regardless of the history, what is in place now is the prevailing zoning, PUD – Low intensity residential. Under the current zoning, PUD, there are buffers, setbacks, and conservation in place that will be abolished if it is to be rezoned C2. In essence this does not surprise me and is exactly the reason the county is not requiring Sea Ray to provide a site plan simultaneous to the C2 zoning. The use will not be restricted to anything more than what is allowed in C2. I've been doing this a long time, as you, we both know that under the current program if the C2 is approved the people who would have gained from the current zoning will lose those protections. Hence, this is specifically my complaint that you are changing the zoning to a more aggressive more intense zoning. If you want to do right by everyone affected, the county should amended the existing PUD to allow for the C2 use and still protect the surrounding land owners with buffers, setbacks, etc. as set forth in the existing zoning.

The site plan is the next requirement for them, if the Future Land Use amendment and the rezoning go through. As to the effect on the integrity of the existing PUD zoning, it will become necessary for the PUD to be modified if this is approved and the sale of these parcels takes place; the PUD will effectively shed its density proportional to its loss of acreage and its site plan and preliminary plat will need to be adjusted accordingly, through the public hearing process. I have attached the 2007 PUD development agreement. The effect this has on the remnant parcel will need to be addressed simultaneously as the site plan will no longer be in compliance with its zoning. As such the zoning will no longer be effective and may be the County's intent long range to turn the entire east side of Roberts into commercial. The site plan of a PUD in this case is the zoning. Again, to avoid this just amend the PUD to accept commercial C2 use and still protect the adjacent land owners with the proper buffers, etc.. It's very obvious why this is not being done in fear it will not be approved and that disgust me.

Now for your questions for me: I have attached the 2007 staff report. The best explanation I can offer for why staff is "in tune" now with this request is that conditions change; we are under a new Comprehensive Plan, and we have all suffered through the Great Recession which hit the local housing market very hard, something that we both witnessed

firsthand. By some miracle, Sea Ray has stayed here, expanded their operations to more boat models, hired more people, and now are looking to expand their footprint by shifting their parking southward, utilizing their onsite parking for outside storage. The County, as you can imagine, would like to be accommodating to Sea Ray. Understood and accepted, but not like this. This is conniving and scheming. Why not just move them west, Cullis has C2 property. It makes more sense. Otherwise, revise the PUD to include the c2 and see if it gets approved. Or make them go through the site-plan process simultaneous and protect those adjacent owners as does the current zoning. We both know why this is not being done and again, it's disgusting.

Of course, the buffer between Lambert and the future development of areas to the west of Lambert was always the old mosquito ditches. We know there are limits that prevent development along the eastern edge of these parcels, these being the identified wetlands. These wetlands will be encumbered by the SJRWMD in a conservation easement and will be designated by the County as Conservation Future Land Use. This proposal, as you can also imagine, is in large part linked to Sea Ray as the applicant, the nature of their application, and what they hope to get out of this. This may ultimately move forward as a PUD, with the certainty of a PUD site plan and development agreement (the DO you are seeking, but which the County reserves for DRIs, which this is not part of); however, as you are also aware, everyone deserves the opportunity to make a request and get their opportunity for a public hearing. You are correct, but I also know it was staff's supporting opinion that lead to the approval of the existing zoning, site-plan and PUD. Looks real strange that the same staff is now recommending we change all of those good deeds and infringe on the property rights of those adjacent to further industrial growth. I definitely can appreciate the need to assist Sea Ray, but not at the expense of the adjacent land owners who respectfully commended the efforts of Flagler County and its staff to protect them with the current PUD zoning. Who can they trust in the future?

You need to inquire as to why they can't move the operation west, I'm sure it's because the land they have interest in is less expensive. Is that good planning?

I appreciate your email and your concerns, and I will share your email with the Planning and Development Board members.

Please contact me with any questions.

I can appreciate your quandary, I'm glad I'm not in your shoes.

Sincerely,

Rich

Thank you,

Adam

From: Rich Smith [<mailto:rsmith@hammockcommunities.com>]

Sent: Sunday, February 08, 2015 4:10 PM

To: Adam Mengel

Subject: FW: Roberts road rezoning

Adam, I hope this email finds you well.

Where is the staff report to the original 2008 PUD agreement and when can I obtain it? How can staff be in tune with the 2008 recommendation then and now be in tune with a new C2 recommendation for the exact same property. I don't know if you remember the turn out opposed to the East Side PUD approval, but in consideration of those persons whom about Roberts Road, the East Side PUD zoning eloquently appeased them with low density residential. So, now

Adam Mengel

From: George Hanns
Sent: Monday, February 09, 2015 6:21 PM
To: Adam Mengel; Albert J. Hadeed; Craig Coffey
Subject: FW: Sea Ray's Applications #2972 and #2973

From: Marv Howell [marvhowell@hotmail.com]
Sent: Monday, February 09, 2015 3:57 PM
To: Nate McLaughlin; Charles Ericksen Jr.; Frank Meeker; George Hanns; mboyd@bellsouth.net; tcrowe6@cfl.rr.com; dickinsonci@aol.com; laureenkorrel@hotmail.com; rrreinke@aol.com; Gina Lemon; Barbara S. Revels; coryi62@earthlink.net; pam4houses@gmail.com; Luci Dance
Subject: Sea Ray's Applications #2972 and #2973

My name is Marv Howell and I am a resident on the east side of Lambert Ave. directly across from the Future Land Use Amendment request to High Intensity Commercial and companion rezoning to C-2 Shopping Center. I am a retired Builder and the majority of the homes I built were right here in Flagler County. As such, I understand the importance of economic development and jobs.

My concern is a broader base than that. I am not opposed to the expansion of Sea Ray Boats. I understand their importance and economic contribution to Flagler County. However, I am opposed to the avenue to which this is proposed, through a FLUM amendment and zoning change. A number of residences on Lambert Ave., including those directly abutting this property purchased in the last 10 years after doing their due diligence recognizing that this property was and is currently zoned Low Density Residential. Now to propose to change the FLUM to High Intensity Commercial Use and it's companion zoning of C-2 Commercial Shopping Center is not fair or safe for those individuals that relied on the FLUM and zoning of Low Density Residential. These individuals purchased with the least intensive zoning category behind their home and now you are proposing to rezone to the MOST intense commercial zoning category. This category would allow more noise and more pollution in our air. We are concerned for our health, our home values and our future.

There is another option for Sea Ray Boats to expand, and that is to go west rather than south. In doing so, there would be no need to change the current residential zoning that abuts Lambert on the west side to a much more intensive Commercial use. Once the zoning is changed to the most intensive Commercial Use, all principal permitted uses would be permitted regardless of the intent, and not used only for a parking lot. The residential zoning that the residents relied upon when purchasing and building their dream homes should not be changed. It is my understanding, the property directly abutting Sea Ray to the west has an intended commercial use of boat storage under the PUD that was approved years ago. Why not allow Sea Ray to expand in this direction?

As a resident of Lambert Avenue, I am opposed to the FLUM amendment and rezoning request. There is a better option for Sea Ray to pursue that will not impact the neighbors directly abutting or in close proximity to the FLUM request and high intensity commercial zoning. That is for Sea Ray to expand to the west.

Sincerely,

Marv Howell,
Former owner of Howell Homes and a resident of 1560 Lambert Ave., Flagler Beach

Adam Mengel

From: Rich Smith [rsmith@hammockcommunities.com]
Sent: Tuesday, February 10, 2015 6:49 AM
To: Adam Mengel; Gina Lemon
Subject: staff report

The report I need/want is the staff report for the PUD recommendation to the BOCC for what was ultimately approved now. Can you please be accommodating.

Sincerely,

Rich

Hammock Communities, Inc.
PO Box 1035
Flagler Beach, FL 32136
386-931-1905
386-846-2162 (F)

Adam Mengel

From: Adam Mengel
Sent: Tuesday, February 10, 2015 8:26 AM
To: 'Rich Smith'
Subject: RE: staff report

Good morning:

The link to the agenda back up is online and can be accessed directly through this [link](#); the staff report begins on page 125 and ends on page 174.

Thank you,

Adam

From: Rich Smith [<mailto:rsmith@hammockcommunities.com>]
Sent: Tuesday, February 10, 2015 6:49 AM
To: Adam Mengel; Gina Lemon
Subject: staff report

The report I need/want is the staff report for the PUD recommendation to the BOCC for what was ultimately approved now. Can you please be accommodating.

Sincerely,

Rich

Hammock Communities, Inc.
PO Box 1035
Flagler Beach, FL 32136
386-931-1905
386-846-2162 (F)

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM #5**

SUBJECT: Request Approval of a Site Development Plan in a Planned Unit Development (Application #2670) and Amendment to the Development Agreement for Grand Reserve East (Application #2687).

DATE OF MEETING: November 27, 2007

OVERVIEW/SUMMARY: The Grand Reserve East PUD is a proposed development consisting of a maximum of 300 residential units. The PUD Site Development Plan provides for a total of 243 single family dwelling units consisting of 21 minimum 50-foot-wide (5,000 sq. ft.) lots; 70 60-foot (6,000 sq. ft.) lots; and 92 75-foot (7,500 sq. ft.) single family detached lots, along with 60 25-foot (2,500 sq. ft.) single-family attached lots.

On June 19, 2006 the Board of County Commissioners adopted Ordinance 2006-15 rezoning the subject property from Industrial to PUD. The action adopting the rezoning Ordinance approved the initial Development Agreement for Grand Reserve East PUD. The applicant has also submitted a request to amend the adopted Development Agreement. The PUD Site Development Plan is consistent with the Amended Development Agreement. This action, together with the proposed development approval for Grand Reserve West, totals a maximum of 600 residential units and a maximum of 58.3 acres of commercial area. The two developments do not raise the aggregation issue for development of regional impact review.

The proposed amended development agreement (Attachment #1) differs from the agreement approved and adopted through Ordinance 2006-15 as follows:

- Page 1 – Added additional owner reference for Roberts Road LLC, a Florida limited liability company.
- Sec. 2.1 Residential – Included statement limiting townhouses (attached single family units) to no more than 20% and limitation of 50-foot-wide detached lots to no more than 15% of the total permitted lots.
- Sec. 2.4 Recreation – eliminated reference to Grand Reserve West PUD. This revision is consistent with discussions between LandMar representatives and County staff regarding the uncertainty related to the Grand Reserve West (GRW) property. This revision removes the tie between Grand Reserve East (GRE) and GRW as it relates to shared recreational facilities.
- Sec. 3.1(a) Clarification added for 250' buffer along northern portion of property. The buffer is not intended to extend the entire length of the northern boundary of the

PUD; however, the limits of the buffer are the subject of a confidential agreement reached between the applicant and the adjacent property and the exact limits are known only to the involved parties.

- Sec. 4.2 Clarify that the requirements of the PUD Agreement supersede any inconsistent provisions with the Flagler County Land Development Code or other County Ordinances, removing reference to the requirements of "this Section".
- Sec. 4.2(c) Roadways/Rights-of-Way – changed reference to Ordinance 98-2 to correctly reference to "Public Works Manual". New language reads as follows: "Turn lanes and signalization at project entrances shall be constructed as required by 'County Public Works Manual'."
- Sec. 4.2(h) Clarified reference to Developer's participation in the Fair Share Program for capacity improvements to Colbert Lane by removing limiting reference "from SR 100 to Roberts Road."
- Sec. 5.1 Plan Overview – removes reference to only Phase I of Grand Reserve East with regard to timing of submittal of a Site Development Plan. Also ties final plat approval to Roberts Road project and eliminated reference to GRW timing of east-west collector road construction. This revision permits site development plan and preliminary plat approval to occur without the Roberts Road connection or the east-west collector being under construction or bonded for completion, but prevents consideration of approval of the final plat prior to the required off-site connection to Colbert Lane (either through the Roberts Road extension or the east-west collector) being under construction or bonded for completion.
- Sec. 5.2 Added clarification of Comprehensive Plan designations for subject property and references the County Ordinance which adopted the PUD zoning district.
- Sec. 5.3(a) Adds language related to acknowledgement of Sea Ray operations.
- Sec. 5.3(b) Provides for gopher tortoise relocation standards as prepared by staff following Board direction provided on September 5, 2007.
- Sec. 5.3 (c) Table – revisions provide clarification and correction to references noted with asterisks; increases minimum lot width to 35 feet on road frontage for single family detached lots on cul-de-sacs and curves which is consistent with Article IV, Subdivision Requirements of the Land Development Code. Development criteria for Sales Trailer have been added, with the sales trailer identified on the PUD Site Development Plan as a temporary use. The Minimum Lot Depths have been reduced from 125' to 100' minimum for Lot Types 50', 60' and 75'. This reduction resulted in a minimum lot square footage reduction on each lot type to 5,000, 6,000, and 7,500 sf respectively. The primary reason for the reduction is to reduce the individual lot encroachments into the 25' upland buffers around wetlands. The

previously adopted language at Section 4.2(a) Wetlands and Wetland Buffer provides that only those lots meeting (but not exceeding) the minimum lot depth may encroach into a wetland buffer and such encroachment shall be no more than 10'. Further, those lots exceeding the minimum lot depth shall not encroach into an upland buffer.

- Sec. 5.3(f) Provides clarification of 250' green space buffer at portion of north boundary of property.
- Sec. 5.3(g) change reference in last sentence from "lot width" to "lot type."
- Sec. 5.4 Emergency Services -- change in language related to water for fire protection.

OLD TEXT	NEW TEXT
The water requirements for the fire system will be served by the City of Palm Coast.	The water necessary for fire protection will be provided and serviced by the City of Palm Coast.

Staff sees only a slight difference in meaning (new text emphasizes maintenance by City of Palm Coast for fire water line), but otherwise, the old and new text appear to convey the same meaning.

PUD Site Development Plan:

As noted in this report, the subject property lies within the Residential Low Density Rural Estate designation of the Future Land Use Map. The applicant's provision of 243 single family residential units on the 139.87 acres of Residential Low Density Rural Estate equates to an average density of 1.46 units per acre and is consistent with the allowable density (1 to 3 units) of the Comprehensive Plan category.

The proposed amended development agreement provides for the previously approved maximum of 300 residential units, while the PUD Site Development Plan submitted indicates a maximum of 243 residential units consisting of a variety of lot types ranging from 50' wide to 75' wide detached single family lots and 25' wide attached single family lots. The development includes an Amenity Center/Recreation site which will temporarily include a sales office site. This area is labeled as Tract A and is located on the north east quadrant of the intersection of Lighthouse Drive and Roberts Road. The PUD Site Development Plan includes a note that the Temporary Sales Office will be removed upon completion of vertical construction or 10 years from date of permit issuance.

The PUD Site Development Plan prepared by Matthews Design Group, Inc., coupled with the amended Development Agreement for Grand Reserve East, meets the criteria of Section 3.04.03. The plan demonstrates the proposed project will include:

- a. Residential development will be on 51.85 acres limited to a maximum of 300 units consisting of:
 1. 92 75-foot (7,500 sq. ft.) detached single family lots;
 2. 70 60-foot (6,000 sq. ft.) detached single family lots;
 3. 21 50-foot (5,000 sq. ft.) detached single family lots; and
 4. 60 25-foot (2,500 sq. ft.) single-family attached lots.

Note: the PUD Site Development Plan indicates total of 243 residential units.

- b. Open Space – 93.83 acres green/open space.
- c. Recreation – 2.62 acres of recreational area.
- d. Maintenance and ownership of common facilities will be through an owners association.
- e. 5' wide sidewalks on one side of all major internal roadways and cul-de-sacs.
- f. Contributions from the developer toward the fair share agreement for Colbert Lane Improvements are committed.
- g. Two access connections to Roberts Road.

The site development plan (Attachment #5) indicates proposed impacts to wetland areas. These impacts will require approval of a Wetland Variance by the Board of County Commissioners prior to construction of the proposed development.

PLANNING BOARD RECOMMENDATION: On August 14, 2007 the Planning Board held a public hearing for consideration of Application Nos. 2670 and 2687 and unanimously recommended approval of the request for a Site Development Plan in a PUD and amendment to the Development Agreement for Grand Reserve East (Attachment #2).

PARTIES OF RECORD: There were no parties of record for this request.

FUNDING INFORMATION: N/A

DEPT./CONTACT/PHONE #: Planning and Zoning / Adam Mengel / 313-4009

RECOMMENDATION: Request the Board approve the Site Development Plan in a Planned Unit Development and amendment to the Development Agreement for Grand Reserve East.

ATTACHMENTS:

1. Draft PUD Ordinance
2. Planning Board minutes from August 14, 2007 (in part)
3. Application and supporting documents
4. Public Notice dated November 10, 2007

Adam Mengel
Adam Mengel, Planning Director
11-20-07
Date

Jim Jarrell
Jim Jarrell, Interim County Administrator
11/20/07
Date

Deputy County Admin.
Dept Head
Financial Services
Growth Management
Dev Engineer
Legal
Other _____

Initials	Date
NA	
<u>EM</u>	<u>11/20/2007</u>
<u>JJ</u>	<u>11/20/07</u>

Attachment 1

Draft PUD Ordinance

Application #2670 and #2687 – SDP and Amendment to DA for Grand Reserve East

ORDINANCE NO. 2007 - ____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING ORDINANCE NO. 2006-15; AMENDING THE DEVELOPMENT AGREEMENT FOR THE GRAND RESERVE EAST PUD; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Landmark Communities, Inc. and Roberts Road, LLC collectively as the owner and applicant submitted Application #2670 for approval of a Planned Unit Development (PUD) Site Development Plan and Application #2687 for amendment to the PUD Development Agreement for a 165.89 acre parcel described herein; and

WHEREAS, said parcel was rezoned to PUD by Ordinance No. 2006-15 on June 19, 2006; and

WHEREAS, the owner and the County are desirous of amending the previously approved PUD Development Agreement included with Ordinance No. 2006-15; and

WHEREAS, the Planning Board reviewed this amendment as part of their regular business on August 14, 2007 and unanimously recommended approval of the request; and

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

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

Section 1. FINDINGS

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

1. The proposed amendment to the PUD Development Agreement does not adversely affect the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies; and,
2. The proposed amendment to the PUD Development Agreement will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood.

Section 2. AMENDMENT TO THE DEVELOPMENT AGREEMENT

- A. The Board of County Commissioners hereby amends Ordinance No. 2006-15 by amending and replacing in its entirety the PUD Development Agreement for the Grand Reserve East PUD adopted at Exhibit 1 with the Amended Planned Unit Development Agreement attached at Exhibit 1 to this Ordinance.
- B. Development within the boundaries of the PUD District as approved shall take place in accord with the Flagler County Land Development Code as may be modified or amended and the PUD Conceptual Site Plan prepared by Powers Design Architects, received May 24, 2006 by Flagler County Planning & Zoning Department and the Grand Reserve East PUD Development Agreement executed by owner and Flagler County pursuant to this Ordinance. A copy of said Agreement containing the PUD Conceptual Site Plan is attached hereto as Exhibit 1 and made a part hereof.
- C. The applicant shall signify its acceptance of this PUD designation by filing for recording into the Public Records of Flagler County, Florida, the attached Agreement with the Clerk of the Circuit Court within thirty (30) days.

Section 3. EFFECTIVE DATE

This Ordinance shall take effect upon Official Acknowledgement by the Secretary of State that the Ordinance has been filed.

PASSED AND GRANTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS ____ DAY OF _____, 2007.

**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: _____
James M. O'Connell, Chairman

ATTEST:

By: _____
Gail Wadsworth, Clerk and
Ex-Officio Clerk to the Board

Approved as to Form:



Albert J. Hadeed, County Attorney

Exhibit 1

**THE GRAND RESERVE EAST
AMENDED PLANNED UNIT DEVELOPMENT AGREEMENT**

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3 **1.0 Introduction**

4 This is a Planned Unit Development Agreement (this "PUD Agreement" or "Agreement")
5 for a rezoning to a planned unit development ("PUD") in order to develop The Grand Reserve
6 East project on approximately 165.89 acres of land generally located east of Roberts Road, north
7 of Highway 100, and more particularly described on **Exhibit "A"** hereto (the "Property"). The
8 Property is owned by Florida Landmark Communities, Inc., a Florida corporation, and Roberts
9 Road, LLC, a Florida limited liability company (collectively, the "Owner"). For purposes of
10 this application, the Owner's address is c/o Gary B. Davenport, Esq., P.O. Box 1012, Flagler
11 Beach, FL 32136-1012.

12 All building codes, zoning ordinances and other land development regulations of Flagler
13 County (the "County"), including, without limitation, the County Comprehensive Plan and/or
14 any similar plans adopted by the County, as may be amended from time to time, will be
15 applicable to The Grand Reserve East Property unless otherwise stated herein.

16 **2.0 Project Description**

17 2.1 Residential – The portion of the Property designated as Residential will consist of
18 a maximum 300 single family and/or single family attached units, and common improvements on
19 approximately 139.87 acres which is designated Low Density Residential on the Flagler County
20 Future Land Use Map. Townhouses shall never exceed 20% of the total permitted Lots and are
21 limited to the location shown on the Site Plan, nor shall 50' detached Lots exceed 15% of the
22 total permitted Lots. The project will fall under the management of one or more property
23 owner's associations and possibly a Community Development District. If more than one
24 property owner's association is created on the Property, a Master Association will be created.
25

1 The development plan for The Grand Reserve East is generally outlined below and depicted on
2 the Conceptual Site Plan which is attached as **Exhibit "B"** hereto (the "Site Plan").

3 Single family attached units shall be arranged with party walls in blocks of two to
4 eight units. Supplemental performance standards for these units shall be as set forth below. The
5 single family attached homes may be developed for either condominium or fee simple form of
6 ownership. Covenants, conditions and restrictions shall be placed upon the exterior appearance
7 and maintenance of each unit and lot. Single family and single family attached homes shall have
8 a one-car garage or larger.

9 2.2 Temporary Sales and Construction Trailers -- Temporary sales and construction
10 trailers may be located within the site, subject to review and approval at the time of site
11 development plan approval.

12 2.3 Common Areas -- Common areas are located throughout the Property and shall
13 include open space, wetlands, landscape areas and conservation areas.

14 2.4 Recreation -- Active recreation for the project shall be provided by facilities
15 constructed on site or within adjacent developments owned by the Owner. Individual pocket
16 parks, including open space and park benches, shall be located throughout the project within
17 walking distance of project neighborhoods and shall be identified on the Site Development Plan.

18 3.0 Development Plan

19 3.1 Plan Overview

20 (a) The Site Plan depicts the general layout of the entire development. The
21 exact location of structures, lot lines, roadways, internal landscape buffers, a 250' buffer along a
22 portion of the northern edge of the property, wetlands, drainage facilities and other
23 improvements shown on the Site Plan may be modified during review of the site development
24 plans and plat(s). The 250' buffer is generally located on the eastern one thousand - five hundred
25 and twenty feet (1,520') of the north boundary of the property and designated as Conservation on

1 the Flagler County Future Land Use Map shall maintain existing vegetation or may be improved
2 with supplemental landscaping and/or berms and fences/walls within the upland portions of the
3 buffer as required to provide appropriate screening to the adjacent Sea Ray facility.

4 (b) Adjustments to the Site Plan are anticipated to occur during the site
5 development plan and plat review processes. Revisions which meet the intent and purpose of the
6 County's Comprehensive Plan and Land Development Regulations shall be approved, as long as
7 the substantial integrity of the original Site Plan and the development standards contained herein
8 are maintained. Any modification to the Site Plan that increases the intensity or types of
9 development or uses reduces the total amount of open space, or decreases the size of any
10 perimeter buffer within the Property shall require the approval of the County Commission
11 following the review and recommendation of the Planning Board.

12 (c) The Grand Reserve East Property may be developed in multiple phases.
13 All infrastructure necessary to support each phase of the project shall be constructed with that
14 phase as a condition of site development plan approval by Technical Review Committee.
15 Adequate emergency vehicle access and turn-arounds shall be provided at all times.

16 4.0 Land Development Code Applicability

17 4.1 The Flagler County Land Development Code ("FCLDC") applies to The Grand
18 Reserve East Property and development within it, unless expressly otherwise provided in this
19 PUD Agreement.

20 4.2 The requirements of this PUD Agreement supersedes Flagler County Ordinance
21 No. 2006-15. Unless expressly otherwise provided, this Development Agreement shall be
22 consistent with the FCLDC and where inconsistent provisions exist, the requirements of the
23 FCLDC shall prevail.

24 (a) Wetlands and Wetland Buffer – Subsequent to the issuance of an
25 Environmental Resource Permit by the St. Johns River Water Management District ("District"), a

1 conservation easement in favor of the District shall be recorded over all wetlands and associated
2 upland buffers identified for preservation. Protected wetlands shall not be included within
3 development lots, tracts or parcels, however, minimal impacts for project road crossings as
4 shown on the Site Plan shall be permitted. Not more than 10' of an upland buffer may be
5 included within any lot and no lot deeper than the minimum required may extend into an upland
6 buffer. A minimum 25' upland buffer shall be provided around all wetlands remaining on the
7 site, except where road crossings are necessary. Activities within the upland buffer shall be
8 limited to removal of invasive vegetation, installation of essential utilities and road crossings and
9 permitted trail crossings. In addition, the project shall include approximately 26.02 acres of
10 property designated as Conservation on the Flagler County Future Land Use Map. For those
11 portions of the conservation area which are wetlands, they shall remain in their natural vegetative
12 state, except that elevated walkways may be constructed within these areas to connect pedestrian
13 trails between upland areas, subject to approval by the District.

14 (b) Stormwater -- The Property is being developed with privately maintained
15 roads and a privately maintained drainage system. Stormwater runoff, from the development,
16 will be conveyed to on site stormwater retention systems by means of grassed swales, curb
17 gutters and an underground drainage pipe system. The stormwater retention systems onsite may
18 be interconnected with such systems on adjacent sites, subject to approval of the District and the
19 County Development Engineer.

20 (c) Roadways/Rights-of-Way -- Internal access to all residential structures and
21 the amenities shall be provided by fifty foot (50') rights-of-way to be maintained by the
22 Associations or Community Development District ("CDD"). Cul-de-sacs shall be 100' diameter.
23 All roadways will be constructed in accordance with applicable County standards. Turn lanes
24 and signalization at project entrances shall be constructed as required by "County Public Works
25 Manual". Emergency vehicle access shall be permitted through the Property at all times. An

1 emergency access connection to Roberts Road shall be provided near the northwest corner of the
2 property.

3 (d) Landscape – Efforts to preserve and enhance the project design will be
4 achieved through adjustments of building, parking, roadway and stormwater location (as outlined
5 below) and through supplemental landscaping that will blend with the natural look yet carefully
6 accentuate the residential areas, entrances, and other common spaces. All reasonable efforts
7 shall be made to preserve existing native trees and vegetation on the site.

8 General landscaping around parking lots, roadways, entrances, residential
9 buildings, and other common areas will be landscaped with ornamental and native plant
10 materials and in accordance with the FCLDC. These areas will be landscaped to include pockets
11 of preserved trees, enhanced street frontage landscaping, garden courtyards, foundation and other
12 types of landscaping to reflect outdoor spaces and to blend with the natural vegetation. All
13 ornamental landscape beds and lawn areas will have supplemental irrigation. Flexibility of this
14 PUD plan allows for further refinement of site development, landscaping and preservation of
15 existing vegetation. Waterwise landscaping will be used where feasible.

16 (e) Signage – Residential portions of The Grand Reserve East development
17 may be identified by either one double-faced or two single faced entrance signs to be located at
18 each project entrance. Such signs may be lighted (with lighting directed away from traffic), and
19 shall be a maximum of six feet (6') tall, with a message area no greater than fifty (50) square feet
20 in size. Directional, identity, and information signs for recreation and other amenities will be
21 provided throughout the development, providing that none of these signs exceed six (6) square
22 feet in size, including advertising and/or for sale signs. Neighborhood identity signs may be
23 located along the main internal roads and shall be no larger than six feet (6') in height and thirty-
24 two (32) square feet of message area. All signage will be consistent and uniform in design. All
25 signs will comply with the setbacks and sight clearance requirements of the FCLDC.

1 (f) Site Development Requirements – The dimensional requirements within
2 The Grand Reserve East will be as set forth in the table at Section 5.3 below.

3 (g) Entry Features – Entrance/exit roadways to the development shall be
4 constructed from Roberts Road in the approximate location as shown on the Site Plan. The
5 Owner reserves the right to construct secured entry gates. Vehicular access shall be designed to
6 accommodate emergency vehicle access at both access locations, pursuant to dimensional
7 requirements defined by application of Flagler County Codes and Ordinances and section 4.2(c)
8 of this Agreement.

9 (h) Roadway Improvements – The Property is being developed with privately
10 maintained roads. Required right and left turn lanes and tapers meeting County Standards shall
11 be provided at the main entrance road. Off-site transportation improvements include the
12 Owner's participation in the Colbert Lane Fair Share Program for capacity improvements to
13 Colbert Lane including transitions. A final report including cost estimates and beneficiaries is
14 being finalized with the Owner, other property owners, Flagler County and the City of Palm
15 Coast. Proportionate share payments shall be based upon net external trip generation. The final
16 agreement shall provide for the amount and timing of Owner contributions as well as for
17 concurrency vesting and impact fee credits, as applicable.

18 (i) Open Space – A minimum of 20% of the Property will be open space,
19 including active and passive recreation, common areas, wetlands and trails. Pedestrian trails
20 shall be permitted throughout the Property.

21 (j) Pedestrian Access – A minimum of five foot (5') wide concrete sidewalks
22 will be constructed on one side of all major internal roads and cul-de-sacs to provide reasonable
23 access between residential structures and amenities, and for access and passive recreation needs.
24 A minimum eight foot (8') wide concrete sidewalk will also be constructed on the eastern right-
25

1 of-way of Roberts Road abutting and adjacent to the Property at the time of commencement of
2 infrastructure improvements on the subject property.

3 (k) Lighting – Decorative pole mounted lighting fixtures no more than 14' high
4 shall be provided throughout the Property. Additional landscape lighting may include low level
5 lighting and occasional accent lighting. The locations of such fixtures shall be further described
6 at the time of site development plan approval.

7 **5.0 Site Development Plan**

8 **5.1 Plan Overview** – The Site Plan depicts the general layout of The Grand Reserve
9 East, including the location of roads and development areas. All roads, utilities and stormwater
10 structures shall be constructed within five (5) years of approval of this Site Plan.

11 A preliminary plat for one or more of the residential areas of The Grand Reserve
12 East will be submitted within twelve (12) months from the effective date of this PUD
13 Agreement. The Project may be phased as shown on approved engineering drawings. Individual
14 phases may be developed separately so long as adequate infrastructure is in place to serve such
15 phase (including roads, water and sewer, and stormwater). The Final Plat shall not be approved
16 until the Roberts Road connection to Colbert Lane is under construction and scheduled for
17 completion. Alternatively, the Owner may bond and initiate construction of the sixty foot (60')
18 east-west collector being part of the Owner-owned property west of Roberts Road connecting
19 the Grand Reserve East development entrance to Colbert Lane.

20 **5.2 Zoning and Future Land Use Map (FLUM) Category** – The County's
21 Comprehensive Plan designates the Property as Residential-Low Density/Single Family (139.87
22 acres) and Conservation (26.02 acres). The Property is currently zoned PUD per Flagler County
23 Ordinance No. 2006-15.

1 **5.3 Site Development Requirements**

2 (a) The development will be in compliance with the land use aspects per the
3 Sea Ray Settlement Agreement. During such time as the Sea Ray Parcel is being used by Sea
4 Ray for the manufacturing and repair of boats, yachts, and other vessels, the Owner shall include
5 notification of the manufacturing and repair activities in all sales contracts, leases and deeds by
6 references to recorded declarations of covenants and restrictions.

7
8 (b) The Owner shall be responsible for the relocation of all Gopher Tortoises
9 utilizing the Florida Fish and Wildlife Conservation Commission's Standard Relocation Permit
10 and the County's Gopher Tortoise Relocation Standards attached as **Exhibit "C"**.

11 (c) The following table lists the site development requirements that are
12 applicable within the Property:

13 **Table of Site Development Requirements**

14

Type	Townhomes Attached	50 Foot SF Detached	60 Foot SF Detached	75 Foot SF Detached	Sales Trailer
Width	25' Min.**	50' Min.*	60' Min.*	75' Min.*	
Depth Min.	100'	100'	100'	100'	
Size Min. SF	2,500	5,000	6,000	7,500	
Min. Side Yard	0' (20' between buildings)	5'	5'	7.5'	5'
Min Front Setback	20'	20'	20'	20'	20'
Max Bldg. Height***	35'	35'	35'	35'	35'
Min. Rear Setback	5'	15'	15'	15'	5'
Max Lot Coverage	70%****	55%	45%	35%	15%

15 Notes:

16 * Single Family detached lots on cul-de-sacs and curves shall have a
17 minimum 35' width on the right-of-way frontage so long as the average lot width
18 equals the minimum for the lot type. Corner lots shall have a 15% greater width.
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1 The secondary road frontage (frontage without a driveway) shall have a 10'
2 setback.

3 ** Townhomes shall have a minimum front property line width of
4 25' including curves and cul-de-sacs.

5 *** Based on average roof height

6 **** This coverage is determined over the total area of Townhome Lots
7 combined for each Townhome Building.

8 Townhomes shall never total greater than 20% of the lots, limited to the location
9 indicated on the Site Plan. The 50 Foot Lots shall never total greater than 15% of the lots. The
10 number of Lots of each type will be shown on the accompanying Site Development Plan. Corner
11 lots shall be 15% wider than the minimum lot width provided above.

12 (d) Any structure shall have a minimum finished floor elevation of 1' above
13 the Base Flood Elevation (as shown on the Flood Insurance Rate Maps for Flagler County) or 1'
14 above the center line of the adjoining street, whichever is higher, including garages or other
15 uninhabited structures.

16 (e) All setbacks as stated above will be measured from the exterior wall to the
17 lot line at its closest point unless stated otherwise in this Agreement and will apply to principal
18 structures but not sidewalks, driveways, patios and similar non-vertical elements.

19 (f) A 250' green space buffer shall be provided along a one thousand five
20 hundred and twenty feet (1,520') portion of the northern boundary of the PUD as shown on the
21 Site Plan. The buffer shall serve as a light and noise buffer between the residential homes within
22 the PUD and the adjacent Sea Ray plant.

23 (g) Accessory structures such as swimming pools, screen enclosures and spas
24 shall be located in side or rear yards. The rear setbacks for accessory structures shall be five feet
25 (5') except ten feet (10') where the rear lot line abuts another residential lot. Side setbacks shall
be the applicable side setback for the lot type.

(h) No portion of any principal or accessory structure shall be located within
any easement.

1 5.4 Emergency Services – Fire protection requirements for the site will be met through
2 a system of fire hydrants installed on the site by the Owner in accordance with County standards.
3 The locations of fire hydrants will be shown on the final site plans. The water necessary for fire
4 protection will be provided and serviced by the City of Palm Coast.

5 5.5 Parking – A minimum of two (2) parking spaces per unit will be provided within
6 driveways for single family residences with a minimum space of eight feet (8') wide by twenty
7 feet (20') deep for each vehicle. Each attached single family unit shall provide off site parking as
8 required by the FCLDC.

9 5.6 Maintenance – The Common Areas and other land that are owned or controlled
10 by a property owner's association will be maintained by the property owner's association or
11 CDD.

12 5.7 Services – All services for the Property, including utilities, fire protection, solid
13 waste, telephone, electricity, cable television, fiber optics, and stormwater management shall be
14 provided by the responsible parties. All new utilities serving the project shall be installed
15 underground. Potable water and sanitary sewer will be provided by the City of Palm Coast
16 Utilities.

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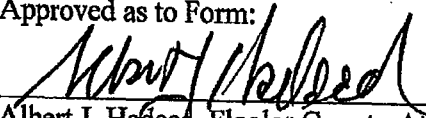
**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: _____
James M. O'Connell, Chairman

Signed this ___ day of _____, 2007

ATTEST:

By: _____
Gail Wadsworth, Clerk and
Ex-Officio Clerk to the Board

Approved as to Form:

Albert J. Hafeed, Flagler County Attorney

per Development Service

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OWNER'S/APPLICANT'S CONSENT AND COVENANT:

COMES NOW, the Owner on behalf of itself and its successors, assigns and transferees of any nature whatsoever, and consents to and agrees with the covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this PUD Agreement.

Dated _____, 2007 FLORIDA LANDMARK COMMUNITIES, INC.
a Florida corporation

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this ____ day of _____, 2007 by _____, as _____ of FLORIDA LANDMARK COMMUNITIES, INC. who is personally known to me or has produced a driver's license as identification.

Notary Public
My commission expires:

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OWNER'S/APPLICANT'S CONSENT AND COVENANT:

COMES NOW, the Owner on behalf of itself and its successors, assigns and transferees of any nature whatsoever, and consents to and agrees with the covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this PUD Agreement.

Dated _____, 2007 ROBERTS ROAD, LLC, a Florida limited liability company

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this ____ day of _____, 2007 by _____, as _____ of ROBERTS ROAD, LLC, who is personally known to me or has produced a driver's license as identification.

Notary Public
My commission expires:

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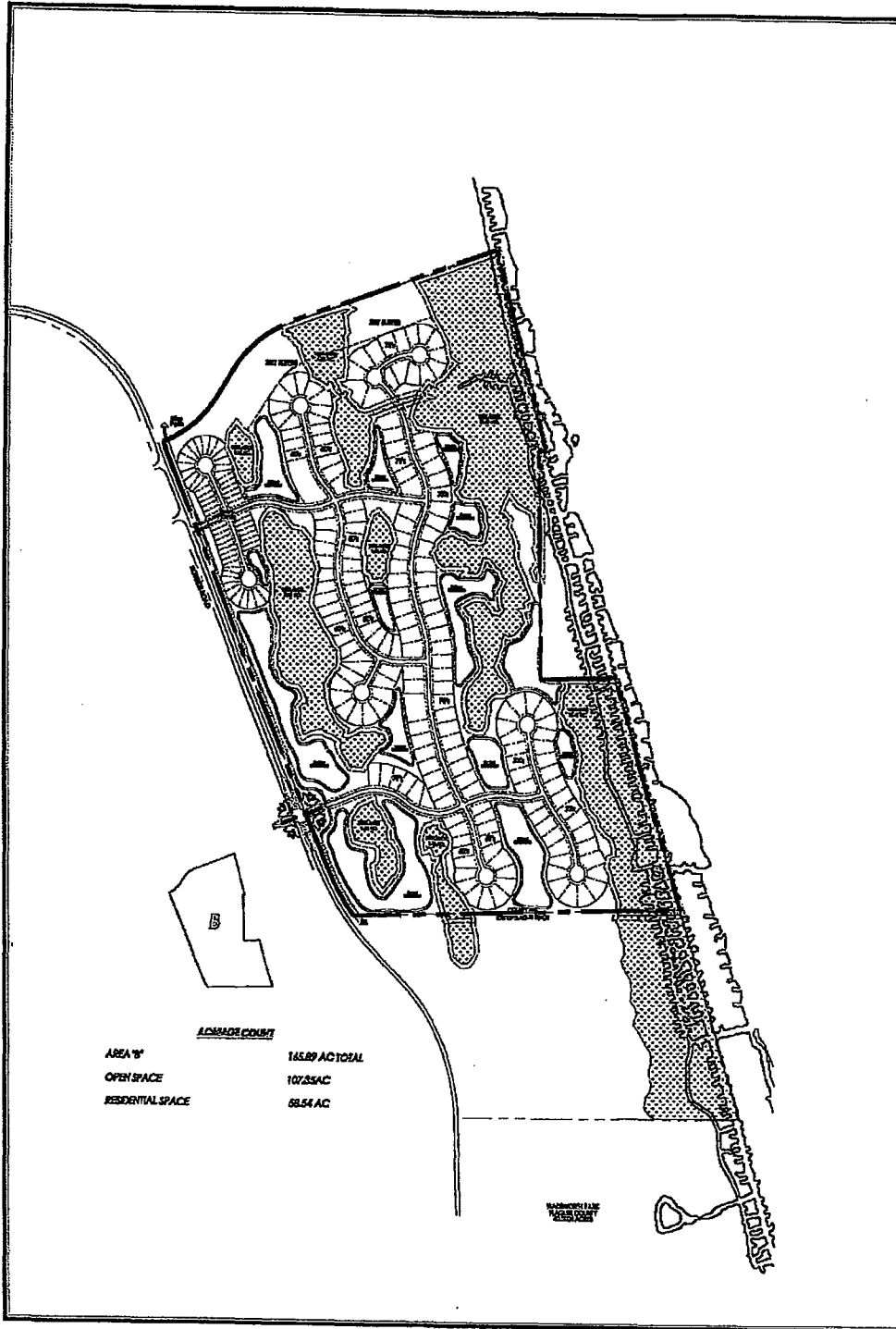
EXHIBIT "A"
LEGAL DESCRIPTION

DESCRIPTION:

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; A POINT OF REFERENCE BEING THE SOUTH QUARTER (1/4) CORNER OF SAID SECTION 2, THENCE NORTH 88°27'05" EAST A DISTANCE OF 119.90 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF ROBERTS ROAD (80' R/W) RECORDED IN OFFICIAL RECORDS BOOK 235, PAGES 947 THROUGH 949, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING THE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT BEING ON A CURVE, THENCE NORTHERLY 333.22 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE NORTHEASTERLY) HAVING A CENTRAL ANGLE OF 13°04'48", A RADIUS OF 1459.72 FEET, A CHORD BEARING OF NORTH 28°56'28" WEST AND A CHORD DISTANCE OF 332.50 FEET TO A POINT OF TANGENCY, THENCE NORTH 22°24'07" WEST ALONG THE EAST RIGHT-OF-WAY OF SAID ROBERTS ROAD A DISTANCE OF 2623.91 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SEA RAY ROAD, THENCE DEPARTING ROBERTS ROAD NORTH 67°35'53" EAST ALONG SAID SEA RAY ROAD A DISTANCE OF 21.00 FEET TO A POINT OF CURVATURE, THENCE 403.52 FEET ALONG THE ARC OF A CURVE TO THE LEFT (CONCAVE NORTHWESTERLY) HAVING A CENTRAL ANGLE OF 34°00'00", A RADIUS OF 680.00 FEET, A CHORD BEARING OF NORTH 50°35'53" EAST AND A CHORD DISTANCE OF 397.83 FEET TO A POINT OF TANGENCY, THENCE NORTH 33°35'53" EAST A DISTANCE OF 258.04 FEET TO A POINT OF CURVATURE, THENCE NORTHEASTERLY 97.07 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE SOUTHEASTERLY) HAVING A CENTRAL ANGLE OF 09°45'28", A RADIUS OF 570.00 FEET, A CHORD BEARING OF NORTH 38°28'37" EAST AND A CHORD DISTANCE OF 98.98 FEET TO A POINT ON THE WESTERLY BOUNDARY OF LAND NOW OR FORMERLY OWNED BY RAY INDUSTRIES RECORDED IN OFFICIAL RECORDS BOOK 241, PAGES 727 AND 728, THENCE SOUTH 46°38'27" EAST A DISTANCE OF 4.99 FEET TO A POINT BEING THE MOST SOUTHWESTERLY CORNER OF LAND NOW OR FORMERLY OWNED BY RAY INDUSTRIES SAID POINT BEING ON A CURVE, THENCE NORTHEASTERLY 270.33 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE SOUTHERLY) HAVING A CENTRAL ANGLE OF 27°24'51", A RADIUS OF 565.00 FEET, A CHORD BEARING OF NORTH 57°03'59" EAST AND A CHORD DISTANCE OF 287.78 FEET TO A POINT OF TANGENCY, THENCE NORTH 70°46'24" EAST ALONG THE SOUTHERLY BOUNDARY LINE OF SAID RAY INDUSTRIES LANDS A DISTANCE OF 1250.00 FEET, THENCE NORTH 70°46'35" EAST A DISTANCE OF 102.88 FEET TO A POINT ON THE WESTERLY BOUNDARY LINE OF THE PLAT RIVER OAKS, RECORDED IN MAP BOOK 27, PAGES 15 THROUGH 17, THENCE DEPARTING RAY INDUSTRIES LANDS SOUTH 11°46'35" EAST A DISTANCE OF 460.36 FEET, THENCE SOUTH 18°48'35" EAST A DISTANCE OF 740.00 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF LANDS RECORDED IN OFFICIAL RECORDS BOOK 231, PAGES 461 THROUGH 469, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, THENCE SOUTH 88°13'25" WEST A DISTANCE OF 42.48 FEET, THENCE SOUTH 01°05'56" EAST A DISTANCE OF 1319.27 FEET, THENCE NORTH 88°58'11" EAST ALONG THE SOUTH LINE OF SAID LANDS RECORDED IN OFFICIAL RECORDS BOOK (ORB) 231, PAGES 461 THROUGH 469, A DISTANCE OF 458.54 FEET, THENCE DEPARTING SAID LANDS AT ORB 231, SOUTH 16°32'55" EAST ALONG THE WESTERLY LINE OF RIVER OAKS A DISTANCE OF 1387.40 FEET TO A POINT ON THE SOUTHERLY LINE OF GOVERNMENT SECTION 2, THENCE DEPARTING RIVER OAKS SOUTH 88°27'05" WEST ALONG SAID SOUTHERLY LINE OF SECTION 2, A DISTANCE OF 2017.44 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 165.88 ACRES OF LAND MORE OR LESS.

**EXHIBIT "B"
SITE PLAN**



LandMar
GROUP, LLC

Exhibit "B"

Grand Reserve East Conceptual Site Plan

POWERS DESIGN
ARCHITECTS

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EXHIBIT "C"
FLAGLER COUNTY
GOPHER TORTOISE RELOCATION STANDARDS

The following standards shall apply to projects within the unincorporated area of Flagler County unless alternative standards are accepted by the Board of County Commissioners:

- a) If any gopher tortoise burrows are observed on site a 100% gopher tortoise survey will be required.
- b) All gopher tortoise burrows found shall be identified on said survey.
- c) A Management Plan or Relocation Plan shall be required for any activity within 25' of a burrow.
 - 1. Management Plans must provide for the relocation of any found gopher tortoises and/or their commensals, as FWC permits. Relocations on site are preferred. Onsite relocations shall require the receiving areas to be placed in a deed restriction in favor of the County or State or Federal agency and long term management plan. Said management plan shall also provide a funding mechanism approved by the County to ensure the management plan activities are adequately and securely funded. In addition, the receiving area must be appropriate gopher tortoise habitat.
 - 2. All onsite or offsite receiving areas must be approved by the County.
 - a) Receiving areas shall not have greater than an overall 60% canopy, shrub, or wiregrass cover.
 - b) Receiving area vegetative ground cover should consist of 80% or greater gopher tortoise forage species with moderate or greater diversity. Open areas not vegetated by herbaceous ground cover should not occupy greater than 20% of the receiving area.
 - c) Receiving area soils should be well drained, fine grained, with a low clay and organic content.
 - d) Receiving area water table should be at least 0.5 meters below the surface.
 - 3. All planting, vegetation removal, and prescribed burning necessary to prepare the site for gopher tortoise receipt shall be included in the Management Plan.
- d) The environmental consultant performing the relocation must be approved by Flagler County staff.
- e) Excavation of the burrow must be performed unless it is reasonably determined complete excavation is impossible due to proximity to utilities, property lines, or safety considerations. In such situations bucket traps may be utilized.
- f) Tortoises should be examined for symptoms of disease, parasites or malnutrition and appropriate data collected. During relocation tortoises should be placed in a plastic container with lid that allows air to flow freely. Open containers, group boxing, or general unsecured relocations are prohibited.

Attachment 2

Planning Board minutes from August 14, 2007 meeting (in part)

Application #2670 and #2687 – SDP and Amendment to DA for Grand Reserve East

FLAGLER COUNTY PLANNING BOARD
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
August 14, 2007
7:00 P.M.

MEMBERS PRESENT: *Clyde Duensing, Jr., Chairman; Dr. John Canakaris; Betty Jo Strickland; Thad Crowe and Barbara Revels.*

EXCUSED ABSENCE: *Robert Sgroi*

MEMBERS ABSENT: *William Kogut*

STAFF PRESENT: *Patrick Miller, Growth Management Director; Adam Mengel, Planning Director; Gina Lemon, Planner III; and Kati Chesser, Planner I*

BOARD COUNSEL: *Lisa Bosch, Deputy County Attorney*

1. Roll Call;

A quorum was obtained and Chairman Duensing opened the meeting at 7:00 PM.

2. The minutes from the July meeting and August meetings will be included in the September Planning Board packet.

3. Application #2721; APPEAL OF PLANNING DIRECTOR'S DECISION AND RELIEF FROM FLAGLER COUNTY LAND DEVELOPMENT CODE SECTIONS 7.00.01 & 7.00.02, SIGN COMPLIANCE; 1 and 2 Armand Beach Dr; Parcel # 20-10-31-0300-00020-0230 and 20-10-31-0300-00010-0010; containing 15,602 square feet; Owner/Applicant: Stajo Construction, Inc.
Project #2007070005 (PB)

Adam Mengel gave an overview of this situation which he said comes down to the fact that the owners believe that an incorrect decision was made regarding zoning and signs. They are asking for a permit due to a code enforcement complaint. Mr. Mengel did answer a question posed by Ms. Strickland that following discussion with the County Attorney that the Board does have some leeway in deciding this matter.

The Owner, Mr. Stan Rosenbaum indicates that he put the signs up in 1987 and he believes he received a permit at the time. He said that he has had the signs in the same place all of this time although he has updated their appearance over the years. He said there were complaints over the years and he worked with the County every time. He said he has also complied when asked with regard to road rights-of-way by clearing the swales and managed the vegetation growth. Mr. Rosenbaum said that there was no time limit placed on how long the signs could stay up when he was issued the original permit.

Deputy County Attorney, Lisa Bosch addressed the issue of grandfathering after the question was posed by Ms. Strickland. She said that in this case the Board must determine if changing the text or

FLAGLER COUNTY PLANNING BOARD
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
August 14, 2007
7:00 P.M.

10. ~~Application #2713: 15 FOOT 6 INCH ± FRONT YARD SETBACK VARIANCE TO ALLOW A TWO STORY MEDICAL CENTER TO ENCROACH INTO THE SETBACK AREA IN THE O-1 DISTRICT; 4366 N. Oceanshore Blvd; Parcel # 38-11-31-0000-02123-0000; containing 1.7± acres; Owner/Applicant: Hammock Cove Development, LLC; John Boback, Sr. Project #2007050047 (TRC, PB)~~

See notes in number 6 application #2712

A MOTION was made by Thad Crowe and SECONDED by Barbara Revels to approve variance with the following conditions

1. That the development be generally consistent with the site plan submitted
2. That the developer retain the services of an arborist to assist on site during the construction of the parking lot to insure protection of the life of the big trees
3. that the perimeter areas, buffer areas that the existing trees be preserved rather than planting new trees
4. That the parking lot have downcast lights not to exceed 12 feet in height with intensity to commercial low for this property.

MOTION CARRIED unanimously

11. Application #2670: SITE DEVELOPMENT PLAN IN A PUD (PLANNED UNIT DEVELOPMENT) DISTRICT FOR GRAND RESERVE EAST AND AMENDMENT TO GRAND RESERVE EAST DEVELOPMENT AGREEMENT; East of Roberts Rd within Section 02, Township 12 South, Range 31 East, Flagler County, Florida; parcel #'s 02-12-31-0000-01010-0140 & 0150 & 02-12-31-0000-01010-0141 & 0151; 176 single family residential lots on approximately 165.89± acres; Owners: Palm Coast Holdings, Inc and Roberts Road, LLC; Agent: Chris Hill, LandMar Group, Inc. Project #2006020058 (TRC, PB, BCC)

Staff notes were read indicating that the plan calls for 243 single family properties, 21 with 50' lots, 70 with 60' lots, 92 with 75' kits and 60 with 25' single family attached lots. This particular plan reduces the number of shared amenities between Grand Reserve East and West and gives some time frames for the improvements in Roberts Road. Adam did report that there is a confidential agreement between the developer and Sea Ray pertaining to the buffer that will be built on the North side by the Sea Ray property. Betty Jo Strickland said that she thought that each property owner's deed was to note that Sea Ray was there first and took precedence. Barbara Revels noted that if you buy a piece of property in Flagler Beach that is in tourist/commercial area you must appear before the commission where they let you know that if you want to build a house you are not to come back and complain about the commercial site sometime in the future. The group felt that a separate disclosure of commercial lands letter was a good idea in addition to language in the development agreement. Adam noted that they did have some acknowledgement language to lot owners but it is not enforceable by the County, "Please be aware, here's what's out there and we have a strong interest in maintaining that use."

Chris Hill, Agent for LandMar Group said that he would like to have language that was consistent with the Harbor Village development with regard to Sea Ray. That agreement said that the home owner signs an acknowledgment that they were notified of the commercial land. He also noted that there

FLAGLER COUNTY PLANNING BOARD
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
August 14, 2007
7:00 P.M.

were substantial park and recreation lands built into the project including retention ponds which was in answer to a concern by the Chair.

The Chair opened the Public Hearing

There were no comments from the public.

A MOTION was made by Thad Crowe and SECONDED by Betty Jo Strickland to approve the application #2670 and #2687 noting staff conditions and also conditions that the development agreement add a separate clause regarding owner notification using the same language that was approved in the Marina Village approval and that the pocket park be shown in detail.

MOTION CARRIED unanimously

12. **Application #2646: PRELIMINARY PLAT IN A PUD (PLANNED UNIT DEVELOPMENT) DISTRICT FOR GRAND RESERVE EAST; East of Roberts Rd within Section 02, Township 12 South, Range 31 East, Flagler County, Florida; Parcel #'s 02-12-31-0000-01010-0140 & 0150 & 02-12-31-0000-01010-0141 & 0151; 176 single family residential lots on approximately 165.89± acres; Owners: Palm Coast Holdings, Inc and Roberts Road, LLC; Agent: Chris Hill, LandMar Group.**
Project #2006020058 (TRC, PB, BCC)

Adam Mengel noted that this application is for 167 lots that will be between 7,500 and 15,901 square feet and another 16 lots that will be 6,250 to 7,371 square feet. All will be single family unattached home sites. Adam said that he staff recommends approval of this application with a waiver of a minimum requirement for lawn side curbs.

The Board discussed the need for additional detail about pocket parks be added to the site maps before the BOCC reviews this proposal.

The Chair opened the Public Hearing

There were no comments from the public.

A MOTION was made by Thad Crowe and SECONDED by Betty Jo Strickland to approve the application #2646 including the need for the curb waiver and that the applicant and staff work together to provide more detail for the system of pocket parks and park facilities prior to taking the application to the BOCC

MOTION CARRIED unanimously

13. Staff Comments

Patrick Miller announced that the BCC will be holding a special joint meeting on Monday, October 15 at 2:30 PM and they will meet with the Planning Board following that meeting. Additionally, the BCC will taking up creation of the Steering Committee as part the Planning Works Contract at their next meeting.

Attachment 3

Application and Supporting Documents

Application #2670 and #2687 – SDP and Amendment to DA for Grand Reserve East



APPLICATION FOR SITE DEVELOPMENT PLAN REVIEW IN A PUD

FLAGLER COUNTY, FLORIDA

1200 E. Moody Boulevard, #2

Bunnell, FL 32110

Telephone: (386) 437-7484 Fax: (386) 437-7488

Application/Project #: 2670 / 2006020058

PROPERTY OWNER(S)	Name(s):	ROBERTS ROAD LLC / PALM COAST HOLDINGS		
	Mailing Address:	7 SANDPIPER CT.		
	City: <u>Palm Coast</u>	State: <u>FLORIDA</u>	Zip: <u>32164</u>	
	Telephone Number	<u>(386) 446-6428</u>	Fax Number	<u>(386) 447-2125</u>

APPLICANT /AGENT	Name(s):	ROBERTS RD. LLC		
	Mailing Address:	7 SANDPIPER CT.		
	City: <u>Palm Coast</u>	State: <u>FLORIDA</u>	Zip: <u>32164</u>	
	Telephone Number	<u>(386) 446-6428</u>	Fax Number	<u>(386) 447-2125</u>

SUBJECT PROPERTY	SITE LOCATION (street address):	ROBERTS ROAD		
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")	SECTION 2, TOWNSHIP 12 SOUTH, RANGE 51 EAST		
	Parcel # (tax ID #):	<u>021231-0000-01010-0140</u>	<u>02-12-31-0000-01010-0150</u>	
		<u>021231-0000-01010-0141</u>	<u>02-12-31-0000-01010-0151</u>	
	Parcel Size:	<u>27.25 = 0140, 9.01 AC = 0141, 158.63 AC = 0150, 79.78 AC = 0151</u>		
	Current Zoning Classification:	<u>PUD</u>		
Current Future Land Use Designation:	<u>Low Density Residential</u>			
Subject to A1A Scenic Corridor IDO?	YES		<u>NO</u>	

PURPOSE OF SUBMISSION / PROJECT DATA:

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

Date

RECEIVED

FEB 20 2007

****OFFICIAL USE ONLY****

Flagler County Planning & Zoning Dept.

PLANNING BOARD RECOMMENDATION/ACTION:

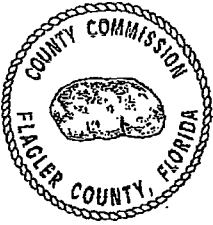
APPROVED []
APPROVED WITH CONDITIONS []
DENIED []
Signature of Chairman: [Signature] Date: _____
8-14-07 *approved with conditions, see attached.

BOARD OF COUNTY COMMISSIONERS ACTION:

APPROVED []
APPROVED WITH CONDITIONS []
DENIED []
Signature of Chairman: _____ Date: _____
*approved with conditions, see attached.

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

Rev. 03/06



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1200 E. Moody Boulevard, #2

Bunnell, FL 32110

Telephone: (386) 437-7484 Fax: (386) 437-7488

Application/Project # _____

Jim Collins is hereby authorized TO ACT ON BEHALF OF Florida Landmark Communities, Inc 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: William Livingston
Signature of Owner

William I. Livingston-Division President
Printed Name of Owner / Title (if owner is corporation or partnership)

Signature of Owner

Printed Name of Owner

Address of Owner:
1 Corporate Drive, Suite 3A
Mailing Address

Telephone Number (incl. area code)
(386) 446-6226

Palm Coast, Florida 32137
City State Zip

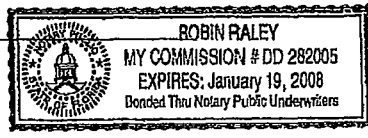
RECEIVED
FEB 20 2007

STATE OF Florida
COUNTY OF Flagler

Flagler County Planning & Zoning Dept.

The foregoing was acknowledged before me this 9th day of February, 2007 by William I. Livingston and _____ who is/are personally known to me or who has produced _____ as identification, and who (did) / (did not) take an oath.

Robin Raley
Signature of Notary Public



(Notary Stamp)

RECEIVED

FEB 20 2007

PREPARED BY AND RETURN TO:
Michael D. Chiumento, Esquire
Chiumento & Associates, P.A.
4 Old Kings Road North
Palm Coast, Florida 32137
Attn: Kelly DeVore

Flagler County Planning & Zoning Dept.

Property Appraisers Parcel
Identification Numbers
021231-0000-01010-0140;
021231-0000-01010-0150;

Inst No: 2006049951 10/03/2006
11:42AM Book: 1491 Page: 587 Total Pgs: 3
Doc Stamp-Deed \$8787.10
GAIL WADSWORTH, FLAGLER Co.

WARRANTY DEED

THIS INDENTURE, Made this 29th day of September, 2006, **Florida Landmark Communities, Inc.**, a Florida corporation, successor by merger to **Palm Coast Holdings, Inc.**, 1 Corporate Drive, Suite 3A, Palm Coast, FL 32137-4715, hereinafter called the Grantor, to **Roberts Road, LLC**, a Delaware limited liability company, whose post office address is 10739 Deerwood Park Blvd., Suite 300, Jacksonville, FL 32256, hereinafter called the Grantee:

WITNESSETH, That said Grantor, for and in consideration of the sum of \$10.00 and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, all that certain land situate in Flagler County, Florida, to-wit:

See Attached Exhibit "A"

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

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

SUBJECT TO taxes and assessments for the year 2006 and subsequent years; covenants, declarations, easements, restrictions, reservations and assessments of record if any.

AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2005.

IN WITNESS WHEREOF, the Grantor has signed sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Eileen L. Linahan
Witness Name: Eileen L. Linahan

Danielle M. Dahl
Witness Name: Danielle M. Dahl

Florida Landmark Communities, Inc., a Florida corporation, successor by merger to Palm Coast Holdings, Inc.

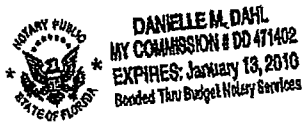
By: William I. Livingston
William I. Livingston, Division President

(Corporate Seal)

State of Florida
County of Flagler

The foregoing instrument was acknowledged before me this 29th day of September, 2006 by William I. Livingston, Division President of Florida Landmark Communities, Inc., a Florida corporation, on behalf of the corporation. He/she [X] is personally known to me or [] has produced a driver's license as identification.

[Notary Seal]



Danielle M. Dahl
Notary Public

Printed Name: Danielle M. Dahl

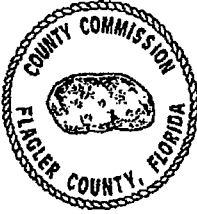
My Commission Expires: 1/13/2010

EXHIBIT A

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE SOUTH QUARTER (1/4) CORNER OF SAID SECTION 2, THENCE NORTH 88°27'05" EAST A DISTANCE OF 119.90 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF ROBERTS ROAD (08'R/W) RECORDED IN OFFICIAL RECORDS BOOK 235, PAGES 947 THROUGH 949, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. SAID POINT BEING THE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT BEING ON A CURVE, THENCE NORTHERLY 333.22 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE NORTHEASTERLY) HAVING A CENTRAL ANGLE OF 13°04'46", A RADIUS OF 1459.72 FEET, A CHORD BEARING OF NORTH 28°56'29" WEST AND A CHORD DISTANCE OF 332.50 FEET TO A POINT OF TANGENCY, THENCE NORTH 22°24'07" WEST ALONG THE EAST RIGHT-OF-WAY OF SAID ROBERTS ROAD A DISTANCE OF 1207.74 FEET, THENCE NORTH 67°35'54" EAST, LEAVING SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1915.84 FEET TO A POINT ON THE WESTERLY BOUNDARY LINE OF LANDS RECORDED IN OFFICIAL RECORDS BOOK 231, PAGES 461 THROUGH 469, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, THENCE SOUTH 01°05'56" EAST, ALONG SAID WESTERLY BOUNDARY LINE, A DISTANCE OF 761.78 FEET, THENCE NORTH 88°58'11" EAST ALONG THE SOUTH LINE OF SAID LANDS RECORDED IN OFFICIAL RECORDS BOOK (ORB) 231, PAGES 461 THROUGH 469, A DISTANCE OF 456.54 FEET, THENCE DEPARTING SAID LANDS AT O.R. Book , Page , 231, SOUTH 16°32'55" EAST ALONG THE WESTERLY LINE OF RIVER OAKS A DISTANCE OF 1387.40 FEET TO A POINT ON THE SOUTHERLY LINE OF GOVERNMENT SECTION 2, THENCE DEPARTING RIVER OAKS SOUTH 88°27'05" WEST ALONG SAID SOUTHERLY LINE OF SECTION 2, A DISTANCE OF 2017.44 FEET TO THE POINT OF BEGINNING.

422



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1200 E. Moody Boulevard, #2
Bunnell, FL 32110

Telephone: (386) 437-7484 Fax: (386) 437-7488

Application/Project # 2670/200602.0058

Tim Cullis, is hereby authorized TO ACT ON BEHALF
OF Palm Coast Holdings, 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: William Livingston - President
Signature of Owner

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

[Signature]
Signature of Owner

Tim Cullis
Printed Name of Owner

Address of Owner: _____

Telephone Number (incl. area code) _____

Mailing Address _____

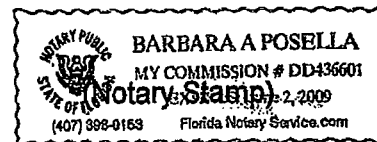
City _____ State _____ Zip _____

STATE OF _____

COUNTY OF _____

The foregoing was acknowledged before me this 30th day of November,
2006 by William Livingston and Tim Cullis
who is/are personally known to me or who has produced
as identification, and who (did) / (did not) take an oath.

[Signature]
Signature of Notary Public



RM PCAT

This Document Prepared by:
Robert G. Cuff
1 Corporate Drive
Palm Coast, FL 32151

Inst No: 96005714 Date: 04/11/1996
Doc Stamp-Deed : 0.70
SYD CROSSBY FLAGLER County
By: *[Signature]*, D.C. Time: 15:09:3

QUIT CLAIM DEED

THIS QUIT CLAIM DEED is executed this 4th day of April, 1996, by ITT COMMUNITY DEVELOPMENT CORPORATION, a Delaware corporation (Grantor) to PALM COAST HOLDINGS, INC., a Florida corporation (Grantee), whose post office address is 1 Corporate Drive, Palm Coast, Florida 32151.

OFF REC 0553 PAGE 1841
Reserved for Recording Information

WITNESSETH, that the Grantor, for and in consideration of the sum of \$1.00 and other valuable consideration, in hand paid by the Grantee, the receipt whereof is acknowledged, does hereby remise, release and quit claim to the Grantee forever, all the right, title, interest, claim and demand which the Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Flagler, State of Florida, which lot, piece or parcel of land is more particularly described as follows:

SEE THE ATTACHED EXHIBIT A

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the real estate, right, title, interest, lien, equity and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behoof of the Grantee forever.

IN WITNESS WHEREOF, the Grantor has signed and sealed these presents the day and year first above written.

WITNESS:

ITT COMMUNITY DEVELOPMENT CORPORATION

[Signature]
Victoria P. Gard

By: *[Signature]*
Exec. Vice President - Lawrence G. Martin

[Signature]
Debra K. Register

Attest: *[Signature]*
Secretary - Robert G. Cuff

(CORPORATE SEAL)

Address for all signatories is:
ITT Community Development Corporation
1 Corporate Drive
Palm Coast, Florida 32151



WITNESS:

ITT LAND CORPORATION

[Signature]
Victoria P. Gard

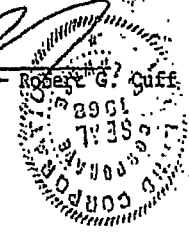
By: *[Signature]*
President - President

[Signature]
Debra K. Register

Attest: *[Signature]*
Secretary - Robert G. Cuff

(CORPORATE SEAL)

Address for all signatories is:
ITT Land Corporation
1 Corporate Drive
Palm Coast, Florida 32151



(SIGNATURES AND ACKNOWLEDGMENTS CONTINUED ON NEXT PAGE)

WITNESS:

WADSWORTH LAND COMPANY REC 0553 PAGE 1842

Victoria P. Gard
Victoria P. Gard

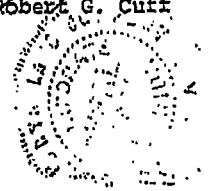
By: James E. Gardner
President - President

Debra K. Register
Debra K. Register

Attest: Robert G. Cuff
Secretary - Robert G. Cuff

(CORPORATE SEAL)

Address for all signatories is:
Wadsworth Land Company
1 Corporate Drive
Palm Coast, Florida 32151



WITNESS:

CORPROP A&F, INC.

Victoria P. Gard
Victoria P. Gard

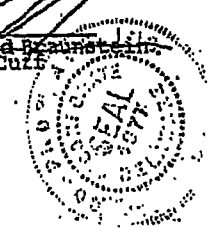
By: James E. Gardner
Vice President - Robert G. Cuff
President - James E. Gardner

Debra K. Register
Debra K. Register

Attest: Richard Braunstein
Assistant Secretary - Richard Braunstein
Secretary - Robert G. Cuff

(CORPORATE SEAL)

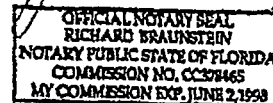
Address for all signatories is:
Corprop A&F, Inc.
1 Corporate Drive
Palm Coast, Florida 32151



STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 4th day of April, 1996 by Lawrence G. Martin and Robert G. Cuff Exec. Vice President and Richard Braunstein Secretary respectively, of ITT COMMUNITY DEVELOPMENT CORPORATION, a Delaware corporation, on behalf of the corporation. They are personally known to me and did not take an oath.

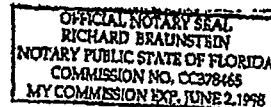
Richard Braunstein
NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires:



STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 4th day of April, 1996 by Lawrence G. Martin and Robert G. Cuff President and Richard Braunstein Secretary respectively, of ITT LAND CORPORATION, a Delaware corporation, on behalf of the corporation. They are personally known to me and did not take an oath.

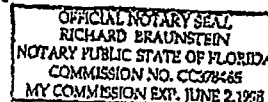
Richard Braunstein
NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires:



STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 4th day of April, 1996 by James E. Gardner and Robert G. Cuff President and Richard Braunstein Secretary respectively, of WADSWORTH LAND COMPANY, a Florida corporation, on behalf of the corporation. They are personally known to me and did not take an oath.

Richard Braunstein
NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires:

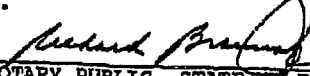


(ACKNOWLEDGEMENTS CONTINUED ON NEXT PAGE)

STATE OF FLORIDA
COUNTY OF FLAGLER

OFF REC 0553 PAGE 1843

The foregoing instrument was acknowledged before me this 4th day of April, 1996 by ~~James E. Gardner~~ ^{Robert G. Cull} and ~~Richard Braunstein~~ ^{Richard Braunstein}, ~~was~~ President and ~~Assistant~~ Secretary respectively, of CORPROP A&F, INC., a Delaware corporation, on behalf of the corporation. They are personally known to me and did not take an oath.


NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires:

OFFICIAL NOTARY SEAL
RICHARD BRAUNSTEIN
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC78165
MY COMMISSION EXPI. JUNE 2, 1997

COPY

The following Legal Description prepared by Clyde W. Roesch, Palm Coast Engineering and Design Services, Inc. 1 Corporate Drive, Palm Coast, Florida.

Date; April 4, 1996.

Portion of the Intracoastal Waterway;

DESCRIPTION:

A parcel of land being the westerly 250.00 feet of the 500 foot wide right-of-way of the Intracoastal Waterway recorded in Map Book 4, Pages 1 through 19, lying adjacent to lands for spoil easement recorded in Official Records Book 455, Pages 769 through 770, of the Public Records of Flagler County, Florida, said parcel lying within Government Sections 10, and 15, Township 11 South, Range 31 East, Flagler County, Florida.

Parcel containing 11.0 acres more or less.

COPY

The following Legal Description prepared by Clyde W. Roesch, Palm Coast Engineering and Design Services, Inc. 1 Corporate Drive, Palm Coast, Florida.

Date: April 4, 1996.

Portion of the Intracoastal Waterway;

DESCRIPTION:

A parcel of land being the westerly 250.00 feet of the 500 foot wide right-of-way of the Intracoastal Waterway as recorded in Map Book 4, Pages 1 through 19, lying within Government Sections 26, and 35, and that portion within the South 1/2 of Government Sections 22 and 23, Township 11 South, Range 31 East, Flagler County, Florida, less and except that portion lying within Government Lot 4, Section 26, Township 11 South, Range 31 East, also less and except that portion lying adjacent to and within the Flagler County Park recorded in Official Records Book 455, Pages 769 through 770, of the Public Records of Flagler County, Florida.

Parcel containing 64.6 acres more or less.

COPY

The following Legal Description prepared by Clyde W. Roesch, Palm Coast Engineering and Design Services, Inc. 1 Corporate Drive, Palm Coast, Florida.

Date; April 4, 1996.

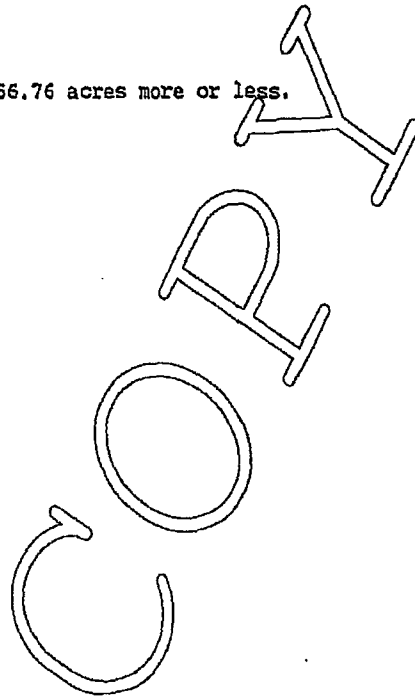
Portion of the Intracoastal Waterway;

DESCRIPTION:

A parcel of land lying within a portion of Government Sections 29 and 32, Township 10 South, Range 31 East, and Sections 5, 37 and 38, Township 11 South, Range 31 East, Flagler County, Florida, being the westerly 250.00 feet of the 500 foot wide right-of-way of the Intracoastal Waterway lying East of the following described baseline;

A POINT OF REFERENCE being Northwest Corner of Section 38, Township 11 South, Range 31 East, thence North 49°36'52" East along the North line of Section 38 a distance of 485.86 feet, thence North 69°10'12" East a distance of 56.01 feet to a point on the West right-of-way line of the Intracoastal Waterway (500'R/W) and the POINT OF BEGINNING of this baseline, thence northerly along said West right-of-way line the following courses North 20°35'54" West a distance of 1607.83 feet, thence North 26°08'59" West a distance of 1448.63 feet, thence North 17°01'26" West a distance of 1806.10 feet, thence South 89°26'16" West a distance of 16.00 feet, thence North 17°34'44" West a distance of 660.39 feet, thence North 89°21'55" East a distance of 16.70 feet, thence North 19°06'03" West a distance of 3000.53 feet, thence North 09°51'40" West a distance of 1194.19 feet, thence North 17°52'27" West a distance of 172.21 feet to a point on the South line of Cochise Waterway and the Terminus of this description.

Parcel containing 56.76 acres more or less.

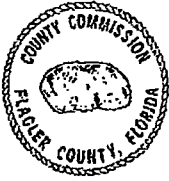


Legal Description

27.25 AC LYING S OF SEA RAY ENTRANCE RD ON E SIDE OF ROBERTS ROAD,
BOUNDED ON A S & E BY PCHI #430 OR 553 PG 1539 PART #529

AND

138.63 AC BOUNDED ON N BY SEA RAY, ON W BY PCHI #529, ON S & E BY S
SEC 2 LINE AND CITY LIMITS OR 553 PG 1799 PART #530



APPLICATION FOR REVIEW

FLAGLER COUNTY, FLORIDA

1200 E. Moody Boulevard, #2

Bunnell, FL 32110

Telephone: (386) 437-7484

Fax: (386) 437-7488

Application/Project #:

2007 / 2006020058

PROPERTY OWNER(S):	Name(s):	ROBERTS RD LLC & PALM COAST HOLDINGS		
	Mailing Address:	10739 DEERWOOD PARK BLVD		
	City:	JACKSONVILLE	State:	FL Zip: 32256
	Telephone Number	(386) 446-6428	Fax Number	(386) 447-2125

APPLICANT(S):	Name(s):	JIM COLLIS		
	Mailing Address:	7 SANDPIPER CT.		
	City:	PALM COAST	State:	FL Zip: 32137
	Telephone Number	(386) 446-6428	Fax Number	(386) 447-2125

SUBJECT PROPERTY:	SITE LOCATION (street address):	ROBERTS ROAD		
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")	SECTION 2, TOWN 12, RANGE 31 EAST		
	Parcel # (tax ID #):	02-12-31-0000-01010-0151 / 02-12-31-0000-01010-0150		
	Parcel Size:	165.89 AC +/-		
	Current Zoning Classification:	PDD		
	Current Future Land Use Designation			
	Subject to A1A Scenic Corridor?	YES	<input checked="" type="radio"/> NO	

PURPOSE OF SUBMISSION / PROJECT DATA: AMENDMENT TO ~~REZ~~ DEVELOPMENT Agreement for Grand Reserve EAST.

Signature of Owner(s) or Applicant/Agent if Owner Authorization form attached: _____ Date: 1-29-07

****OFFICIAL USE ONLY****

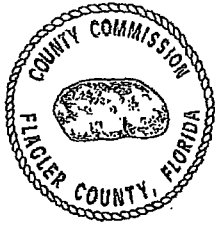
PLANNING BOARD RECOMMENDATION/ACTION:

Signature of Chairman: [Signature] Date: _____
*APPROVED WITH CONDITIONS DENIED
*approved with conditions, see attached.

****OFFICIAL USE ONLY****

BOARD OF COUNTY COMMISSIONERS ACTION:

Signature of Chairman: _____ Date: _____
*APPROVED WITH CONDITIONS DENIED
*approved with conditions, see attached.
Required Attachments: _____



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1200 E. Moody Boulevard, #2

Bunnell, FL 32110

Telephone: (386) 437-7484 Fax: (386) 437-7488

Application/Project # _____

Jim Collis is hereby authorized TO ACT ON BEHALF OF Florida Landmark Communities, Inc. 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: William Livingston Signature of Owner

William I. Livingston-Division President Printed Name of Owner / Title (if owner is corporation or partnership)

Signature of Owner

Printed Name of Owner

Address of Owner:

Telephone Number (incl. area code)

1 Corporate Drive, Suite 3A Mailing Address

(386) 446-6226

Palm Coast, Florida 32137 City State Zip

RECEIVED

FEB 20 2007

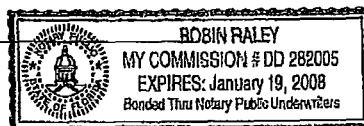
STATE OF Florida

Flagler County Planning & Zoning Dept.

COUNTY OF Flagler

The foregoing was acknowledged before me this 9th day of February, 2007 by William I. Livingston and who is/are personally known to me or who has produced as identification, and who (did) / (did not) take an oath.

Robin Raley Signature of Notary Public



(Notary Stamp)

RECEIVED

FEB 20 2007

PREPARED BY AND RETURN TO:

Michael D. Chiumento, Esquire
Chiumento & Associates, P.A.
4 Old Kings Road North
Palm Coast, Florida 32137
Attn: Kelly DeVore

Flagler County Planning & Zoning Dept.

Property Appraisers Parcel
Identification Numbers
021231-0000-01010-0140;
021231-0000-01010-0150;

Inst No: 2006049961 10/03/2006
11:42AM Book: 1491 Page: 587 Total Pgs: 3
Doc Stamp-Deed \$8767.10
GAIL WADSWORTH, FLAGLER Co.

WARRANTY DEED

THIS INDENTURE, Made this 29th day of September, 2006, Florida Landmark Communities, Inc., a Florida corporation, successor by merger to Palm Coast Holdings, Inc., 1 Corporate Drive, Suite 3A, Palm Coast, FL 32137-4715, hereinafter called the Grantor, to Roberts Road, LLC, a Delaware limited liability company, whose post office address is 10739 Deerwood Park Blvd., Suite 300, Jacksonville, FL 32256, hereinafter called the Grantee:

WITNESSETH, That said Grantor, for and in consideration of the sum of \$10.00 and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, all that certain land situate in Flagler County, Florida, to-wit:

See Attached Exhibit "A"

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

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

SUBJECT TO taxes and assessments for the year 2006 and subsequent years; covenants, declarations, easements, restrictions, reservations and assessments of record if any.

AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2005.

IN WITNESS WHEREOF, the Grantor has signed sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Florida Landmark Communities, Inc., a Florida corporation, successor by merger to Palm Coast Holdings, Inc.

Eileen L. Inahan
Witness Name: Eileen L. Inahan

By: William I. Livingston
William I. Livingston, Division President

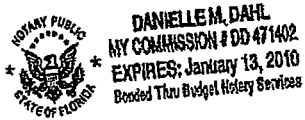
Danielle M. Dahl
Witness Name: Danielle M. Dahl

(Corporate Seal)

State of Florida
County of Flagler

The foregoing instrument was acknowledged before me this 29th day of September, 2006 by William I. Livingston, Division President of Florida Landmark Communities, Inc., a Florida corporation, on behalf of the corporation. He/she [X] is personally known to me or [] has produced a driver's license as identification.

[Notary Seal]



Danielle M. Dahl
Notary Public

Printed Name: Danielle M. Dahl

My Commission Expires: 1/13/2010

EXHIBIT A

A PARCEL OF LAND LYING WITHIN GOVERNMENT SECTION 2, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE SOUTH QUARTER (1/4) CORNER OF SAID SECTION 2, THENCE NORTH 88°27'05" EAST A DISTANCE OF 119.90 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF ROBERTS ROAD (08'R/W) RECORDED IN OFFICIAL RECORDS BOOK 235, PAGES 947 THROUGH 949, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA. SAID POINT BEING THE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT BEING ON A CURVE, THENCE NORTHERLY 333.22 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE NORTHEASTERLY) HAVING A CENTRAL ANGLE OF 13°04'46", A RADIUS OF 1459.72 FEET, A CHORD BEARING OF NORTH 28°56'29" WEST AND A CHORD DISTANCE OF 332.50 FEET TO A POINT OF TANGENCY, THENCE NORTH 22°24'07" WEST ALONG THE EAST RIGHT-OF-WAY OF SAID ROBERTS ROAD A DISTANCE OF 1207.74 FEET, THENCE NORTH 67°35'54" EAST, LEAVING SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1915.84 FEET TO A POINT ON THE WESTERLY BOUNDARY LINE OF LANDS RECORDED IN OFFICIAL RECORDS BOOK 231, PAGES 461 THROUGH 469, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, THENCE SOUTH 01°05'56" EAST, ALONG SAID WESTERLY BOUNDARY LINE, A DISTANCE OF 761.78 FEET, THENCE NORTH 88°58'11" EAST ALONG THE SOUTH LINE OF SAID LANDS RECORDED IN OFFICIAL RECORDS BOOK (ORB) 231, PAGES 461 THROUGH 469, A DISTANCE OF 456.54 FEET, THENCE DEPARTING SAID LANDS AT O.R. Book, Page, 231, SOUTH 16°32'55" EAST ALONG THE WESTERLY LINE OF RIVER OAKS A DISTANCE OF 1387.40 FEET TO A POINT ON THE SOUTHERLY LINE OF GOVERNMENT SECTION 2, THENCE DEPARTING RIVER OAKS SOUTH 88°27'05" WEST ALONG SAID SOUTHERLY LINE OF SECTION 2, A DISTANCE OF 2017.44 FEET TO THE POINT OF BEGINNING.

Attachment 4

Public Notice dated November 10, 2007

Application #2670 and #2687 – SDP and Amendment to DA for Grand Reserve East

...FILED WITH BEING COPIES OF THE ... stored and printed by the District. Further, pursuant to this District's Statement of Agency Organization and Operation, attempting to file a petition by facsimile is prohibited and shall not constitute filing. Failure to file a petition for an administrative hearing within the requisite time frame shall constitute a waiver of the right to an administrative hearing. (Rule 28-106.11, F.A.C.)

The right to an administrative hearing and the relevant procedures to be followed are governed by Chapter 120, Florida Statutes, Chapter 28-106, F.A.C., and Rule 40C1.007, F.A.C. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means the District's final action may be different from the position taken by it in this notice. A person whose substantial interests are or may be affected by the District's final action has the right to become a party to the proceeding, in accordance with the requirements set forth above.

Gloria Lewis, Director
Division of Regulatory
Information Management
St. Johns River Water
Management District
Legal NT5923, Nov. 10, 2007 ft.

LEGAL ADVERTISEMENT

IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT IN AND FOR FLAGLER COUNTY, FLORIDA GENERAL JURISDICTION CASE NO.: 08-00278 CA.

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES ACE 2005-HES PLAINTIFF vs. MARGARITA HARRIS; UNKNOWN SPOUSE OF MARGARITA HARRIS; IRVIN BENJAMIN; UNKNOWN SPOUSE OF IRVIN BENJAMIN IF ANY; ANY AND ALL UNKNOWN PARTIES CLAIMING BY THROUGH UNDER AND AGAINST THE HEREIN NAMED INDIVIDUAL DEFENDANTS WHO ARE KNOWN TO BE DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES MAY CLAIM AN INTEREST AS SPOUSES, HEIRS, DEVISEES OR OTHER CLAIMANTS; PALM COAST COMMUNITY SERVICE CORPORATION; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; JOHN DOE AND JANE DOE AS UNKNOWN TENANTS IN POSSESSION DEFENDANT(S)

NOTICE OF FORECLOSURE SALE NOTICE IS HEREBY GIVEN pursuant to a Summary Final Judgment of Foreclosure dated October 26, 2007, entered in Civil Case No. 06-00278 CA, of the Circuit Court of the Seventh Judicial Circuit in and for FLAGLER COUNTY, BUNNELL, Florida. I will sell to the highest and best bidder for cash at the 2nd Floor, Civil/Criminal Dept. at the FLAGLER COUNTY Courthouse located at 1769 E. Moody Boulevard, Bldg. #1, in BUNNELL, Florida at 11:00 a.m. on the 26th day of December 2007 the following described property as set forth in said summary final judgment to-wit:

LOT 5, OF BLOCK 50, OF PALM COAST MAP OF BELLE TERRE SECTION 35 ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 11, PAGES 2-26, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA

Any person claiming an interest in the surplus from the sale, if any, other than the property owner as of the date of the bid pendens, must file a claim within 60 days after the sale.

Dated this 30th day of October 2007.

GAIL WADSWORTH
Clerk of the Circuit Court
By: Diane Slesser
Deputy Clerk

The Law Offices of
DAVID J. STERN, P.A.
Attorney for Plaintiff
801 S. University Drive Suite 500
Plantation, FL 33324
(954) 233-8000

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, persons with disabilities needing a special accommodation should contact COURT ADMINISTRATION at the FLAGLER County Courthouse at 1-800-955-8771 (TDD) or 1-904-955-8770, via Florida Relay Service.
Legal NT5927, Nov. 10, 2007 2t.

South Dixie Highway, Box 510
Miami, Florida 33156 (805)
870-2289, within 30 days after the first publication of the notice, and to file original with the clerk of this Court either before service on SPEAR AND HOFFMAN, P.A., attorneys, or immediately thereafter, otherwise a default will be entered against you for the relief demanded in the Complaint or Petition.

WITNESS my hand and seal of this Court on this 2nd day of November 2007.

GAIL WADSWORTH
As Clerk of the Court
By: Angela Ruff
As Deputy Clerk

In accordance with the Americans with Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding should contact the individual or agency sending notice no later than seven (7) days prior to the proceeding at the address given on the notice. Telephone: (888) 437-7894 for hearing impaired individuals; telecommunication device for deaf (TDD) 1-800-955-8771 or Florida Relay Service: 1-800-955-8770.
Legal NT5928, Nov. 10, 17, 2007 2t.

LEGAL ADVERTISEMENT

NOTICE OF ADOPTION OF LANCED UNIT DEVELOPMENT AGREEMENT GRAND RESERVE EAST PUD Pursuant to Section 2.07.00 Flagler County Land Development Code, the Flagler County Board of County Commissioners hereby provides notice of consideration of Application #2687 submitted by Roberts Road LLC and Palm Coast Holdings, Inc. and possible adoption of the following Ordinance:

AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, FLAGLER COUNTY, FLORIDA, AMENDING FLAGLER COUNTY ORDINANCE 2006-15 AND PUD DEVELOPMENT AGREEMENT FOR GRAND RESERVE EAST PUD; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

Public hearing on the above-captioned matter will be held as follows: SPECIAL MEETING OF THE BOARD OF COUNTY COMMISSIONERS - November 27, 2007 at 9:00 a.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Bunnell, Florida.

All interested persons are urged to attend the public hearing and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-4067 or write to: Flagler County Planning Department, 1769 E. Moody Blvd., Ste. 105, Bunnell, FL 32110, or e-mail to gplemon@flaglercounty.org. Copies of the proposal, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Ste. 105, Bunnell, Florida 32110.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.
Legal NT5922, Nov. 10, 2007 1t.

LEGAL ADVERTISEMENT

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR FLAGLER COUNTY, FLORIDA CASE NO.: 2007 CA 000921 (2 Lamancha Dr.; Lot 46, Block 24, Palm Coast, Map of Lakeview, Sec. 37)

FEDERAL TRUST BANK, Plaintiff, vs. OSPREY CUSTOMBUILDERS, LLC, SUSAN BLEXL, Tenant #1, and Tenant #2, Defendants.

THIS PERIOD SET FORTH ABOVE, ANY CLAIM FILED TWO (2) YEARS OR MORE AFTER THE DECEDENT'S DATE OF DEATH IS BARRED.

The date of the first publication of this notice is November 10, 2007.
Personal Representative:
Sandra Gail Blackburn
1508 North Atlantic Avenue
Daytona Beach Shores, FL 32118
Attorney for Personal Representative:
BLACK, SIMS & BIRCH, L.L.P.
Attorneys & Counselors at Law
P.O. Drawer 165869
Daytona Beach, FL 32128-5669
Telephone: (386) 253-9155
Florida Bar No. 01381166
Legal NT5924, Nov. 10, 17, 2007 2t.

LEGAL ADVERTISEMENT

NOTICE OF ADOPTION OF LANCED UNIT DEVELOPMENT AGREEMENT GRAND RESERVE WEST PUD Pursuant to Section 2.07.00 Flagler County Land Development Code, the Flagler County Board of County Commissioners hereby provides notice of consideration of Application #2710 submitted by Roberts Road LLC and possible adoption of the following Ordinance:

AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, FLAGLER COUNTY, FLORIDA, APPROVING A PUD DEVELOPMENT AGREEMENT FOR GRAND RESERVE WEST PUD; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

Public hearing on the above-captioned matter will be held as follows: SPECIAL MEETING OF THE BOARD OF COUNTY COMMISSIONERS - November 27, 2007 at 9:00 a.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Bunnell, Florida.

All interested persons are urged to attend the public hearing and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-4067 or write to: Flagler County Planning Department, 1769 E. Moody Blvd., Ste. 105, Bunnell, FL 32110, or e-mail to gplemon@flaglercounty.org. Copies of the proposal, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Ste. 105, Bunnell, Florida 32110.
IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.
Legal NT5921, Nov. 10, 2007 1t.

LEGAL ADVERTISEMENT

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR FLAGLER COUNTY, FLORIDA CASE NO.: 2007 CA 000923 (24 Louvet Lane; Lot 16, Block 102, Palm Coast, Map of Lakeview, Sec. 37)

FEDERAL TRUST BANK, Plaintiff, vs. OSPREY CUSTOMBUILDERS, LLC, Tenant #1, and Tenant #2, Defendants.

NOTICE OF SALE Notice is given pursuant to a final judgment of Foreclosure and Assessment of Reasonable Attorneys' Fees, dated October 12, 2007, in Case No. 2007 CA 000923 of the Circuit Court for Flagler County, Florida, in which FEDERAL TRUST BANK is the Plaintiff and OSPREY CUSTOMBUILDERS, LLC is the Defendant. I will sell to the highest and best bidder for cash at the Kim C. Hammond Justice Center, 1769 E. Ham-

LEGAL ADVERTISEMENT

NOTICE OF PUBLIC HEARING FOR PUBLIC USE APPLICATION #2746


A request has been made by Flagler County as owner/applicant for a Public Use for addition of 16.31± acres to the Flagler County Airport, lying in Sections 07 & 12, Township 12 South, Range 31 East, Flagler County, Florida. Parcel Numbers 07-12-31-0000-0000-0034 & 12-12-31-0000-0120-0010, containing 105.31± acres; Owner/Applicant: Flagler County Board of County Commissioners.

The subject property lies in the AC (Agriculture) District. Public Uses may be permitted in any zoning district provided application is made to the Planning Board for its review and recommendation to the County Commission for final decision. The hearing for the Public Use before the Planning Board will be held December 11, 2007 at 7:00 p.m. The Planning Board recommendation will be forwarded to the County Commission for final decision. The hearing before the Board of County Commissioners will be held January 22, 2008 at 9:30 a.m. Each Public Hearing will be held in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Bunnell, Florida 32110.

All interested persons are urged to attend the public hearing and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-4070 or write to: Flagler County Planning Department, 1769 E. Moody Blvd., Ste. 105, Bunnell, FL 32110, or e-mail to ksmith@flaglercounty.org. Copies of the application, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Blvd., Ste. 105, Bunnell, Florida 32110 (386) 313-4067.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.
Legal NT5936, Nov. 10, 2007 1t.

gen2gen
One Hot Topic...
Two Fresh Answers



Ellen Koven & Denise Covert

WADWESDAY

A column that bridges the generation gap one question at a time.

News-Tribune

Attachment 5

**PUD Site Plan dated October 1, 2007
(attached under separate cover)**

Application #2670 and #2687 – SDP and Amendment to DA for Grand Reserve East

Adam Mengel

From: Rich Smith [rsmith@hammockcommunities.com]
Sent: Tuesday, February 10, 2015 7:04 AM
To: Adam Mengel; Gina Lemon
Subject: FW: Roberts road rezoning

My response below in black

From: Adam Mengel [mailto:amengel@flaglercounty.org]
Sent: Monday, February 9, 2015 11:04 AM
To: 'Rich Smith'
Cc: Gina Lemon
Subject: RE: Roberts road rezoning

Hi Rich:

It is good to hear from you and I hope you and your family are doing well.

I'll try to answer your questions to Gina first: this won't be a spot zoning, since it steps down from the existing Industrial that is already there. **That is not true, it is a more intense zoning than what now exist and is only less than the adjacent Industrial Zoning.** If anything the thought of a single-family residential zoning next to industrial would have been the incompatible spot zoning, but hindsight is always 20/20. And hindsight is where we have headed with any discussion on this property over the last few years. When the County attempted to amend the Future Land Use Map back in 2013 (with the consent of the then-owner Landmark a/k/a Allethe) to Industrial, the folks on Lambert adamantly objected citing quality of life impacts, when the reality was that the Industrial Land Use had historically been in place, at least up until 2002. **Regardless of the history, what is in place now is the prevailing zoning, PUD – Low intensity residential. Under the current zoning, PUD, there are buffers, setbacks, and conservation in place that will be abolished if it is to be rezoned C2. In essence this does not surprise me and is exactly the reason the county is not requiring Sea Ray to provide a site plan simultaneous to the C2 zoning. The use will not be restricted to anything more than what is allowed in C2.**

I've been doing this a long time, as you, we both know that under the current program if the C2 is approved the people who would have gained from the current zoning will lose those protections. Hence, this is specifically my complaint that you are changing the zoning to a more aggressive more intense zoning. If you want to do right by everyone affected, the county should amended the existing PUD to allow for the C2 use and still protect the surrounding land owners with buffers, setbacks, etc. as set forth in the existing zoning.

The site plan is the next requirement for them, if the Future Land Use amendment and the rezoning go through. As to the effect on the integrity of the existing PUD zoning, it will become necessary for the PUD to be modified if this is approved and the sale of these parcels takes place; the PUD will effectively shed its density proportional to its loss of acreage and its site plan and preliminary plat will need to be adjusted accordingly, through the public hearing process. I have attached the 2007 PUD development agreement. The effect this has on the remnant parcel will need to be addressed simultaneously as the site plan will no longer be in compliance with its zoning. As such the zoning will no longer be effective and may be the County's intent long range to turn the entire east side of Roberts into commercial. The site plan of a PUD in this case is the zoning. Again, to avoid this just amend the PUD to accept commercial C2 use and still protect the adjacent land owners with the proper buffers, etc.. It's very obvious why this is not being done in fear it will not be approved and that disgust me.

Now for your questions for me: I have attached the 2007 staff report. The best explanation I can offer for why staff is "in tune" now with this request is that conditions change; we are under a new Comprehensive Plan, and we have all suffered through the Great Recession which hit the local housing market very hard, something that we both witnessed

Adam Mengel

From: Rich Smith [rsmith@hammockcommunities.com]
Sent: Tuesday, February 10, 2015 9:36 AM
To: Adam Mengel
Subject: Re: staff report

This is the staff report for the currently zoned pud back in 2008 bocc recommendation? It is not my intention to throw staff under the bus, just establish a timeline.

Rich

Sent from my iPad, Rich Smith
Hammock Communities
(386) 931-1905

On Feb 10, 2015, at 8:25 AM, Adam Mengel <amengel@flaglercounty.org> wrote:

Good morning:

The link to the agenda back up is online and can be accessed directly through this [link](#); the staff report begins on page 125 and ends on page 174.

Thank you,

Adam

From: Rich Smith [mailto:rsmith@hammockcommunities.com]
Sent: Tuesday, February 10, 2015 6:49 AM
To: Adam Mengel; Gina Lemon
Subject: staff report

The report I need/want is the staff report for the PUD recommendation to the BOCC for what was ultimately approved now. Can you please be accommodating.

Sincerely,

Rich

Hammock Communities, Inc.
PO Box 1035
Flagler Beach, FL 32136
386-931-1905
386-846-2162 (F)

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Rich Smith [rsmith@hammockcommunities.com]
Sent: Tuesday, February 10, 2015 9:37 AM
To: Adam Mengel
Subject: Re: staff report

Got it, understood

Sent from my iPad, Rich Smith
Hammock Communities
(386) 931-1905

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Adam Mengel

From: Gina Lemon
Sent: Tuesday, February 10, 2015 11:44 AM
To: Adam Mengel
Subject: FW: Zoning and land use plans for Sea Ray Property

FYI

-----Original Message-----

From: ctrad3@cfl.rr.com [mailto:ctrad3@cfl.rr.com]
Sent: Tuesday, February 10, 2015 11:11 AM
To: Barbara S. Revels; Nate McLaughlin; Charles Ericksen Jr.; Frank Meeker; George Hanns; M. Boyd; T. Crowe; Dickinson; Laureen Kornel; rreinke; Gina Lemon; Cory; pam4houses@gmail.com
Subject: Zoning and land use plans for Sea Ray Property

Dear Planning and Development Board Members,

My name is Charles Trad and I have lived in Flagler County most of my life. I currently reside at 325 Lambert Avenue, Flagler Beach. My background has been in Real Estate, I also served as Mayor of Flagler Beach a number of years.

First and foremost, as a resident in Flagler Beach, I realize the importance of economic development and the role Sea Ray plays. I am not anti-Sea Ray.

However, it is a bit disconcerting when property that abuts Lambert Avenue, which is currently Low Density Residential on the Future Land Use Map and zoned Low Density Residential is now proposed to be changed to High Intensity Commercial and Resultant zoning request to C-2 General commercial and shopping center district. It is my understanding this is the highest Commercial Zoning classification in the County.

There have been a number of Lambert residents that have purchased property in the last 10 years that have relied on the FLUM of Low Density Residential and resultant low density residential zoning. To change that zoning now to a much more intensive use would be not equitable too myself and other people on Lambert Avenue, that relied on that low intensity zoning abutting their homes when they purchased.

In addition, the LDR 3.0317 C-2 General Commercial and shopping center district specifically states "it is intended that such commercial areas will be located around the interchange of I-95 and Palm Coast Parkway, I-95 and SR 100, I-95 and US1, along arterial roads.....Roberts Road is not any of these. It is a 2 lane service road.

It is also my understanding there is property available to the west of Sea Ray that is zoned Mixed Use with a commercial element directly abutting Sea Ray. Wouldn't that be a better direction for Sea Ray to pursue rather than changing the Low Density Residential behind Lambert Avenue? A very low intensity zoning that a number of folks have relied upon when purchasing their homes.

Respectfully submitted,
Charles Trad

Adam Mengel

From: Luci Dance
Sent: Tuesday, February 10, 2015 4:07 PM
To: Adam Mengel; Sally A. Sherman
Subject: FW: Sea Ray Development

From: D W [<mailto:dantwhalen@yahoo.com>]
Sent: Tuesday, February 10, 2015 3:53 PM
To: Nate McLaughlin; Charles Ericksen Jr.; Frank Meeker; George Hanns; mboyd@bellsouth.net; tcrowe6@cflrr.com; dickensonci@aol.com; laureenkornel@hotmail.com; rrreinke@aol.com; Gina Lemon; Barbara S. Revels; coryi62@earthlink.net; pam4houses@gmail.com; Luci Dance; rstocker1@outlook.com; mdeal13797@aol.com
Subject: Sea Ray Development

February 10, 2015

FR: Dan and Ginger Whalen

TO: Planning and Zoning Flagler County Florida

RE: Rezoning Application 2973 / Sea Ray Expansion

Sea Ray's proposed expansion will have a lasting negative impact to the community and the environment long after anyone involved with this proposal will be around.

Due to the short time frame between being notified of Sea Ray's proposals and the public hearing I was unable to alter my work schedule to attend the hearing. Please accept this e-mail and read it into the record in my stead.

My wife and I live on the East side of Sea Ray's proposed expansion and are bothered by the noise of their current operations. Throughout the day we can hear the backup enunciators' interrupting the peacefulness of our backyard while the constant hum of the heavy equipment is more apparent at night disrupting my sleep. We can only imagine how much the noise will increase as Sea Ray expands.

The other issue with Sea Ray's expansion is that no matter what anyone says, there will be a negative impact to the community and the environment. Every square foot that Sea Ray covers or changes will affect the delicate balance of the estuaries between our properties. Runoff from the expansion will carry with it the hazardous materials from vehicles or wayward or uncontrolled manufacturing materials. This hazardous waste will end up in the eco-system of not only my backyard, but the entire community as well. The effect of damaging the ecosystem will most likely be permanent, as it has become with other water, eco-systems in our country.

Along with every other inhabitant near Sea Ray, we will be negatively impacted by waste byproducts introduced by Sea Ray into the environment and then irrigated onto the lawns of its neighbors.

Any approval of Sea Ray's proposed expansion should not be considered worthy until; at least, a positive environmental survey is accomplished, reviewed and accepted by the community.

I am not opposed to change brought about responsibly, but the proposed expansion of Sea Ray will not only harm the immediate 300 foot area surrounding it, but impact the entire watershed area near Flagler Beach.

Please ponder our concerns and not allow the zoning changes to the parcels in question.

Sincerely

Dan and Ginger Whalen
1551 Lambert Ave
Flagler Beach, FL 32136

**Correspondence received
at
February 10, 2015
Planning and Development Board
meeting**

1

included provisions for a 250-foot wide buffer along the north boundary of the project adjoining Sea Ray, roughly corresponding to the easterly 1,520 feet of the common north parcel line and generally designated as Conservation Future Land Use. As stated in the adopted agreement, the intent within the Conservation area was to: "maintain existing vegetation or may be improved with vegetation, landscaping and/or berms and fences/walls within the buffer as required to provide appropriate screen facility." (Sec. 3.1(a) of Exhibit 1, Ordinance No. 200

A

Staff has, as part of the related Future Land Use Map Amendment (Application #2972) accompanying this application, recommended a change designated as Conservation to match the delineation on the map. This change is a decrease of 2.36 acres of Conservation Future Land Use (from 8.00 acres), and an increase of 2.32 acres of available upland (from 14.07 acres to 16.39 acres). The largest portion of this wetland area to be designated as Conservation – 5.15 acres – runs along the east boundary of the subject parcel, and would buffer the development of this parcel from the adjacent residential uses to the east.

Rezoning considerations

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

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

The related Future Land Use Map amendment request considered in Application #2972 to Commercial High Intensity will be consistent with the proposed C-2 zoning.

The Need to Be Consistent with Comp Plan

- B. The requested zoning designation must be consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan.
My neighbors and I will show you tonight that this request is not consistent with the Comprehensive Plan.

Consistent with Table A.1 from Policy A.1.1.2, development on this parcel would be limited to a maximum Floor Area Ratio (FAR) of 0.40 and maximum impervious area of 70%, corresponding to a maximum commercial square footage of 285,579.36 s.f. (6.56 acres) and impervious area of 11.47 acres.

2

A review of relevant Goals, Objectives, & Plan demonstrates that the requested rezoning is consistent. Staff particularly notes Policy

B

Policy A.3.1.3: Flagler County shall encourage development and improvement of rural areas, while also providing new sites

Refers to a step-down of impacts from the plant:

This policy serves, in this instance and as applied to this rezoning request, to continue to support Sea Ray's operations at its present site, which has historically been a center of industrial activity in the County, while not expanding the industrial operations beyond the present footprint of the existing plant site. This rezoning serves to step-down the impacts from the plant, and will help to ultimately buffer the plant's operations from the residential uses to the east and south.

The exact opposite is true. This rezoning serves to step-up the impacts from the plant. The parcels are currently residential. Rezoning them to C2, gives "carte blanche" to a variety of intense commercial uses. Neighbors to the south and southeast will be much closer to noise from Sea Ray – whether it be from the parking, the 18-wheelers or any of the other permitted uses in C-2. Remember – there is no site plan presented with this proposal. No restrictions.

Refers to compatibility with surrounding land uses:

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

The requested C2 zoning designation is not compatible with the residential land it abuts. In addition, a parking lot is not a principal permitted use in C-2 zoning. Parking should be an accessory use to a commercial use. The abutting residential property will most definitely be impacted. We already live with odors and noise from Sea Ray. If this rezoning request were to be approved, the noise from the new parking lot would impact more residential homes and you would be opening the door to Sea Ray's expansion on their industrial-zoned site (because they would move their parking lot and could also move storage if they chose to because there are no restrictions). Thus, the impact would also

3

involve more odors to impact the abutting residential properties. Sea Ray has recently requested and been approved for a new Hazardous Air Pollutants permit from the DEP. Their 2013 discharge was 208,000 lbs of VOCs in one year. Their new permit will allow them to release 978,000 lbs in any given year. Why a company that has no plans to expand would increase their permit to that extent is a question for Sea Ray. But your decision tonight should take into consideration the impact of odors, as well as noise when weighing compatibility because if the rezoning would create the path toward expansion and even more compatibility issues.

As part of Coastal Area 2, the update to the Comprehensive Plan noted that:

Staff finds no major land use issues:

Overall, this area does not appear to have any major land use issues, but the Sea Ray plant site and surrounding areas will need to be monitored to prevent the development of incompatible uses.

Once again, for the reasons we have already and will state, there are significant land use issues with this request for rezoning.

Talks about not being punitive against Sea Ray's present use:

However, this rezoning request should not be viewed as punitive against Sea Ray's present use, which dates back to 1984. This rezoning request will not permit expansion of Sea Ray's industrial operations, either on this parcel or on the existing plant site. Policy A.1.1.2's Table A.1 similarly limits the Industrial Land Use to a maximum 70% impervious area, but does provide for a larger FAR at 0.45. To the extent that Sea Ray may expand on their present site due to shifting employee parking to the subject parcel, any expansion would still be limited to these Comprehensive Plan thresholds, along with the industrial performance standards on their industrially-zoned plant site.

We neighbors are not anti-Sea Ray. They have the right to operate on their current site. However, we also have the right to expect that our county will honor the principals of proper zoning and not bend the rules to accommodate one company. The C2 zoning doesn't belong on these parcels. Approving the request would be to ignore the incompatibility issues to make planning decisions based on a short-sited attempt to help out Sea Ray.

4

Refers to considerations being eliminated or reduced due to the buffer:

Each of the considerations as listed in the above suggested standard is eliminated or reduced through the setbacks and buffers contained in the Land Development Code. These regulations collectively ensure compatibility between uses of differing type or scale.

We strongly disagree here. The only buffer we would have is the low lying wetland behind our homes. These wetlands, and the open waters that wind through them are no buffer to noise and odor. There is no compatibility with the residential zoning that these parcels abut.

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

Should the request be approved, the proposed development will not impact or exceed the public facilities necessary to support the proposed development.

Talks about water, sewer and utilities being provided by City of Palm Coast:

Although not needed for the intended parking lot use by Sea Ray, water and sewer service is to be provided by central service by the City of Palm Coast.

Once again, Palm Coast expressed concerns about the utilities two years ago.

Drainage will be permitted by the St. Johns River Water Management District, while fire protection will be provided through the County's Fire Services Division, with the nearest County station at the Airport and mutual aid available from the City of Flagler Beach and the City of Palm Coast.

Talks about the requested zoning not creating a public nuisance:

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

The threshold assumption of the County's respective listing of permitted principal uses use cannot create a public nuisance since its solely be subject to setbacks and buffers as Land Development Code and would not be regulations designed to curtail its impacts. \

C

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principal uses and structures in the C-2 zoning district (attached) may contain uses which are undesirable to one person or another, the list does not include uses that would be considered as public nuisances.

[More about the Public Nuisance:](#)

The proposed use through this rezoning is for a parking lot. If appropriately buffered consistent with the County's regulations in the Land Development Code, the parking lot will not create a public nuisance. Looking broadly at the listing of other permitted uses in the C-2 zoning district, the most noxious uses are reserved as uses requiring a special exception approval.

We have no assurance that this will be for a parking lot. This is wide-open zoning. It is not true that none of the uses would present a public nuisance. Noise absolutely can create a public nuisance, especially when there is no noise ordinance to mitigate its impact on the surrounding residential neighborhood.

6

Talks about the proposed traffic not making an unreasonable impact on the contiguous surrounding areas:

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

Since the intended use of the parcel is as a parking lot replacing the existing parking lot, traffic impacts to Roberts Road and the overall roadway network are not expected to be significant. The rezoning has the effect of reducing the Grand Reserve East PUD by 35 dwelling units (applying the PUD's approved 2.15 unit/acre density to the 16.39 acres of upland in this parcel), resulting in 335 daily trips (based on 9.57 average weekday trips generated by a single-family detached dwelling unit; Land Use 210, ITE *Trip Generation*, 8th Edition) available to Sea Ray in addition to those presently impacting Roberts Road associated with the plant's operations. The available trips increases to 471 daily trips (based on 49 dwelling units) utilizing the Future Land Use's "worst-case" analysis of impacts based on the maximum density permitted by the Future Land Use of three units per acre.

This tells us that 18 wheelers could be coming in, backing up with their back up alarms at all hours of the night. The text below reemphasizes that there will be deliveries at all hours of the day and night:

Talks about multiple shifts and off-peak deliveries:

With the plant operating on multiple shifts, the traffic will be more equitably distributed between peak and non-peak times, reducing impacts to motorists on adjacent roadways. Ultimately, if operations of Sea Ray and others on Roberts Road results in periodic choke points at peak times of demand, then Sea Ray and others will likely seek staggered shift times and off-peak delivery schedules to adjust operational impacts; this is what is done elsewhere.

The County would enforce its access management criteria, requiring that the resulting operation either utilize the existing Sea Ray Drive or a new single access point so as to reduce the number of driveways – and traffic conflict points– on Roberts Road.

Overall, the requested rezoning to C-2 permits a h potential development than the presently approved sir Consideration, either through a parcel-specific limiting Use Element or through another mechanism like a c limitations on the use of the subject parcel are appropri

D

7

Consistency with Comp Plan

to adjacent properties that more noxious development will not occur on this parcel than the proposed parking lot. However, it is staff's contention and recommendation, even absent the limiting mechanism, that the requested rezoning to C-2 is appropriate and is consistent with the Comprehensive Plan and Land Development Code.

The staff report refers to a higher intensity use as well as potential for development. So staff clearly believes that there is more than a parking lot going on – since they talk about “potential development”

Furthermore, recommending a C2, general commercial zoning for these parcels is contradictory to the Purpose and Intent of this zone, which our Code of Ordinances defines as:

Purpose and intent. The purpose and intent of the C-2, general commercial and shopping center district is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement. Such uses should be designed of sufficient dimension to satisfy all off-street parking needs, and be located along major arterial streets, where the traffic generated can be accompanied in a manner consistent with the public health, safety, and welfare. It is intended that such commercial areas will be located around the interchange of 1-95 and Palm Coast Parkway, 1-95 and SR 100, 1-95 and U.S.1, along arterial roads and other suitable areas when consistent with the Flagler County Comprehensive Plan.

Roberts road is a slow, 2-way loop road far from I-95. It does not meet the criteria for C2 zoning.

And once again, we strongly disagree with staff's assertion that this is consistent with the comprehensive plan.

levels; multiple shifts are now operating at the application, Sea Ray is seeking to expand its facility to accommodate additional outside storage on its site and employee parking to the south onto the subject

Refers to Sea Ray's Intent to develop a parking area.

Sea Ray's intent, as stated to Planning staff, is to develop a parking lot on the subject parcel to accommodate employee parking, including a semi-tractor trailer parking area (but not a truck stop) to be located adjacent to Roberts Road, all as presently located on the Sea Ray plant site. This, in turn, would permit Sea Ray to devote the present parking area on the plant site to outside storage.

In this blanket C2 zoning change request and FLUM amendment, there are no covenants nor restrictions regarding the exclusive use of these parcels as a parking. Approval would mean total flexibility for Sea Ray, or any future owner, to later introduce all the intense uses permitted in the second highest zoning category in Flagler County. Even if it were just a parking lot for some period of time, 18 wheelers would be backing up with their back-up sirens blaring, on parcels that abut low density residential – with virtually no buffer other than low lying wetland vegetation, which provides no true buffer.

When I called Mr. Mengel the Monday after the proposed change was published in the paper, I asked what Sea Ray intended to use the parcels for. Mr. Mengel told me: "parking, storage and perhaps an office building." Now, less than two weeks later, Sea Ray's intent is being stated as "parking for employees including a semi-tractor trailer parking area".

Previous Public Hearings

February 8, 2005- Planning Board voted 3-2 (dissenting members not noted in the minutes) to recommend approval of a Future Land Use Map amendment from I (Industrial) to RSFL (Residential Single Family Low Density) on 166.0 acres, subject to:

1. Approximately 26.2 acres of conservation and 139.8 acres of residential low density to provide a buffer to Sea Ray Boats, protection of salt water marsh areas and an overall reduction in gross density.
2. Participation in Colbert Lane improvements to maintain evacuation time and maintain level of service for future traffic volumes and emergency evacuations (Application #2400).

December 12, 2005 – Board of County Commissioners voted unanimously to approve the Future Land Use Map amendment for 139.8 acres from Industrial to Residential Low Density – Single Family and 26.2 acres from Industrial to Conservation (Application #2400; Ordinance No. 2005-31).

April 9, 2013 – Planning and Development Board voted unanimously to recommend denial of the Future Land Use Map amendment from Residential Low Density and Conservation to Industrial, Conservation, and Residential Medium Density (Application #2920)[Note: Application #2920 was subsequently

levels; multiple shifts are now operating at the plant site. Through the present withdrawn by the County and did not advance to the BCC.].

- IX. **Staff Analysis:** The Grand Reserve East PUD included a buffer, designated as Conservation on the Future Land Use Map and 250 feet in width (a total of 10.36 acres in area), along the common parcel boundary with Sea Ray. This buffer of Conservation was intended to physically separate the proposed residential uses to the south from Sea Ray's industrial operations to the north. Staff has proposed a reduction in the buffer designated as Conservation to match the delineated wetlands consistent with Policy A.4.1.1; the net result of this change is a decrease of 2.36 acres of Conservation (from 10.36 acres to 8.00 acres), and an increase of 2.32 acres of available upland (from 14.07 acres to 16.39 acres). The largest portion of this wetland area to be designated as Conservation – 5.15

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acres – runs along the east boundary of the development of this parcel from the adjacent proposed easterly 5.15 acre Conservation area on Lambert Avenue, exceeds the 250 feet pre



Consistent with Table A.1 from Policy A. following the amendment to Commercial High Intensity, maximum Floor Area Ratio (FAR) of 0.40 and maximum impervious area of 70%, corresponding to a maximum commercial square footage of 285,579.36 s.f. (6.56 acres) and an impervious area of 11.47 acres.

Trip generation would be based, since parking is shifting off of the Sea Ray plant site to this location, first of background traffic currently utilizing the plant site, inclusive of employees, shipments, and deliveries, and the net trips yielded from the reduction in residential dwelling units in the Grand Reserve East PUD. Applying the PUD's approved 2.15 units/acre density to the 16.39 acres of upland in this parcel yields 35 dwelling units, resulting in 335 daily trips (based on 9.57 average weekday trips generated by a single-family detached dwelling unit; Land Use 210, ITE *Trip Generation*, 8th Edition) available to Sea Ray in addition to those presently impacting Roberts Road associated with the plant's operations. The available trips increases to 471 daily trips (based on 49 dwelling units) utilizing the Future Land Use's "worst-case" analysis of impacts based on the maximum density permitted by the existing Residential Low Density Future Land Use maximum of three units per acre.

[Refers to the FLUM amendment being appropriate due to the historical land use:](#)

The Land Use amendment to Commercial High Intensity would permit a higher intensity of use and potential development than the presently approved Residential Low Density designation. Consideration of a parcel-specific limiting policy in the Future Land Use Element would provide assurances to adjacent properties that more intense development will not occur on this parcel than the proposed parking lot. However, it is staff's contention and recommendation, even absent the limiting policy, that the requested amendment is appropriate in light of the historic Industrial Land Use designation for this parcel just over ten years ago.

The planner is totally overlooking the larger number of Lambert Avenue residents that have made substantial investments in the past 10 years knowing that these parcels are zoned residential. The past 10 years cannot be ignored. The property rights of us residents cannot be ignored. The planning department is recommending a comprehensive change with no restrictions involving the second most intense zoning category in the county. We did our due diligence and bought our homes, or made substantial investments in expansions and remodels, knowing that we had compatible zoning behind our homes. A change to a clearly incompatible zoning would be against our property rights and would negatively impact our property values.

A comprehensive analysis of the effect of this Land Use amendment

12

2/10/2015 Planning Board

Application #2972 / Project #2015010002

Future Land Use Map Amendment-RLD and CN to CHI and CN

accompanies this staff report.

Page 5 of 6

TRC review

Staff presented the applicant with comments as part of the January 21, 2015 Technical Review Committee meeting; as of the date of this report, all staff comments have been satisfactorily addressed.

3

This agenda item is:

- quasi-judicial, requiring disclosure of ex-parte
- legislative, not requiring formal disclosure of ex

G

Again refers to consistency with the Comp Plan

- X. **Staff Recommendation:** Staff recommends that the Planning and Development Board recommend to the Board of County Commissioners, approval of Application #2972 a Future Land Use Map amendment from Residential Low Density and Conservation to Commercial High Intensity and Conservation, finding that the request is consistent with the adopted Comprehensive Plan.

My neighbors and I will demonstrate tonight that this zoning request is not consistent with the Comprehensive Plan.

Suggests the option of a parcel-specific limiting policy and limiting daily trips of 18-wheelers:

Note: The Planning and Development Board may recommend approval, subject to inclusion of a parcel-specific limiting policy; if this recommendation is considered, staff would recommend that the policy language be specific to impacts associated with the Comprehensive Plan, like a limitation on daily trips or similar measurable considerations, versus a limitation on use as would be more appropriate with a parcel's zoning.

This suggested language is particularly frightening. If we don't even have a noise ordinance for the C2 zoning district and we don't have a db meter to measure and enforce the noise levels in our industrial performance standards, how are we going to count the daily trips of 18-wheelers?

Again refers to consistency with the Comp Plan:

- IX. **Suggested Recommendation Language:** The Planning and Development Board recommends approval to the Board of County Commissioners for Application #2972 a Future Land Use Map amendment from Residential Low Density and Conservation to Commercial High Intensity and Conservation, finding that the request is consistent with the adopted Comprehensive Plan.

It is not consistent with the Comprehensive Plan as my neighbors we will show.

Note: The Future Land Use Map amendment shall not become effective until adoption by the County.

Attachments

1. Notification list and map
2. Application and supporting documents

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FLAGLER COUNTY PLANNING DEPARTMENT
TECHNICAL REPORT / APPLICATION# 2972

DATE OF MEETING: February 10, 2015

H

SUBJECT: Application #2972 – FUTURE LAND RESIDENTIAL LOW DENSITY AND CONSERVATION INTENSITY AND CONSERVATION; 24.4 acres ger of Roberts Road and Sea Ray Drive lying within Section 2, Township 12 South, Range 31 East, Flagler County, Florida; Parcel #s 02-12-31-0000-01010-0140 and 02-12-31-0000-01010-0150; Owner: Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust / Agent: Sidney F. Ansbacher, Brunswick Corporation and Sea Ray Boats, Inc.

Analysis of Consistency with Florida Statutes:

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

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

Refers to a significant impact on Sea Ray's operations:

This request is related to the conflicts originally identified through the State's review as part of FLUA #05-1 for Application #2400, a/k/a Roberts Landing. The conflict created through amending the area immediately adjacent to Sea Ray has had significant impacts on Sea Ray's operations. Many of the cautions raised by the DCA in evaluating #05-1 can be resolved through this request.

The land is vacant, so how could it have a significant impact on Sea Ray's operations? How does any vacant land impact operations? If you read the paper or speak with anyone that works at Sea Ray, the facility doing well. We learned from Sea Ray yesterday that they are consolidating production from four other plants to the plant behind our homes. Clearly, Sea Ray had other options for their consolidation, but they chose Flagler County. Thus, we don't agree that there has been a negative impact to Sea Ray.

- "b. The projected permanent and seasonal population of the area."

The amendment would represent a permanent decrease in population in the area of 118 persons, using 2.4 persons per household (pph) for the reduced 49 dwelling units.

- "c. The character of undeveloped land."

15

FLAGLER COUNTY PLANNING DEPARTMENT
TECHNICAL REPORT / APPLICATION# 2972

The land is level and composed of poorly drained piney flatwoods.

Refers to the water and utilities from City of Palm Coast.

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

These services are provided by the City of Palm Coast to adjacent parcels.

The City of Palm Coast expressed concerns regarding the rezoning of these parcels when we were here two years ago. Concerns ranged from potential conflicts with residential uses to concerns about the impact on public infrastructure and utilities.

The Importance of consistency with the Character of the Community:

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

This rezoning would be totally inconsistent with the character of the residential community it abuts. That's what Walter Fufidio recognized 10 years ago when he recommended that the commissioners approve the residential zoning for these very parcels. Your planning staff at the time recognized the principles of proper consistency with the character of the community. We are talking about residential homes with fragile wetlands, just a stone's throw from the beautiful IntraCoastal waterway in unique Flagler Beach. The "nonconforming" use would be C2 zoning abutting residential. That's why these parcels are residential today.

I



FLAGLER COUNTY PLANNING DEPARTMENT
TECHNICAL REPORT / APPLICATION# 2972

This amendment is not facilitated by a need for redevelopment, but is instead prompted by Sea Ray's need for additional area on their plant site. This amendment does not renew blighted areas or eliminate nonconforming uses.

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

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

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

Not applicable – the subject parcel is not :

"h. The discouragement of urban sprawl."

Urban sprawl is not relevant here since amended as part of the previous urban : Highway 1.



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

Refers to Job Creation:

Transitioning the Future Land Use Map to an Industrial category for part of the amendment would foster additional job creation and capital investment; however, this amendment only seeks to change existing Residential Low Density lands to Commercial High Intensity, which could ultimately also create additional jobs. Instead, based on the proposed use of the subject parcel as a parking lot supporting the adjacent Sea Ray plant, this amendment request can be viewed as directly supporting Sea Ray's continued operations and serves to strengthen the community's economy by ensuring Sea Ray's continued presence in the area.

Jobs at what cost? We are not anti-sea ray. They have the right to operate on the current, appropriately zoned property. Looking to the future of Flagler County, we can take a look at what Helga Van Eckert is trying to do for economic development. We are trying to attract high tech companies, and clean light industry. Approving a blanket C-2 zoning for a company that is categorized by the EPA as a "Major Source of Hazardous Air Pollutants" should not be anyone's vision for the future of Flagler County. What attracts the high tech firms of the world to Flagler County? It's quality of life. How much can quality of life be affected before the future of economic development and tourism are negatively affected?

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FLAGLER COUNTY PLANNING DEPARTMENT
TECHNICAL REPORT / APPLICATION# 2972

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

Not applicable – while this request is part of an antiquated subdivision plat, the amendment request is not linked to or caused by the plat.

"8. Future land use map amendments shall be based upon the following analyses:

a. An analysis of the availability of facilities and services."

FLAGLER COUNTY PLANNING DEPARTMENT
TECHNICAL REPORT / APPLICATION# 2972

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

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

No site characteristics would hinder development of the parcel.

- "c. An analysis of the minimum amount of land needed as determined by the local government."

Refers to a residential surplus in Flagler County:

Approval of this amendment will provide sufficient additional area for Sea Ray's continued operations. Arguably, maintaining the additional residential density as presently designated is unnecessary at this time due to the continuing residential surplus of housing stock within the County.

Maintaining the additional residential density is not a question of how many houses are selling in Flagler County. It's a question of proper planning, which is governed by very specific principals of compatibility which clearly support your denial of this request because high intensity commercial zoning is not compatible with the residential land these parcels abut.

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

K

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April 8, 2013

Gina Lemon, Development Review Planner III
 Flagler County
 1769 E. Moody Blvd. Bldg. 2, Suite 105
 Bunnell, FL 32110

RE: Flagler County-Administrative Future Land Use Amendments

Dear Ms. Lemon:

We offer the following comments for your consideration regarding the proposed Administrative Future Land Use Amendments.

Application #2920 (Lands East of Roberts Rd):

1. There is concern regarding the potential conflict and the appropriate land use transition between the industrial and residential uses as proposed in the amendment.
2. The City wants to clarify the following section of the staff report:

I. Analysis of Consistency with Florida Statutes:

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

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

These services are provided by the City of Palm Coast to adjacent parcels.

When these parcels are annexed into the City of Palm Coast in the future, such action will require the land owners to mitigate for the impact to the City's public facilities and infrastructure.

Application #2921 (Lands Southeast of Airport):

1. Additional detail is requested regarding the impact of the proposed land use change on the Level of Service on adjacent roadways. (Seminole Woods Pkwy.)
2. There is concern regarding the potential conflict and the appropriate land use transition between the industrial and residential uses as proposed in the amendment.
3. The City wants to clarify the following section of the staff report:

I. Analysis of Consistency with Florida Statutes:

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

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

These services are provided by the City of Palm Coast to adjacent parcels.

When these parcels are annexed into the City of Palm Coast in the future, such action will require the land owners to mitigate for the impact to the City's public facilities and infrastructure.

4. There is concern regarding the potential conflict between existing and future airport uses and an increase in the allowable density of adjacent residential areas. The City completed an Airport Area Master Plan (Master Plan) to assist with ensuring the compatibility of uses with the future operations of the Flagler County Airport. The subject properties in Application #2921 are within the Airport Area Master Plan Economic Development Area #1 (EDA #1). The Master Plan recommends the following uses for EDA #1:
 - Industrial Parks,
 - Corporate Office Parks,
 - Office Complexes,
 - Heavy Commercial Development, and
 - Service and Hotel uses

Application #2928 (Lands West of Roberts Road):

1. There is concern regarding the potential conflict and appropriate land use transition between industrial and residential uses as proposed in the amendment.
2. The City wants to clarify the following section of the staff report:

I. Analysis of Consistency with Florida Statutes:

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

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

These services are provided by the City of Palm Coast to adjacent parcels.

When these parcels are annexed into the City of Palm Coast in the future, such action will require the land owners to mitigate for the impact to the City's public facilities and infrastructure.

Thank you for the opportunity to comment on the proposed Future Land Use Map Amendments. If you require any additional information or would like to discuss our comments, please call me at 386-986-3745.

Sincerely,



Ray Tyner, Planning Manager

c. Jim Landon, City Manager
 Nestor Abreu, Director, Community Development Department



FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

NORTHEAST DISTRICT
8800 BAYMEADOWS WAY WEST, SUITE 100
JACKSONVILLE, FLORIDA 32256

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Sent by Electronic Mail – Received Receipt Requested

PERMITTEE:

Sea Ray Boats, Inc.
100 Sea Ray Drive
Flagler Beach, Florida 32136

Air Permit No.: 0350003-011-AC
Issuance Date: July 11, 2013
Expiration Date: July 11, 2018

Authorized Representative:

Mr. Dan Goddard, Vice President, General Manager

Palm Coast Facility
Air Construction Permit

* This is the final air construction permit which authorizes an increase in facility material usage and production such that volatile organic compound (VOC) potential to emit increases emissions 249 to 489.0 tons per any consecutive 12-month period. This construction permit establishes a total facility-wide VOC emissions limit of 489.0 tons per any consecutive 12-month period. This construction permit authorizes construction associated with the relocation of additional boat manufacturing operations from other Brunswick Corporation facilities to the Palm Coast facility.

* The boat manufacturing operations to be relocated to the Palm Coast facility consist of Resin/Lamination Operations, Gel Coat Operations, Adhesive Operations, Mold Cleaning and Preparation Operations, Equipment Cleaning Operations, Material Mixing Operations, and Miscellaneous Operations.

The existing facility, Palm Coast facility, is a fiberglass boat manufacturing facility (Standard Industrial Classification No. 3732). The existing facility is located in Flagler County at 100 Sea Ray Drive, Flagler Beach. The UTM Coordinates are Zone 17, 485.49; N-3262.93; and, Latitude: 29° 29' 45" North and Longitude: 81° 08' 59" West.

This final permit is organized by the following sections.

- Section 1. General Information
- Section 2. Administrative Requirements
- Section 3. Facility-Wide Conditions
- Section 4. Emissions Unit Specific Conditions
- Section 5. Appendices

Because of the technical nature of the project, the permit contains numerous acronyms and abbreviations, which are defined in Appendix A of Section 4 of this permit.

Upon issuance of this final permit, any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel (Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000) and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate

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SECTION 1. GENERAL INFORMATION

Catalyst injection flow coaters are used in this Sea Ray facility. They mix accelerated resin and the catalyst to the proper proportion inside the gun spray handle and then force the mixture through a single nozzle with multiple orifices.

A chopper gun has been developed and will be used to simultaneously apply non-atomized resin and chopped strands of glass reinforcement. Brushers and rollers are then used to spread the mixture and remove entrapped air. This process is repeated until the desired thickness is obtained.

The advantage of using woven roving or cloth laminate over chopped fiberglass is that a product with a higher strength to weight ratio is produced. However, the fabrication process takes longer when the woven roving or cloth laminate is used. A common practice of Sea Ray is to combine these two techniques. With this combination, parts of a boat that need to be strongest are fabricated using woven roving or cloth laminated while parts that do not need as much strength, such as small parts, are fabricated using chopped fiberglass. This results in a relatively lightweight boat this is produced in the minimum amount of time.

Sea Ray utilizes various closed molding processes to manufacture some of the small parts that are produced at the facility. Examples of closed molding include Resin Transfer Molding (RTM), light RTM, Compression Molding, Cold Press, Vacuum-Assisted Resin Transfer Molding (VARTM), Virtual Engineered Composites (VEC), Seeman Composites Resin Infusion Molding Process (SCRIMP), and other similar closed molding techniques.

~~*This Sea Ray facility does not have an add-on control device to control the HAPs and VOCs emissions from the boat manufacturing activities.~~

The Lamination Building does have a single, 8-foot diameter, 75-foot high stack (Emissions point E54) with an approximate 300,000 acfm flow rate to reduce the odorous impact to the nearby area.

A workshop area has cutting and grinding tools that are used to cut various boards, as needed. The particulate matter emissions from this operation are vented to baghouses for control.

The existing facility consists of the following emission units.

Facility ID No. 0350003	
ID No.	Emission Unit Description
001	Boat manufacturing facility with resin and gel coat operations and carpet and fabric adhesive operations.

SECTION 1. GENERAL INFORMATION

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Proposed Project

- * The purpose of this construction permit is to authorize the construction associated with the relocation of additional boat manufacturing operations from other Brunswick Corporation facilities to the Palm Coast facility.
- * The boat manufacturing operations to be relocated to the Palm Coast facility consist of Resin/Lamination Operations, Gel Coat Operations, Adhesive Operations, Mold Cleaning and Preparation Operations, Equipment Cleaning Operations, Material Mixing Operations, Polyurethane Painting and Finishing Operations, and Miscellaneous Operations:
 - Gelcoat booths with associated application equipment
 - Gelcoat application robots
 - Adhesive spray booths with associated application equipment
 - Pain/lacquer spray booths with associated application equipment
 - Bottom paint application booth with associated application equipment
 - Expanded or additional spray lamination bays with associated application equipment
 - Reconfigure lamination bays with associated application equipment to accommodate various boat sizes
 - Possible expansion of buildings to accommodate the safe and efficient movement of boats
 - Possible expansion and/or construction of adjacent buildings to accommodate the preparation, painting (Polyurethane), and finishing of boats
 - Any equipment or changes necessary to mitigate objectionable odor should it become a verifiable concern

Polyurethane Painting Process Description: Scouring pads, rags, and solvent are used to dewax and clean the gelcoat surface of the fiberglass boat/part to be painted. A minimal amount of fairing material (fiberglass fillers, putties), may be used to fill in gaps on the gelcoat surface. This is usually followed by sanding to create a smooth surface for painting operations.

Prior to applying the two-part polyurethane paint, two or three coats of primer are spray applied to the gelcoat surface of the boat or part. Once the boat/part is primed, the surface is sanded again and the dust wiped off with a solvent. The final step involves spray applying three coats of polyurethane topcoat paint along with any final touch-up (spot) repairs.

The primer and topcoat paint is applied inside a spray booth.

FACILITY REGULATORY CATEGORIES

- * • The facility is a major source of hazardous air pollutants (HAP).
- The facility does not operate units subject to the acid rain provisions of the Clean Air Act.
- * • The facility is a Title V major source of air pollution in accordance with Chapter 213, F.A.C.
- Upon permit issuance, the facility is classified as a major stationary source in accordance with Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality.

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Ellen Dostal
7 Perth Place
Palm Coast, FL 32164
ellendostal@gmail.com
386-569-3322

February 9, 2015

Flagler County Planning and Development Board and Board of County Commissioners,

I am a Florida licensed realtor and a member of the Flagler County Realtors Association. I frequently show properties in Flagler Beach and have shown properties on Lambert Ave. I always inform the buyers of the zoning around the properties they are considering to purchase and possibly live there for the rest of their lives.

If residents purchase their homes abutting residential-zoned property, and that abutting property were to later be changed to a high intensity commercial zoning, this would have a significant negative impact on their quality of life. They would have a difficult task to relocate because the decreased value of their residential property, due to the more intense uses that the high intensity commercial zoning would allow. This would either leave them to live with an unexpected and unforeseen poorer quality of life, or move to a peaceful home at a significant financial loss. And if they move to another unincorporated area of Flagler County, would this happen again?

In my professional opinion, light, noise and odor spilling into residential neighborhoods will have an adverse affect the quality of life for the the surrounding homeowners and will significantly lower the value of residential properties.

Sincerely,



Ellen Dostal





Policy 2.1: By 2000, Flagler County shall prepare and adopt an antiquated subdivision study to address the problems of lands which are platted, but possess limitations to development based upon inadequate public facilities and services, substandard lot configurations, or environmental constraints.

***Policy 2.2:** The Planning Department shall maintain consistency between the Land Development Code and the Comprehensive Plan by the following means:

- * 1) Parcels being considered for amendment to the land use map shall be concurrently evaluated for rezoning to the most appropriate zoning district.
- 2) Parcels seeking site plan approval shall continue to be designed, developed and used for activities allowed by the appropriate zoning district.
- 3) Property owners will be asked to conform to pending land use/zoning regulations as they request development approval.

Policy 2.3: Expansion and replacement of existing land uses which are incompatible with the future land use plan shall be prohibited.

Policy 2.4: The Land Development Code continue to recognize non-conforming land uses and non-conforming lots of record, provide for their legal status and provide for the conversion of such situations to conforming land uses, where possible.

Objective 3: Flagler County shall inventory the possible innovative land development regulations available and provide an assessment of their applicability.

Policy 3.1: By 2000, the County shall prepare a report which assesses the various innovative land development regulations available, and their short comings and advantages to Flagler County.

Policy 3.2: Flagler County shall implement revisions as deemed appropriate by the report in 2002.

Policy 3.3: Flagler County shall continue to encourage development under the "rural village" provisions of the Land Development Code.

Objective 4: Flagler County shall continue acquisition and preservation activities for the protection of environmentally sensitive features. Flagler County shall implement specific measures to protect environmentally sensitive features. In addition, Flagler County shall protect historical resources in the County from the adverse impacts of development.

Policy 4.1: The Future Land Use Map designates as Conservation areas of ecologically sensitive species or communities and regionally significant wildlife corridors. This category includes creeks, stream and river banks, moderate or higher quality wetlands, floodplains, prime groundwater recharge areas, and natural systems that contribute to wildlife or greenway corridors. The geographic limits of the Conservation areas adopted on January 3, 2000 were based upon best available data, primarily U.S. Geological Survey Quad Sheets dating from the 1970's. The limits as currently mapped may be administratively adjusted to reflect the actual wetland jurisdictional boundary as certified by the St. Johns River Water Management District (SJRWMD) or United States Army Corps of Engineers (USACOE) that most closely approximates the existing conservation limit. In lieu of certification from State or Federal agencies, the limits may be adjusted based on an evaluation of Natural Resources Conservation Service soil survey map, a Florida Natural Areas Inventory (FNAI) Data Report Map, a site specific wetland vegetation map prepared by the SJRWMD, and a 1:200 scale false color aerial photograph. The Planning Director may authorize the use of more precise

by locating higher densities and intensities within the "Planned Urban Service Areas" and requiring an urban level of service to unincorporated areas shown as planned urban service areas.

Policy 8.1: Higher densities and intensities of development shall be located within the "Planned Urban Service Areas", where public facilities are available.

Policy 8.2: The development of residential, commercial and industrial land shall be coordinated through the concurrency management system, in conjunction with the provision of supporting community facilities, such as roads, utilities, parks, fire protection and emergency medical service.

Policy 8.3: Flagler County shall ensure through its concurrency management system that facilities identified within the Comprehensive Plan are in place, contracted for, or otherwise scheduled to be available concurrent with development.

Policy 8.4: Flagler County shall establish and require an urban level of service to unincorporated areas shown as "Planned Urban Service Areas" on the Flagler County Future Land Use Map. Urban levels of service vary by district and by facility type. Levels of Service have been adopted for roadways, parks and recreation facilities, solid waste collection, stormwater management systems and water and sewer utility services.

Policy 8.5: For areas outside the Planned Urban Service Area, Flagler County shall not amend the land use plan to change the land use classifications of agricultural pursuit and timberland production areas as designated on the Flagler County Future Land Use Map unless the amendment does not contribute to the following conditions:

- Permit substantial areas of Flagler County to develop as low-intensity, low-density or single-use development in excess of demonstrated need; or
- Permit significant amounts of urban development to occur in rural areas at substantial distance from existing urban areas, while leaping over undeveloped lands which are available and suitable for development; or
- Permit urban development in radial, strip, isolated or ribbon patterns generally emanating from existing urban development; or
- Fails to adequately protect and conserve natural resources as a result of premature or poorly-planned conversion of rural land; or
- Fails to adequately protect adjacent agricultural areas and activities; or
- Fails to maximize use of existing public facilities and services; or
- Fails to maximize use of planned public facilities and services; or
- Allows for land use patterns or timing which disproportionately increases the cost of services; or
- Fails to provide a clean separation between rural and urban uses; or
- Inhibits infill development; or
- Fails to encourage an attractive and functional mix of uses; or
- Results in poor accessibility; or
- Results in the loss of significant amounts of functional open space.

* **Policy 8.6:** New commercial development shall be limited to commercially designated areas on the "Future Land Use Map". The impact of that commercial development shall be managed through access management, traffic signalization and similar techniques.

Policy 8.7: All future recreation oriented developments on major water bodies shall require a comprehensive plan amendment when located outside the Planned Urban Service Area and shall meet the following locational criteria:

agreement or interlocal agreements. Wherever possible, the parties shall minimize total land costs, share maintenance costs, and enhance the sense of the community with a combined site.

Policy 10.5: Flagler County shall acquire or require dedication of adequate lands for parks and recreation facilities to meet the County's future recreational needs, or purchase adequate lands, as identified in the Recreation and Open Space Element and in the Capital Improvements Element. Those lands will be dedicated or purchased concurrent with development.

Objective 11: Flagler County's Land Development Regulations, economic development efforts and Comprehensive Plan implementation shall have the effect of ensuring that the agrarian character of agricultural lands is preserved and that other methods are provided to maintain the viability of agriculture.

Policy 11.1: By implementation of the Planned Urban Service District and the careful evaluation of residential and non-residential land use applications, the County shall protect prime agricultural lands from encroachment by providing a density gradient that ensures that future urban and suburban development is not located directly adjacent to prime agricultural lands.

Policy 11.2: The County shall encourage the use of best management practices for soil conservation which best minimize erosion and protect those attributes which make the soil productive.

Policy 11.3: The County shall permit congregate housing for agricultural farm workers, as consistent with the Housing Element of this Plan. This congregate housing for agricultural farm workers is considered accessory to valid agricultural land uses and shall be accommodated in areas established as Agricultural Districts.

Objective 12: The economic base shall be increased and broadened through planning and development activities which attract new business and industries and expand existing business and industries.

Policy 12.1: The Flagler County Airport Industrial Park shall be developed with the required public facilities and services to attract compatible light industries.

Policy 12.2: The County will assist the local industrial development organizations in planning and securing clean light industry in order to expand and diversify the Flagler County employment base.

Policy 12.3: Flagler County shall encourage the continued development and improvement of appropriate existing industrial areas, while also providing new sites for industrial development.

Policy 12.4: In light of the general decline in manufacturing and the economic shift toward services and high technology industries, Flagler County recognizes the need to conduct a Countywide Land Use Study to support and implement the strategies set forth in the *Countywide Strategic Plan for Economic Development*. The Countywide Land Use Study will re-evaluate land use allocations to support a more diversified economic base, determine land use siting requirements for targeted businesses and industries. Flagler County shall obtain input from the City of Bunnell, City of Palm Coast, Flagler County Chamber of Commerce and Enterprise Flagler during the preparation of the study. The County shall complete the Study and recommend appropriate amendment to its Comprehensive Plan by December 2006.

Interim Siting Criteria

Flagler County recognizes that land use must necessarily evolve in response to changing economic community conditions and that areas previously planned for Industrial, Agriculture or other non-residential land use may no longer be suitable for such uses. In considering requests for land use amendments, Flagler County shall apply

the following siting and compatibility criteria during the interim period prior to the implementation of the Countywide Land Use Study:

- 1) Areas designated as Industrial on the Future Land Use Map shall be considered appropriate for change of land use when one or more of the following conditions exist:
 - A. Site does not meet one or more of the following location/siting criteria:
 - 1) direct access or proximate access to I-95;
 - 2) access to the FEC railroad;
 - 3) proximity to Flagler County Airport;
 - 4) proximity to supporting services, related industries and existing industrial parks.
 - B. Lack of existing or planned supporting infrastructure;
 - C. Site has remained undeveloped for more than 20 years or, if located within a designated industrial park, a significant portion of the park has remained undeveloped for more than 20 years;
 - D. Alternative industrially-designated lands are available to meet projected industrial land use needs on a Countywide basis;
 - E. Proposed land use or uses depend on similar locational criteria for functional needs, i.e., fly-in developments near a runway, business hotels near the interstate, etc.
- 2) Residential land use categories may be considered compatible with adjacent existing industrial uses and with adjacent Industrial future land use designations, provided buffers are utilized as described in Objective 13 of the Future Land Use Element and its related policies.
- ~~*~~ 3) Flagler County recognizes that Palm Coast Intracoastal Industrial Park is appropriate for a transition in land use and is no longer suitable for the Industrial land use designation because it includes significant vacant lands that have not functioned with industrial use during the past 20 years and it does not meet the industrial siting criteria set forth above. Land Use amendments to change the land use designation from Industrial to alternative land use categories, such as Residential and Mixed Use land use categories, shall be deemed consistent with the compatibility criteria set forth in this policy.

Objective 13: The Future Land Use Map and the Comprehensive Plan shall be adopted as the guide for future development and the Flagler County Development Ordinance (No. 84-3) will be modified to be consistent with the plan and map by January, 1991.

Policy 13.1: Flagler County shall implement its Comprehensive Plan through Land Development Regulations which maintain the quality of existing and proposed residential areas by establishing regulations for roadways buffers, landscape and natural vegetation buffers, fences and walls and the use of intervening common open space.

Policy 13.2: Flagler County shall implement its Comprehensive Plan through land development regulations which protect residential neighborhoods from encroachment by incompatible land uses such as commercial and industrial development. This type of protection may require as part of the land development regulations, standards for natural and planted landscape buffers and that less

* intensive office, commercial or industrial uses be located adjacent to residential development and that the intensity may increase the further the distance away from residential development.

Policy 13.3: Flagler County shall implement its Comprehensive Plan through land development regulations which shall control the location and extent of new residential development and require mitigation to ensure that new development is compatible with the design and environmental character of the area in which it is located.

Policy 13.4: The size, location and function of shopping centers should be related to the population and market area served.

Policy 13.5: Flagler County shall implement its Comprehensive Plan by adopting Land Development regulations which will regulate commercial development and require vegetative berms, buffers, and visual screens to minimize the impacts of commercial development on surrounding residential uses.

Policy 13.6: Review of industrial development proposals shall include consideration of compatibility between industrial and surrounding land uses.

Policy 13.7: Flagler County shall implement its Comprehensive Plan through land development regulations which require extensive buffering when industrial uses are located near adjacent residential areas.

Policy 13.8: Mixed land use areas shall be located as shown on the "Future Land Use Map" and as amendments are made to that map, buffers, density transitions, and other techniques will be utilized to ensure that incompatible land use situations will not be created.

Objective 14: Flagler County shall maintain a Concurrency Management system which establishes procedures and/or processes that the county government uses the [sic] assure that no development orders or permits will be issued which result in a reduction of the adopted level of service standards of this Plan at the time that the impact of development occurs.

Policy 14.1: The Planning Department shall be responsible for maintaining the Concurrency Management System and ensuring that all building permits will be issued in compliance with concurrency.

Policy 14.2: The concurrency requirement may be satisfied and approval of a development permit may be granted if potable water, wastewater, solid waste and drainage service is available to meet adopted level-of-service standards specified in the Capital Improvement Element as follows:

- (1) The necessary facilities and services are in place at the time a development permit is issued;
or
- (2) A development permit is issued subject to the condition that the necessary facilities and services will be in place with the impacts of the development occur; or
- (3) The necessary facilities are under construction at the time a permit is issued; or
- (4) The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes, or an agreement or development order issued pursuant to Chapter 380, Florida Statutes. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

Policy 14.3: For parks and recreation, concurrency for a development proposal may be met by meeting either of the following standards:

3.03.17. - C-2—General commercial and shopping center district.

- A. *Purpose and intent.* The purpose and intent of the C-2, general commercial and shopping center district is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement. Such uses should be designed of sufficient dimension to satisfy all off-street parking needs, and be located along major arterial streets, where the traffic generated can be accompanied in a manner consistent with the public health, safety, and welfare. It is intended that such commercial areas will be located around the interchange of I-95 and Palm Coast Parkway, I-95 and SR 100, I-95 and U.S.1, along arterial roads and other suitable areas when consistent with the Flagler County Comprehensive Plan.
- B. *Permitted principal uses and structures.* In the C-2 shopping center district no premises shall be used except for the following uses and their customary accessory uses or structures:
1. Retail sales and services, excluding: motor vehicle sales and rental; automobile driving schools; boat or mobile home sales and service; car washes; miniwarehouses and water slides.
 2. Retail specialty shops.
 3. Adult congregate living facility.
 4. Auction parlors.
 5. Automobile service stations.
 6. Bars.
 7. Bowling alleys.
 8. Art, dance, modeling and music schools.
 9. Day care centers.
 10. Employment agencies.
 11. Financial institutions.
 12. Game rooms or arcades for pool, billiards, pinball machines, jukeboxes or other coin-operated amusements.
 13. Laundry and dry cleaning establishments.
 14. Nightclubs.
 15. Professional offices.
 16. Restaurants.
 17. Travel agencies.
 18. Stamp redemption centers.
 19. Taxicab stands.
 20. Theaters.
 21. One (1) single-family dwelling unit to be used only in conjunction with the operation of a permitted business on the same premises; such single-family dwelling unit shall be an integral and contiguous part of the principal business structure and located behind or above that portion of the business structure devoted to service of the public. The building structure must meet all applicable building codes for the respective residential and commercial uses including fire and public safety laws. In no case shall this permitted use be construed to allow multifamily development behind or above a strip commercial center.
 22. Other commercial uses of a nature similar to those listed may be permitted upon determination by the planning board that such uses are appropriate in the C-2 district. The standard industrial classification manual will be used as a reference for these determinations.
 23. In other general commercial areas:
 - (a) All uses permitted in the shopping center district.
 - (b) Automobile driving schools.
 - (c) Automobile rental agencies.
 - (d) Automotive repair.
 - (e) Bus stations.
 - (f) Boat, mobile home sales and service establishments.
 - (g) Catering services.
 - (h) Funeral homes.
 - (i) Automobile sales.
 - (j) Pawn shops.
 - (k) Pest exterminators.
 - (l) Private clubs.
 - (m) Tailors.
 - (n) Trade shops including electrical, plumbing, cabinet maker and heating and air-conditioning.
 - (o) Veterinary clinics.
 - (p) Car washes.
 - (q) Printing.

- (r) Hotels, motels and other tourist accommodations.
- (s) Restaurants.
- (t) Nightclubs, bars.
- (u) Hospitals.
- (v) Medical and dental clinics.
- (w) Miniwarehouses.
- (x) Commercial recreational uses.

BII. *Prohibited uses in the A1A Scenic Corridor.*

- 1. Adult businesses—As defined in Flagler County Ordinance 2000-17.
- 2. Mobile and modular home dealerships, repair or service establishments.
- 3. Automobile sales.
- 4. Recreational vehicle sales.
- 5. Automotive repair.
- 6. Establishments for sales or repair of motorized boats (excluding canoes and kayaks).
- 7. Tattoo parlors and/or body piercing establishments.
- 8. Pawn shops.
- 9. Outdoor storage, excluding plant nurseries.
- 10. Bus depots.
- 11. Miniwarehouses.
- * 12. Commercial warehousing.
- 13. Adult arcade amusement center or other similar entertainment enterprise or business at which electronic, mechanical, coin-operated game of amusement, chance or skill are played, whether for consideration or not when the games are similar to, or in the nature of, slot machines.

C. *Permitted special exceptions.*

- * 1. Commercial warehousing and contractor storage yards—Provided outside storage is completely enclosed by a solid fence or otherwise screened from the public view.
- 2. Building material storage yards including lumber yards.
- 3. Bus depots.
- 4. Kennels.
- 5. Machine shop.
- 6. Roofing contractor.
- 7. Septic tank service.
- 8. Tractor sales and service.
- 9. Truck terminals.
- 10. Welding shop.
- 11. Temporary manufactured housing sales center—The "temporary sales center" will be permitted for a specific time frame and the models and their stem wall foundation removed upon time expiration.
- 12. Roadside vendor subject to the following provisions:
 - (a) Limited to operation at an approved site, but not within five hundred (500) feet of an existing permanent business offering the same services or products.
 - (b) Must provide safe ingress and egress to the site.
 - (c) Must obtain county occupational license.

D. *Dimensional requirements.*

- 1. Shopping centers.
 - (a) Minimum project size:
 - Area: Five (5) acres.
 - Width: Three hundred (300) feet.
 - (b) Minimum perimeter setback requirements for structures:
 - Front yard: One hundred (100) feet.
 - Rear yard: Fifty (50) feet.
 - Side yard:
 - Interior lot: Fifty (50) feet.
 - Abutting any street: One hundred (100) feet.

3.03.18. - I—Industrial district.

A. *Purpose and intent.* This district is designed to encourage the grouping of industrial establishments at strategic locations in the County so that the economic base can be expanded, services and facilities provided, and incompatible mixing of land uses avoided.

~~B.~~ *Permitted principal uses and structures.* In the I, industrial district, no premises shall be used except for the following industrial uses and their customary accessory uses or structures:

~~1.~~ Any industrial, office, commercial or related use or structure, provided applicable county standards are met.

C. *Permitted special exceptions.*

1. One (1) detached single-family dwelling consisting of a minimum of six hundred (600) square feet of living area, on the same site as that of a permitted use, which dwelling shall be occupied exclusively by a superintendent and his family, by a caretaker and his family or by a watchman or custodian and his family.

D. *Dimensional requirements.*

1. Minimum lot size:

Area: Twenty thousand (20,000) square feet.

Width: One hundred (100) feet.

2. Minimum setback requirements for structures:

Front yard: Thirty (30) feet.

Rear yard: Twenty (20) feet.

Side yard:

Interior lot: Twenty (20) feet ;b3); Abutting any street: Thirty (30) feet.

(The minimum required side or rear yards shall be fifty (50) feet when they abut a residential classification.)

3. Maximum building height: Sixty-five (65) feet.

4. Minimum pervious coverage: Thirty (30) percent.

E. *Off-street parking and loading requirements.* Off-street parking and loading space meeting the requirements of section 3.06.04 shall be constructed.

F. *Site development plan requirements.*

1. A site development plan meeting the requirements of Appendix B is required. Lots or parcels of five (5) acres or more require site plan approval by the planning board.
2. Lots or parcels less than five (5) acres require site plan review by the technical review committee.

G. *Industrial performance standards.*

1. *Purpose and intent.* The purpose and intent of the industrial performance standards is to provide reasonable measures to protect residential, business districts, and public property from the potentially negative impacts of odors, fumes, smoke, noise, heat, glare, vibration, soot and dust which may be associated with industrial uses.

2. *General provisions.* The following performance standards address a series of potential nuisances or possible sources of pollution or other public health, safety, and welfare concerns. All measurements shall be enforced at the property lines, unless otherwise specified. No part of any industrial zone and no improvement thereon shall be used or allowed to be used at any time for the manufacture, storage, distribution or sale of any product or the furnishing of any service, in a manner which is inconsistent with the requirements of this ordinance. No activity shall be carried on which may be or may become dangerous to public health, safety, or welfare which increases the fire insurance rate for adjoining or adjacent property, or which is illegal.

3. *Applicability.* Any new building, structure or tract of land, developed or constructed, or any new use of land that is used for, any permitted principal use, permitted special exception, or accessory use in any land zoned I Industrial district shall comply with all of the performance standards set forth in this section. If any existing, nonconforming use of land is extended, expanded or enlarged, the performance standards relating to odor shall apply only with respect to such extended, expanded, or enlarged portion or use of land. With respect to such extensions, expansions, or enlargements, compliance with the odor standards of this ordinance shall be based on a measurement using a thirty-minute average. The application of the performance standards relating to odor to an existing, nonconforming use of land shall not apply to the erection of new storage, office or administrative structures or the installation of equipment that will reduce emissions, provided that such erection or installation is not accompanied by an expansion or enlargement of industrial production capacity.

4. *Determination of violations relating to odor.* The performance standards relating to odor shall be enforced using the civil citation system as provided by Chapter 9, Article III of the Flagler County Code except to the extent amended herein. The board of county commissioners shall determine by resolution the monetary fines for the first, second and third violations. To determine if a violation has occurred, the code enforcement officer shall assess the existence of an odor at the property line of the industrial entity. If the officer detects an odor, the officer shall notify the industrial entity. The entity shall admit or deny that it is violating the performance standards and may provide the officer with any information or data in support of its position. If the violation is denied and the officer continues to reasonably believe that an odor is being emitted from the entity, the officer shall cause the odor to be measured at the property line in accordance with the odor standards herein. If a violation is found, the officer shall issue a civil citation. After an entity

REGULAR MEETING OF THE FLAGLER BEACH CITY COMMISSION THURSDAY, FEBRUARY 12, 2015
AT 5:30 P.M. AND TO BE CONTINUED UNTIL ITEMS ARE COMPLETE.

AGENDA

1. Call the meeting to order.
2. Pledge of Allegiance followed by a moment of silence to recognize the members of the Armed Forces.
3. Proclamations and awards.
 - a) Proclamation recognizing Flagler Beach First Responders.
 - b) Certificates recognizing the lifesaving efforts of Mark Andrew Thomas and David Kennedy.
4. Deletions and Changes to the Agenda.
5. Comments regarding items not on the agenda. Citizens are encouraged to speak. However, comments should be limited to three minutes.

CONSENT AGENDA

(All items are to be approved by one motion, unless pulled from the Consent Agenda.)

6. Approve the minutes of the Regular Meeting of January 22, 2015.
7. Approve a proposed repair to Well No. 11 by Connect Consulting Inc. to perform the work. The Commission approved a piggyback contract with this vendor of June 28, 2012 under a Palm Coast contract. The budgetary estimate to repair the well is \$49,000.
8. Change Order No. 1 from 4 C's Trucking & Excavations, Inc. for the Palma Vista and S. Flagler Stormwater Projects. This CO reflects a deduction from the original contract price in the amount of \$44,058.76 and an increase of contract time of 182 days.

GENERAL BUSINESS

9. Consider a request for a temporary waiver for a Special Event as regulated by Chapter 4, Article III, Section 4-129 of the Code of Ordinance – Teri Pruden, Flagler Beach Historical Museum.
10. Review and provide direction to Staff regarding the draft Farmers Market ordinance – Attorney Smith.
11. Reconsider reinstatement of the Outdoor Entertainment Permit for 608 South Oceanshore Boulevard, AKA Fuego Del Mar – Dennis Bayer.
12. Consider affirming the vote to continue the adopted regulations related to Feral Cat Colonies and Feral Cat Caregivers – Liz Mathis, HR Officer.

13. Select a citizen to fill the vacant Citizen at Large seat on the Economic Development Task Force – Kate Settle, Deputy City Clerk.
14. Resolution 2015-02, amending Resolution 2014-24, which adopted the FY 2014/2015 budget, to reflect a budget amendment to provide funding for various city activities, providing for conflict and an effective date.
15. Resolution 2015-03, declaring certain property to be surplus providing an effective date.
16. Consider a resolution opposing Flagler County Future Land Use Map, and Zoning Map amendments Application No. 2972 and 2973 – Commissioner Jane Mealy.
 - a) Resolution 2015-04, stating the City of Flagler Beach’s opposition to Flagler County Future Land Use Map Amendment Application No. 2972 and Flagler County Zoning Map Amendment Application No. 2973, and strongly urging the Flagler County Board of County Commissioners deny these applications, and providing for an effective date.
17. Receive a slideshow presentation regarding Alternate use of 3600 S. Central Avenue property (Golf Course) – Commissioner Joy McGrew.

COMMISSION COMMENTS

18. Commission comments, including reports from meetings attended.

PUBLIC HEARINGS, TO BEGIN NO EARLIER THAN 6:30 P.M.

19. Consider Application: #SE 15-02-01: – Request for Special Exception use to permit an off-street parking facility in a Single Family Residential District. The property is located at 1855 S. Central Avenue, aka Fuquay Subdivision Block 19, Lots 18 (except the southerly 8.85 ft.), Lot 19 & southerly 30 feet of Lot 20, together with right to west one-half of vacated alley, OR 930/398, OR 1706/817 OR 2030/ 1763. Mr. John Lulgjuraj; TJ Oceanside Properties II LLC.
20. Ordinance 2014-18, amending Appendix "A", Land Development Regulations, Article II, Zoning; Section 2.02.00, Definitions, deleting the definition combined use building; amending Section 2.04.02.8 Zoning Schedule One, Land Use Controls, deleting the term combined use building and replacing where referenced to read mixed-use building, to incorporate a note referencing a mixed use building in the tourist commercial and general commercial section named category of use, amending Section 2.04.02.9, Zoning Schedule Two, Lot, Yard & Bulk Regulations, replacing the term combined use building to read mixed-use building, amending the title of Section 2.04.02.12 named combined use building regulations to read mixed use building regulations and amending Article V, Section 5.04.04, deleting the term combined use building and where referenced throughout replace with the term mixed-use building; providing for inclusion in the code of ordinances; providing for conflict; providing an effective date hereof, first reading –

Please table this ordinance to the March 12, 2015 meeting at 6:30 p.m. or soon thereafter.

21. Ordinance 2015-02, amending Article V, Division 1, Section 2-101, Municipal Firefighters' Pension Trust Fund, of the Code of Ordinances of the City of Flagler Beach; amending Section 1, Definitions; providing for codification; providing for severability of provisions; repealing all ordinances in conflict herewith and providing an effective date – second reading.
22. Ordinance 2015-03, amending Appendix "A" Land Development Regulations, Article IV Resource Protection Standards, to repeal Section 4.05.00 through Section 4.05.40, Flood Damage Protection, and to repeal Section 4.06.00 through Section 4.06.05, Provisions for Flood Hazard Reduction; to adopt a new Section 4.07.00 Floodplain Management; to adopt in Sections 5.00.09 through 5.00.12 local administrative amendments and local technical amendments to the Florida Building Code; to adopt Flood Hazard Maps, to designate a Floodplain Administrator, to adopt procedures and criteria for development in flood hazard areas, and for other purposes; to adopt local administrative amendments to the Florida Building Code; providing for applicability; repeal; severability; and an effective date – first reading.

STAFF REPORTS

23. Staff Reports.
 - a.) Acknowledge letter sent to Committee on Environmental Preservation and Conservation along with Legislature – regarding allocation of dollars for Amendment 1. In addition, announcing Special Meeting agenda for February 17, 2015 at 5:30 p.m.
24. Adjournment.

RECORD REQUIRED TO APPEAL: In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the Commission makes about any matter at this meeting, you will need a record of the proceedings. You are responsible for providing this record. You may hire a court reporter to make a verbatim transcript, or you may buy a CD of the meeting for \$3.00 at the City Clerk's office. Copies of CDs are only made upon request. The City is not responsible for any mechanical failure of the recording equipment.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk at (386) 517-2000 ext 233 at least 72 hours prior to the meeting.

The City Commission reserves the right to request that all written material be on file with the City Clerk when the agenda item is submitted.

16

Kate Settle

From: noreply@civicplus.com
Sent: Monday, February 02, 2015 12:03 PM
To: Kate Settle
Subject: Online Form Submittal: Commission Agenda Item Application

If you are having problems viewing this HTML email, click to view a [Text version](#).

Commission Agenda Item Application

Individual's Name* **Phone Number**
Jane Mealy 439-4811

Street Address
315 Lambert avenue

City **State** **Zip**
Flagler Beach FL 32136

Subject matter to be discussed with the commission*

A resolution informing Flagler County that the City of Flagler Beach requests denial of the application to amend the Future Land Use Element and Future Land Use Map designation from low density residential and conservation to high intensity commercial.

This is the wording you would like on the agenda.

Background information regarding the subject

Sea Ray Boats has requested these FLUM changes in order to build additional parking and storage. The company is moving toward three 8-hour shifts and requires more space. The land they have requested the changes on abuts onto Lambert Avenue and will have negative affects on the residents and the environment.

Requested Action sought from the commission

Approve and sign a resolution to be sent to the Flagler County Board of County Commissioners asking that they deny Future Land Use Map Amendment Application #2972.

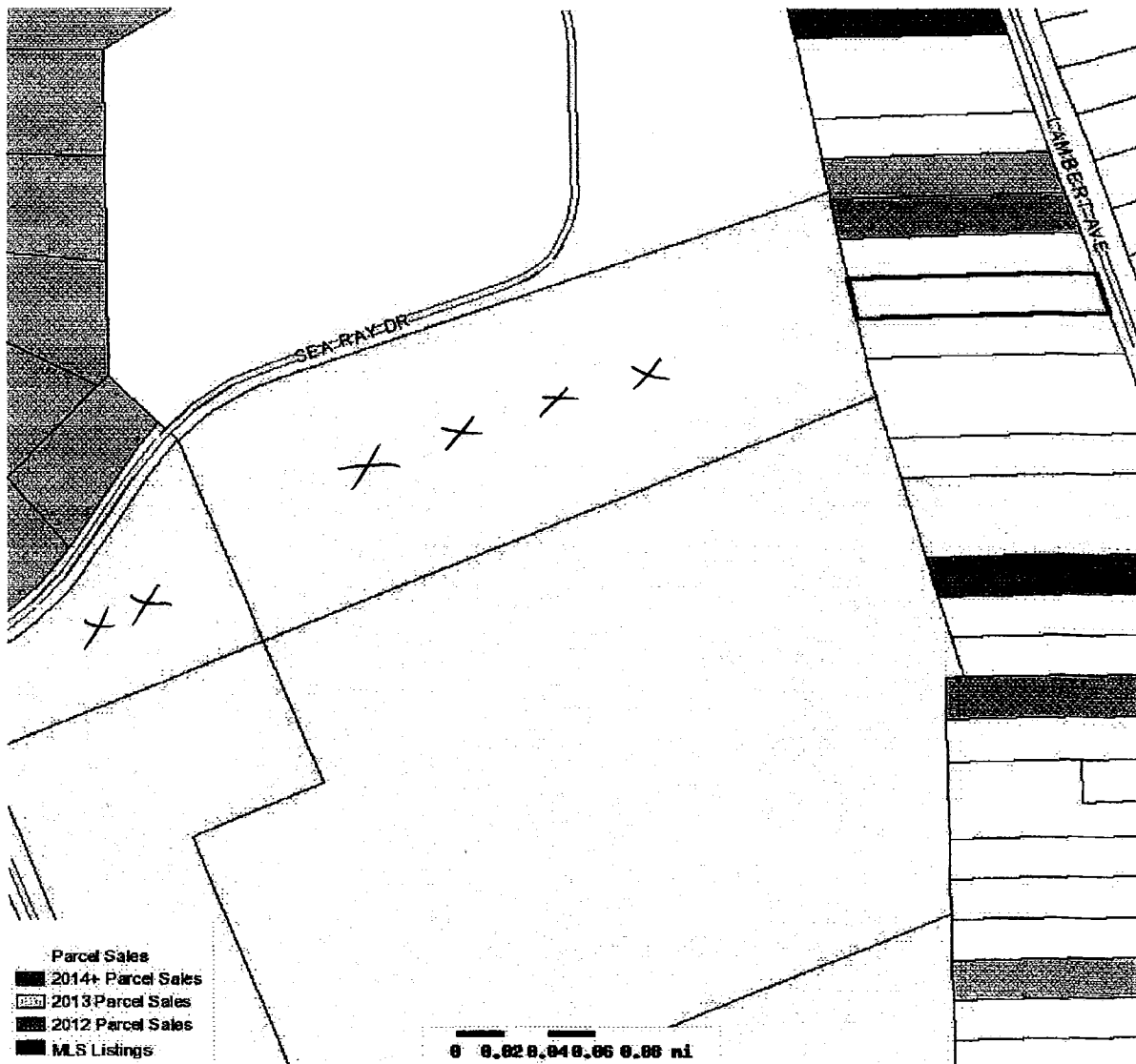
Attachments

Please note the City Commission's rules of procedures require all supporting documents to be provided at the time the agenda application is submitted. Please refrain from handing out material at the commission meetings.

The maximum time allowed for each request is 10 minutes.

Signature of Applicant* **Date**
Jane Mealy 2/2/2015

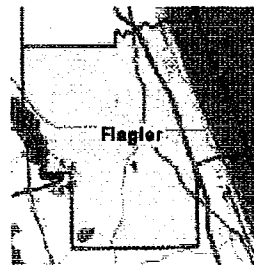
By typing your name in this box you are acknowledging the form and signing your name to the request.



Flagler County Property Appraiser

Parcel: 11-12-31-5325-00000-0440 Acres: 1.248

Name:		Land Value	82,000
Site:	LAMBERT AVE	Building Value	161,600
Sale:	266,000 on 10-2011 Reason*U Qual=N	Misc Value	25,330
	LAMBERT AVE	Just Value	269,130
Mail:	FLAGLER BEACH, FL 32136	Assessed Value	256,943
		Exempt Value	50,000
		Taxable Value	206,943



The Flagler County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY. NEITHER FLAGLER COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS — THIS IS NOT A SURVEY —
Date printed: 02/05/15 : 10:34:14

Knoxville's Worst Air Polluter

One of the best places in Knoxville to walk, bike or run is the spectacular new greenway that runs from Ijams Nature Center in South Knoxville east through the Forks of the River Wildlife Management Area. —Or, rather, it would be one of the best places, were it not for the fact that the air there is often saturated with a nauseating chemical perfume. I went running on the greenway recently, on a calm, drizzly morning. The scenery was grand — patches of shady forest and glimpses of the Tennessee and French Broad Rivers, alternating with open fields abloom with sunflowers, black-eyed Susans, red clover, chickory, Queen Anne's lace and choreopsis.

But the air ... there was something wrong with the air. The smell was penetrating, like the odor of new polystyrene or of melting styrofoam — and no wonder, for lingering in the still air all around the greenway was the vapor of styrene, one of the chief ingredients of many plastics. Styrene is listed by the International Agency for Research on Cancer as a possible human carcinogen. Several studies have linked breathing of styrene vapors to increased incidence of leukemia in human beings. Concentrated styrene vapor can also irritate the eyes, nose and throat and adversely affect the human nervous system. But, says the EPA, "Other human health effects associated with exposure to small amounts of styrene over long periods of time are not known." Likewise, according to the Agency for Toxic Substances and Disease Registry, "There is no information as to whether breathing ... styrene affects fetal development or human reproduction. In animal studies, short-term exposure to very high levels resulted in some reproductive and developmental effects."

The source of the styrene is not far to be found. Directly across the river from Eastern State lies the Forks of the River Industrial Park, the entire southern end of which is taken up by the facilities of a single manufacturer. It is these facilities which are the source of the styrene. The offender, Knoxville's worst air polluter, is Sea Ray Boats.

Sea Ray has for years been releasing far greater quantities of toxic chemicals into the air than all other industries in Knox County combined. According to the EPA's 1998 Toxic Release Inventory, the most recent and complete data available, Sea Ray's annual emission of styrene alone totals 460,000 pounds. This is more than half of the toxic air emissions for all of Knox county, which amount to about 813,000 pounds. Besides the styrene, Sea Ray also released in 1998 over 23,000 pounds of toxic methyl methacrylate. On the whole, Sea Ray's air emissions account for about 59 percent by weight of Knox County's total toxic industrial air pollution.

Sea Ray is therefore disproportionately threatening public health and degrading one the finest public park facilities in the area. Why? Other local industries, such as the Rohm and Haas chemical facilities just north of the UT campus have made impressive progress in reducing their toxic emissions. Sea Ray's management seems, however, intent on solving their pollution problem not, as Rohm and Haas did, by intelligent engineering, but by slick image-polishing. Sea Ray is the proud sponsor of many local charities, including the annual River Rescue, whose aim is to improve the quality of the very river whose air Sea Ray is degrading. Charity in this case might best begin at home.

These thoughts angered me as I ran in the polluted air, breathing Sea Ray's toxic waste. I tried to console myself with the thought that the air around the greenway is cleaner when the west wind blows, sweeping the pollution away upriver. But better is still not good enough. There are too few places to run or walk or bike by water and trees and fields and away from the noise and pollution of traffic. When the air of one of these few places is ruined by a negligent industry, it is time to act.

Radio Commentary Index

Home

Planning and Zoning

1769 E. Moody Blvd Bldg 2

Suite 105

Bunnell, FL 32110

www.flaglercounty.com

Phone: (386)313-4009

Fax: (386)313-4109

**FLAGLER
COUNTY**

January 26, 2015

Lambert Avenue
Flagler Beach, FL 32136

Re: Application #2973 – Rezoning
Subject Property – Parcel #'s: 02-12-31-0000-01010-0140 and
02-12-31-0000-01010-0150

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 for a Rezoning has been made by Sidney F. Ansbacher, Esquire on behalf of Brunswick Corporation and Sea Ray Boats, Inc. on property owned by Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust to amend the zoning of approximately 24.4 acres for the properties listed by parcel numbers as shown in the table below.

Parcel #	Existing Zoning District	Proposed Zoning District
02-12-31-0000-01010-0140	PUD (Planned Unit Development)	C-2 (General Commercial and Shopping Center)
02-12-31-0000-01010-	PUD (Planned Unit Development)	C-2 (General Commercial and Shopping Center)

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 Government Services Building, Board Chambers, at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, on Tuesday, **February 10, 2015**, beginning at **6:00 p.m.** or as soon thereafter as possible. You are welcome to attend and express your opinion. The Planning and Development

District 1

District 2

District 3

District 4

District 5

Cliff E. Johnson, Jr.

Frank Mackay

Barbara Doyle

Nate McLaughlin

George Hanne

Planning and Zoning

1769 E. Moody Blvd Bldg 2
Suite 105
Bunnell, FL 32110



**FLAGLER
COUNTY**
FLORIDA

www.flaglercounty.org

Phone: (386)313-4009

Fax: (386)313-4109

January 26, 2015

Lambert Avenue
Flagler Beach, FL 32136

Re: Application #2972 –Future Land Use Map Amendment
Subject Property – Parcel #'s: 02-12-31-0000-01010-0140 and
02-12-31-0000-01010-0150

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 for a Future Land Use Map Amendment has been made by Sidney F. Ansbacher, Esquire on behalf of Brunswick Corporation and Sea Ray Boats, Inc. on property owned by Daryl Carter, Trustee of Carter-Flagler Roberts Road Land Trust to amend the Comprehensive Plan Future Land Use designation on approximately 24.4 acres for the properties listed by parcel numbers as shown in the table below.

Parcel #	Existing Designation	Proposed Designation
02-12-31-0000-01010-0140	Conservation and Residential: Low Density Rural Estate	Commercial High Intensity
02-12-31-0000-01010-	Conservation and Residential: Low Density Rural Estate	Conservation and Commercial High Intensity

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 Government Services Building, Board Chambers, at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, on Tuesday, **February 10, 2015**, beginning at **6:00 p.m.** or as soon thereafter as possible. You are welcome to attend and express your opinion. The Planning and Development

District 1
Charles Erickson, Jr.

District 2
Frank Mackay

District 3
Deborah Daulton

District 4
Steve ...

District 5

FUTURE LAND USE CATEGORIES

<u>FUTURE LAND USE DESIGNATION</u>	<u>LAND USE DISTRICT CLASSIFICATION</u>
1. Conservation - (wetland areas)	CN - Conservation
2. Agriculture & Timberlands 1 unit / 5 acres 1 unit / 20 acres	AC- Agricultural AC-2 - Limited Agricultural
3. Residential Low Density / Rural Estate - 1 unit Low Density / Single Family - 1 - 3 units Medium Density / 4-7 units per acre High Density / 8-10 units per acre	R-1 Rural Residential, MH-1 Rural Mobile Home, PUD R-1b Urban Single Family, PUD R-1c and R-1d Urban Single Family, R-2 Two-Family, MH-2 Urban Mobile Home, MH-3 Mobile Home Park, PUD. R-3 Multi-Family Residential, PUD R-3b Multi-Family Residential
4. Commercial Low Intensity - Professional Office Neighborhood Commercial High Intensity - General Office General Commercial	O-1 Limited Office C-1 Neighborhood Commercial O-2 General Office C-2 General Commercial
5. Industrial - Light and Heavy	I - Industrial
6. Recreation and Open Space	PLI-District
7. Public Facilities	Any District - Public Use
8. Transportation Facilities	Any District - Public Use
9. Educational Uses	PLI District/Public Use-except CN Conservation and Agriculture District
10. Historic Sites	Any District (See Historic Preservation Element)
11. Mixed Use Low Intensity - Low/Med. Density Residential, Public Uses, PUD's, Professional Office and Neighborhood Commercial. High Intensity - Medium/High Density Residential, Public Uses, PUD's, General Office, General Commercial.	C-1 Neighborhood Commercial R/C Residential/Commercial, PUD, FDD Future Development District O-2 General Office (proposed), C-2 General Commercial, PUD - Planned Unit Development, FDD Future Development District



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

NORTHEAST DISTRICT
8800 BAYMEADOWS WAY WEST, SUITE 100
JACKSONVILLE, FLORIDA 32256

Sent by Electronic Mail -- Received Receipt Requested

PERMITTEE:

Sea Ray Boats, Inc.
100 Sea Ray Drive
Flagler Beach, Florida 32136

Air Permit No.: 0350003-011-AC
Issuance Date: July 11, 2013
Expiration Date: July 11, 2018

Authorized Representative:

Mr. Dan Goddard, Vice President, General Manager

Palm Coast Facility

Air Construction Permit

* This is the final air construction permit which authorizes an increase in facility material usage and production such that volatile organic compound (VOC) potential to emit increases emissions 249 to 489.0 tons per any consecutive 12-month period. This construction permit establishes a total facility-wide VOC emissions limit of 489.0 tons per any consecutive 12-month period. This construction permit authorizes construction associated with the relocation of additional boat manufacturing operations from other Brunswick Corporation facilities to the Palm Coast facility.

* The boat manufacturing operations to be relocated to the Palm Coast facility consist of Resin/Lamination Operations, Gel Coat Operations, Adhesive Operations, Mold Cleaning and Preparation Operations, Equipment Cleaning Operations, Material Mixing Operations, and Miscellaneous Operations.

The existing facility, Palm Coast facility, is a fiberglass boat manufacturing facility (Standard Industrial Classification No. 3732). The existing facility is located in Flagler County at 100 Sea Ray Drive, Flagler Beach. The UTM Coordinates are Zone 17, 485.49; N-3262.93; and, Latitude: 29° 29' 45" North and Longitude: 81° 08' 59" West.

This final permit is organized by the following sections.

- Section 1. General Information
- Section 2. Administrative Requirements
- Section 3. Facility-Wide Conditions
- Section 4. Emissions Unit Specific Conditions
- Section 5. Appendices

Because of the technical nature of the project, the permit contains numerous acronyms and abbreviations, which are defined in Appendix A of Section 4 of this permit.

Upon issuance of this final permit, any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel (Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000) and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate

SECTION 1. GENERAL INFORMATION

FACILITY DESCRIPTION

Existing Facility

This facility is fiberglass boat manufacturing facility involving Lamination, Fabrication and Assembly processes.

The "contact open molding" method consists of applying layers of impregnated fiberglass reinforcement (laminate) on an open (to the surrounding air) female or male mold. The laminate is built up to the required thickness and is then allowed to cure. After the cure is completed, the part is removed and the mold is reused. A male mold is convex leaving a smooth inner surface and a female mold is concave leaving a smooth outer surface on the product. Since smooth outer surfaces are normally desired, female molds are most commonly used in fiberglass boat production.

* The primary type of resin used in fiberglass boat production is polyester resin. Polyester resins used by Sea Ray typically consist of styrene monomer and polyester solids. Before applying the resin, the necessary catalyst and accelerator are added to initiate curing. During curing, the styrene monomer polymerizes forming a thermo-setting plastic. This is an exothermic process, and because styrene monomer reacts more rapidly at elevated temperatures, the reaction is autocatalytic.

The different composite parts of the boat (deck, hull, and small parts) are primarily fabricated in the lamination area. The first step in the production process is coating the mold with a releasing agent such as wax. This allows the finished laminated part to be pulled or removed from the mold. Next, a gel coat is usually applied on the mold with a spray gun in a ventilated spray booth. The gel coat is a pigmented polyester resin, which forms the outer smooth surface of the molded part. After spraying, the gel coat hardens or cures with a smooth surface against the mold and a tacky outer surface, which enhances later bonding of the first layer of laminate.

After the gel coat cures, the first layer of resin and fiberglass laminate is applied using the lamination method described below. The lamination procedure is repeated until the desired thickness is achieved. Structural reinforcements such as wood, plastic, and metal are also added during lamination. Lamination is a batch process with time between laminates dependent on cure time of the resin. After the final lamination has cured, the part is removed from the mold and the excess is trimmed from the part.

After the parts are removed from the mold, they are then taken to the grinding area where they are sanded, inspected, and repaired if required. Once removed from the inspection area parts are delivered to the assembly area where carpet and accessories are installed to produce the finished product.

At this Sea Ray facility, resin is primarily applied with a flow coater or other non-atomizing applicator. On occasion, however, rollers are also used for resin application. A brush or other device is usually employed to even out the resin. After a thin coat of resin has been applied to the gel coat or previous layer of laminate, fiberglass chop or other reinforcement is placed over the wet resin. The primary fiberglass reinforcements used are woven roving, cloth, and mat. Squeegees or metal rollers are then employed to force the resin up through the reinforcement and remove any entrapped air (wet out). The resin is allowed to gel and the lamination process is repeated until the desired thickness of fiberglass laminate is obtained.

Sea Ray Boats, Inc.
Palm Coast Facility

Air Permit No. 0350003-011-AC
Air Construction Permit

SECTION 1. GENERAL INFORMATION

Catalyst injection flow coaters are used in this Sea Ray facility. They mix accelerated resin and the catalyst to the proper proportion inside the gun spray handle and then force the mixture through a single nozzle with multiple orifices.

A chopper gun has been developed and will be used to simultaneously apply non-atomized resin and chopped strands of glass reinforcement. Brushers and rollers are then used to spread the mixture and remove entrapped air. This process is repeated until the desired thickness is obtained.

The advantage of using woven roving or cloth laminate over chopped fiberglass is that a product with a higher strength to weight ratio is produced. However, the fabrication process takes longer when the woven roving or cloth laminate is used. A common practice of Sea Ray is to combine these two techniques. With this combination, parts of a boat that need to be strongest are fabricated using woven roving or cloth laminated while parts that do not need as much strength, such as small parts, are fabricated using chopped fiberglass. This results in a relatively lightweight boat this is produced in the minimum amount of time.

Sea Ray utilizes various closed molding processes to manufacture some of the small parts that are produced at the facility. Examples of closed molding include Resin Transfer Molding (RTM), light RTM, Compression Molding, Cold Press, Vacuum-Assisted Resin Transfer Molding (VARTM), Virtual Engineered Composites (VEC), Seeman Composites Resin Infusion Molding Process (SCRIMP), and other similar closed molding techniques.

*This Sea Ray facility does not have an add-on control device to control the HAPs and VOCs emissions from the boat manufacturing activities.

The Lamination Building does have a single, 8-foot diameter, 75-foot high stack (Emissions point E54) with an approximate 300,000 acfm flow rate to reduce the odorous impact to the nearby area.

A workshop area has cutting and grinding tools that are used to cut various boards, as needed. The particulate matter emissions from this operation are vented to baghouses for control.

The existing facility consists of the following emission units.

Facility ID No. 0350003	
ID No.	Emission Unit Description
001	Boat manufacturing facility with resin and gel coat operations and carpet and fabric adhesive operations.

SECTION 1. GENERAL INFORMATION

Proposed Project

* The purpose of this construction permit is to authorize the construction associated with the relocation of additional boat manufacturing operations from other Brunswick Corporation facilities to the Palm Coast facility.

* The boat manufacturing operations to be relocated to the Palm Coast facility consist of Resin/Lamination Operations, Gel Coat Operations, Adhesive Operations, Mold Cleaning and Preparation Operations, Equipment Cleaning Operations, Material Mixing Operations, Polyurethane Painting and Finishing Operations, and Miscellaneous Operations:

- Gelcoat booths with associated application equipment
- Gelcoat application robots
- Adhesive spray booths with associated application equipment
- Paint/lacquer spray booths with associated application equipment
- Bottom paint application booth with associated application equipment
- Expanded or additional spray lamination bays with associated application equipment
- Reconfigure lamination bays with associated application equipment to accommodate various boat sizes
- Possible expansion of buildings to accommodate the safe and efficient movement of boats
- Possible expansion and/or construction of adjacent buildings to accommodate the preparation, painting (Polyurethane), and finishing of boats
- Any equipment or changes necessary to mitigate objectionable odor should it become a verifiable concern

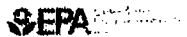
Polyurethane Painting Process Description: Scouring pads, rags, and solvent are used to dewax and clean the gelcoat surface of the fiberglass boat/part to be painted. A minimal amount of fairing material (fiberglass fillers, putties), may be used to fill in gaps on the gelcoat surface. This is usually followed by sanding to create a smooth surface for painting operations.

Prior to applying the two-part polyurethane paint, two or three coats of primer are spray applied to the gelcoat surface of the boat or part. Once the boat/part is primed, the surface is sanded again and the dust wiped off with a solvent. The final step involves spray applying three coats of polyurethane topcoat paint along with any final touch-up (spot) repairs.

The primer and topcoat paint is applied inside a spray booth.

FACILITY REGULATORY CATEGORIES

- * • The facility is a major source of hazardous air pollutants (HAP).
- The facility does not operate units subject to the acid rain provisions of the Clean Air Act.
- * • The facility is a Title V major source of air pollution in accordance with Chapter 213, F.A.C.
- Upon permit issuance, the facility is classified as a major stationary source in accordance with Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality.



Technology Transfer Network - Air Toxics Web Site

About Air Toxics

- [What are toxic air pollutants?](#)
- [What are the health & environmental effects of toxic air pollutants?](#)
- [Where do toxic air pollutants come from?](#)
- [How are people exposed to air toxics?](#)
- [Can I find out about the toxics in my community?](#)
- [What progress has EPA made in reducing toxic emissions?](#)
- [Health and ecological effects resources](#)
- [Links to other air toxics resources](#)

* [What are toxic air pollutants?](#)

Toxic air pollutants, also known as hazardous air pollutants, are those pollutants that are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects. EPA is working with state, local, and tribal governments to reduce air toxics releases of 187 pollutants to the environment. Examples of toxic air pollutants include benzene, which is found in gasoline; perchloroethylene, which is emitted from some dry cleaning facilities; and methylene chloride, which is used as a solvent and paint stripper by a number of industries. Examples of other listed air toxics include dioxin, asbestos, toluene, and metals such as cadmium, mercury, chromium, and lead compounds.

* [What are the health and environmental effects of toxic air pollutants?](#)

People exposed to toxic air pollutants at sufficient concentrations and durations may have an increased chance of getting cancer or experiencing other serious health effects. These health effects can include damage to the immune system, as well as neurological, reproductive (e.g., reduced fertility), developmental, respiratory and other health problems. In addition to exposure from breathing air toxics, some toxic air pollutants such as mercury can deposit onto soils or surface waters, where they are taken up by plants and ingested by animals and are eventually magnified up through the food chain. Like humans, animals may experience health problems if exposed to sufficient quantities of air toxics over time.

[Where do toxic air pollutants come from?](#)

Most air toxics originate from human-made sources, including mobile sources (e.g., cars, trucks, buses) and stationary sources (e.g., factories, refineries, power plants), as well as indoor sources (e.g., some building materials and cleaning solvents). Some air toxics are also released from natural sources such as volcanic eruptions and forest fires.

[How are people exposed to air toxics?](#)

People are exposed to toxic air pollutants in many ways that can pose health risks, such as by:

- Breathing contaminated air.
- Eating contaminated food products, such as fish from contaminated waters; meat, milk, or eggs from animals that fed on contaminated plants; and fruits and vegetables grown in contaminated soil on which air toxics have been deposited.
- Drinking water contaminated by toxic air pollutants.
- Ingesting contaminated soil. Young children are especially vulnerable because they often ingest soil from their hands or from objects they place in their mouths.
- Touching (making skin contact with) contaminated soil, dust, or water (for example, during recreational use of contaminated water bodies).

Once toxic air pollutants enter the body, some persistent toxic air pollutants accumulate in body tissues. Predators typically accumulate even greater pollutant concentrations than their contaminated prey. As a result, people and other animals at the top of the food chain who eat contaminated fish or meat are exposed to concentrations that are much higher than the concentrations in the water, air, or soil.

[Can I find out about the toxics in my community?](#)

- [National Air Toxics Assessment](#) – This site provides emissions and health risk information on 33 air toxics that present the greatest threat to public health in the largest number of urban areas. Maps and lists are available and can be requested by state or county level.
- [Toxics Release Inventory](#) – This database includes information for the public about releases of toxic chemicals from manufacturing facilities into the environment through the air, water, and land. You can access the data by typing in your zip code.

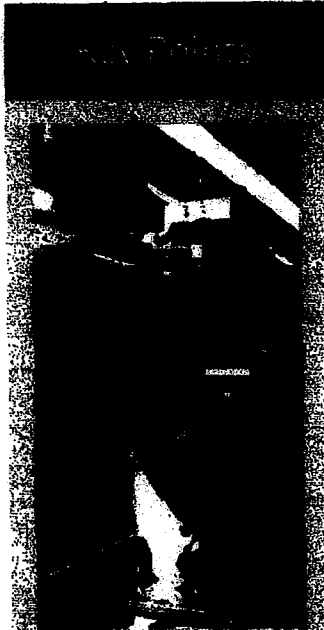
[What progress has EPA made in reducing toxic emissions?](#)

- [Controls for industrial and commercial sources of toxics](#) – EPA has issued rules covering over 80 categories of major industrial sources, such as chemical plants, oil refineries, aerospace manufacturers, and steel mills, as well as categories of smaller sources, such as dry cleaners, commercial sterilizers, secondary lead smelters, and chromium electroplating facilities. These standards are projected to reduce annual air toxics emissions by about 1.5 million tons. For more information about these rules, see [Taking Toxics Out of the Air](#).
- [Controls for cars and trucks](#) – EPA and state governments (e.g., California) have reduced emissions of benzene, toluene, and other air toxics from mobile sources by requiring the use of reformulated gasoline and placing limits on tailpipe emissions. Important new controls for fuels and vehicles are expected to reduce selected motor vehicle air toxics from 1980 levels by more than 75% by 2020. For more information, see [Mobile Source Air Toxics](#).
- [Indoor air](#) – EPA, in close cooperation with other Federal agencies and the private sector, is actively involved in efforts to better understand indoor air pollution and to reduce people's exposure to air pollutants in offices, homes, schools, and other indoor environments. For more information, see [Indoor Air Quality](#).

[Health and ecological effects resources](#)

Phenacetin (see Phenacetin and Analgesic Mixtures Containing Phenacetin)
Phenazopyridine Hydrochloride
Phenolphthalein
Phenoxybenzamine Hydrochloride
Phenytoin and Phenytoin Sodium
Polybrominated Biphenyls
Polychlorinated Biphenyls
Procarbazine and Its Hydrochloride
Progesterone
1,3-Propane Sultone
 β -Propiolactone
Propylene Oxide
Propylthiouracil
Reserpine
Riddelliine
Safrole
Selenium Sulfide
Streptozotocin (see Nitrosourea Chemotherapeutic Agents)
* Styrene
Styrene-7,8-oxide
Sulfallate
Tetrachloroethylene
Tetrafluoroethylene
Tetranitromethane
Thioacetamide
4,4'-Thiodianiline
Thiourea
Toluene Dilsocyanates
Toxaphene
Trichloroethylene
2,4,6-Trichlorophenol
1,2,3-Trichloropropane
Tris(2,3-dibromopropyl) Phosphate
Ultraviolet Radiation A (see Ultraviolet Radiation Related Exposures)
Ultraviolet Radiation B (see Ultraviolet Radiation Related Exposures)
Ultraviolet Radiation C (see Ultraviolet Radiation Related Exposures)
Urethane
Vinyl Bromide (see Vinyl Halides [Selected])
4-Vinyl-1-cyclohexene Diepoxide
Vinyl Fluoride (see Vinyl Halides [Selected])

Styrene



- **Styrene**
- **Reasonably anticipated to be a human carcinogen**
- **Widely used to make plastics and rubber**
- **Found in tobacco smoke**

Report on Carcinogens Status
Reasonably anticipated to be a human carcinogen

What is styrene?

Styrene is a colorless, flammable liquid, which has a sweet odor and is highly volatile. It is an industrial chemical used to make polystyrene and resins, such as reinforced plastic and rubbers.

How is styrene used?

Styrene is widely used to make plastics and rubber, which are used to manufacture a variety of products, such as insulation, pipes, automobile parts, printing cartridges, food containers, and carpet backing.

How are people exposed to styrene?

People are exposed to styrene in the workplace and in the environment.

Workers in certain occupations are potentially exposed to much higher levels of styrene than the general population. For example, workers who fabricate boats, car and truck parts, tanks, and bath tubs and shower stalls with glass fiber-reinforced polyester composite plastics, may breathe in high levels of styrene in the workplace. Workers may also absorb styrene through the skin. Exposures in the workplace have decreased over time.

People may be exposed to styrene through breathing indoor air that has styrene vapors from building materials, photocopiers, tobacco smoke, and other products.

Smokers are exposed to styrene because it occurs in cigarette smoke.

Living near industrial facilities or hazardous waste sites is another way people may be exposed to styrene.

Styrene may also leach from polystyrene containers used for food products, but levels of styrene are very low.

* **What evidence is there that styrene causes cancer?**
Human Studies

The limited evidence for cancer from styrene in humans is from occupational studies showing increased risks for lymphohematopoietic cancers, such as leukemia and lymphoma, and genetic damage in the white blood cells, or lymphocytes, of workers exposed to styrene. There is also some evidence for increased risk of cancer in the pancreas or esophagus among some styrene workers, but the evidence is weaker than that for lymphohematopoietic cancers.

Animal Studies

Styrene caused lung tumors in several strains of mice.

Mechanistic Studies

Exactly how styrene causes cancer is not fully understood, but styrene is converted, in laboratory animals and humans, to styrene-7,8-oxide, which is listed in the Report on Carcinogens as *reasonably anticipated to be a human carcinogen*. Styrene-7,8-oxide causes genetic damage and has been found in the blood of workers exposed to styrene.

What are some things I can do to prevent exposure to styrene?

- Stop smoking. Styrene is found in tobacco smoke.
- Limit children's exposure to tobacco smoke.
- Adhere to federal government regulations.

Workers and employers should practice good occupational health behaviors. This may include wearing protective clothing, respirators, and gloves. Work places should be well ventilated.

Where do I go for more information?

National Toxicology Program

<http://ntp.niehs.nih.gov/go/roc12candidates>

Agency for Toxic Substances and Disease Registry

<http://www.atsdr.cdc.gov/substances/toxsubstance.asp?toxid=74>

National Institute for Occupational Safety and Health

<http://www.cdc.gov/niosh/topics/styrene>

Occupational Safety and Health Administration

<http://www.osha.gov/SLTC/styrene/index.html>



The Report on Carcinogens, Twelfth Edition, is prepared by the National Toxicology Program, an interagency group coordinated by the U.S. Department of Health and Human Services. The report identifies agents, substances, mixtures, or exposures in two categories: *known to be a human carcinogen* and *reasonably anticipated to be a human carcinogen*. The full Report on Carcinogens is available at <http://ntp.niehs.nih.gov/go/roc12>.

PO BOX 12233, MD K2-03
Research Triangle Park, NC 27709
Phone: 919.541.3345 • <http://ntp.niehs.nih.gov>

Printed on recycled paper June 2011

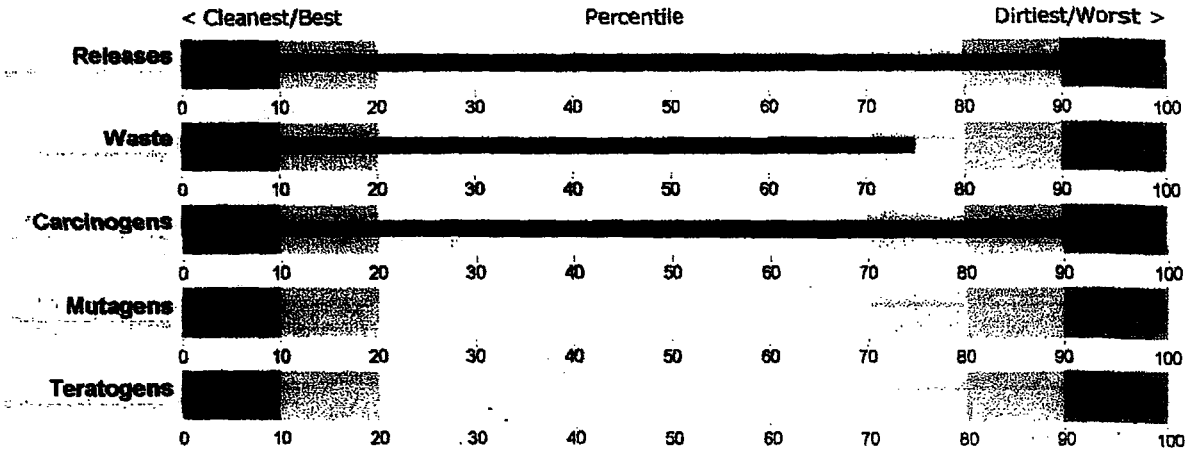


U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health

TRI Facilities for Flagler Beach, fl (2013)

Search Criteria Used (More)
 Reporting Year: 2013 | GO
 Level of Detail: Summary | GO
 Type of Report Output: Text (HTML) | GO

Comparison of all of facility SEA RAY BOATS INC, 2013 with other TRI facilities



Summary

Reporting Year: 2013
 Total pounds of releases: **119,000**
 Total pounds of waste: **122,940**
 Total number of facilities: **1**
 Total number of TRI submissions: **2**
 Total number of TRI Form A submissions: **0**
 RSEI data were only calculated for 1988-2010, and can't be provided in this search for 2013.
[Get list of facilities](#)
[Get list of submissions](#)

Top 5 parent companies for pounds of releases

BRUNSWICK CORP 119,000

Top 5 chemicals for pounds of releases

* Styrene 100,000
 Methyl methacrylate 19,000

Top 5 general industries for pounds of releases

Transportation Equipment 119,000

Top 5 specific industries for pounds of releases

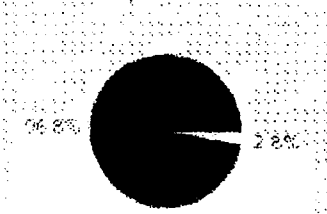
336612: Boat Building 119,000

Releases

Release medium	Pounds of releases
Air	119,000

Expand pie chart and table to all categories

Waste Generated



Waste type	Pounds of waste
Burned for energy recovery off-site	540
Released on or off-site	119,000
Non-production-related waste (from accidents, cleanups, etc.)	3,400

Shrink pie chart and table to fewer categories

Top 5 cities for pounds of on-site releases

FLAGLER BEACH, FL 119,000

Top 5 Congressional districts for pounds of on-site releases

Florida 6 119,000

Expand all summaries or Shrink all summaries

END OF REPORT

* This search was done on February 2, 2015. It was compiled from government data last released on October 14, 2014. The data were obtained from the U.S. EPA's Toxic Release Inventory database (TRI).

Search Criteria Used	
City	flagler beach
State	Florida
Database Type	Current
Use RSEI Risk Screening Data	Display additional 1988-2010 RSEI risk screening data
Sort Order	Default order
Reporting Year	2013 GO
Level of Detail	Summary GO
Type of Report Output	Text (HTML) GO



Technology Transfer Network - Air Toxics Web Site Pollutants and Sources

The Pollutants



Hazardous air pollutants, also known as toxic air pollutants or air toxics, are those pollutants that cause or may cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental and ecological effects. EPA is required to control 187 hazardous air pollutants. Examples of toxic air pollutants include benzene, which is found in gasoline; perchloroethylene, which is emitted from some dry cleaning facilities; and methylene chloride, which is used as a solvent and paint stripper by a number of industries. Through appropriate rulemaking, the Clean Air Act list can be modified. A current list of modifications is available. Some clarification on certain pollutant aggregation (PDF) is also available.

The Sources

Most air toxics originate from human-made sources, including mobile sources (e.g., cars, trucks, buses) and stationary sources (e.g., factories, refineries, power plants), as well as indoor sources (e.g., building materials and activities such as cleaning). There are two types of stationary sources that generate routine emissions of air toxics:

- "Major" sources are defined as sources that emit 10 tons per year of any of the listed toxic air pollutants, or 25 tons per year of a mixture of air toxics. These sources may release air toxics from equipment leaks, when materials are transferred from one location to another, or during discharge through emission stacks or vents.
- "Area" sources consist of smaller-size facilities that release lesser quantities of toxic pollutants into the air. Area sources are defined as sources that emit less than 10 tons per year of a single air toxic, or less than 25 tons per year of a combination of air toxics. Though emissions from individual area sources are often relatively small, collectively their emissions can be of concern - particularly where large numbers of sources are located in heavily populated areas.

EPA published the initial list of "source categories" in 1992 (57FR31576, July 16, 1992) and since that time has issued several revisions and updates to the list and promulgation schedule. For each listed source category, EPA indicates whether the sources are considered to be "major" sources or "area" sources. The 1990 Clean Air Act Amendments direct EPA to set standards for all major sources of air toxics (and some area sources that are of particular concern).

**Correspondence
following
February 10, 2015
Planning and Development Board
meeting**

RESOLUTION 2015 – 04

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA, STATING THE CITY OF FLAGLER BEACH'S OPPOSITION TO THE FLAGLER COUNTY FUTURE LAND USE MAP AMENDMENT APPLICATION #2972 AND FLAGLER COUNTY ZONING MAP AMENDMENT APPLICATION #2973 AND STRONGLY URGING THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS DENY THESE APPLICATIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Flagler County Board of County Commissioners is being asked to approve Future Land Use Map Amendment Application #2972; and

WHEREAS, the Flagler County Board of County Commissioners is being asked to approve Application #2973 Rezoning; and

WHEREAS, this FLUM amendment request is for a change of designation of 24.4 acres from Residential Low Density and Conservation to Commercial High Intensity and Conservation; and

WHEREAS, the rezoning application is a request to rezone from the existing zoning of PUD to C-2, General Commercial and Shopping Center; and

WHEREAS, the land in question abuts onto residential property within the City of Flagler Beach; and

WHEREAS, the land in question contains wetlands and a sensitive ecosystem; and

WHEREAS, should this amendment go into effect, it will allow for more intense commercial activity by a corporation that already affects the peace and the environment of its residential neighbors within Flagler Beach; and

WHEREAS, such increased commercial activity will increase the noise level which is incompatible with residential zoning; and

WHEREAS, such increased commercial activity will pave the way for an increase in the discharge of hazardous air pollutants such as styrene, which has recently been reclassified from being a suspected carcinogen to a "reasonably anticipated to be a carcinogen" as per The Report on Carcinogens, Twelfth Edition, prepared by the National Toxicology Program coordinated by the US Department of Health and Human Services, thus also being incompatible with residential zoning; and

WHEREAS, it is the duty of elected officials to protect the health and welfare of those whom they represent; and

WHEREAS, the property owners along Lambert Avenue did their due diligence prior to making their investments and knew that the land abutting theirs within Flagler County was zoned Residential Low Density and Conservation; and

WHEREAS, approval of this FLUM amendment would have a negative impact on property values and, thus, on property taxes collected by the City and the County; and

WHEREAS, the Roberts Road corridor is adjacent to the Gateway to Flagler Beach; and

WHEREAS, Flagler Beach serves as the playground of Flagler County; and

WHEREAS, tourism in Flagler Beach and Flagler County could be negatively affected by the increases in noise and hazardous air pollutants; and

WHEREAS, the Flagler County Planning and Development Board unanimously denied a request to rezone these same parcels from residential to a more intense zoning in 2013.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, AS FOLLOWS:


SECTION 1. The City Commission of the City of Flagler Beach strongly urges the Flagler County Board of County Commissioners to deny Future Land Use Map Amendment Application #2972 and Rezoning Application #2973 for all the above-stated reasons.

SECTION 2. This Resolution shall become effective immediately upon passage as provided by law.

PASSED AND ADOPTED THIS 12TH DAY OF FEBRUARY 2015.

CITY OF FLAGLER BEACH, FLORIDA
CITY COMMISSION

ATTEST:


Penny Overstreet, City Clerk


Linda Provencher, Mayor

Adam Mengel

From: Gina Lemon
Sent: Thursday, February 12, 2015 11:44 AM
To: Barbara S. Revels; Charles Ericksen Jr.; Frank Meeker; George Hanns; Nate McLaughlin; Albert J. Hadeed; Adam Mengel; 'Laureen Kornel'; 'Michael C. Boyd'; 'Michael Duggins'; 'Pam Richardson'; 'Robert Dickinson'; 'Russel R. Reinke'; 'Thad Crowe'
Cc: 'MDeal13797@aol.com'
Subject: FW: Flagler County Development and Review Board

To all –

Forwarding Mr. Deal's correspondence as requested below.

Thank you,
Gina

Gina Lemon, Development Review Planner III
Flagler County Planning and Zoning Department
1769 E. Moody Boulevard, Building 2
Bunnell, FL 32110
Phone: 386-313-4067
Fax: 386-313-4109
Email: glemon@flaglercounty.org
Website: www.flaglercounty.org

From: MDeal13797@aol.com [<mailto:MDeal13797@aol.com>]
Sent: Wednesday, February 11, 2015 6:05 PM
To: Gina Lemon
Subject: Flagler County Development and Review Board

Dear Gina,

I do not have all of the e-mail addresses of the Flagler County Development and Review Board members. Could I impose upon you to forward this e-mail to all of them, including the BOCC, County Attorney and Adam.

If this won't work, if you could forward me all of the e-mail addresses of the Development and Review Board members I would appreciate it.

Sincerely,

Don Deal

Here is a cut and paste:

Dear Planning and Development Board members,

I have never had the opportunity to meet many of you until last night. I am also unclear as to your background. However, I wish to compliment each of you for acknowledging the inconsistencies and incompatibilities in reference to the numerous Comprehensive Plan issues we brought up last night.

My background is, I have been serving on the Flagler Beach Planning and Architectural Review Board for close to 20 or more years. Before that, I also served a number of years on Flagler County's Long Range Planning Board. Roseanne Stocker, who you also heard from in the very beginning of the public comment section also serves on the Flagler Beach Planning and Architectural Review Board for almost the same amount of time. Therefore, each of us is very familiar with,

both the detail of Comprehensive Plan issues and the analysis of staff reports. We always do our homework as each of you also did last night.

As mentioned, the inconsistencies or incompatibility of the Comprehensive Plan do not change, regardless of whom the applicant is. Every applicant needs to be treated the same.

In closing, I thank each of you for recognizing that fact unanimously 7 to 0 last night in a denial to the FLUM request for Sea Ray Boats from PUD Low Density to High Intensity Commercial.

Sincerely,

Don Deal

Adam Mengel

From: MDeal13797@aol.com
Sent: Thursday, February 12, 2015 12:01 PM
To: Gina Lemon; Barbara S. Revels; Charles Ericksen Jr.; Frank Meeker; George Hanns; Nate McLaughlin; Albert J. Hadeed; Adam Mengel; laureenkornel@hotmail.com; mboyd@bellsouth.net; coryi62@earthlink.net; pam4houses@gmail.com; dickinsonci@aol.com; rreinke@aol.com; crowet6@gmail.com
Subject: Re: FW: Flagler County Development and Review Board

Thank you Gina. As this moves forward, there is a multitude of research that will be forthcoming, some of which are major Comprehensive Plan inconsistencies, not to mention numerous other very pertinent documents.

In a message dated 2/12/2015 11:43:07 A.M. Eastern Standard Time, glemon@flaglercounty.org writes:

To all –

Forwarding Mr. Deal's correspondence as requested below.

Thank you,

Gina

Gina Lemon, Development Review Planner III

Flagler County Planning and Zoning Department

1769 E. Moody Boulevard, Building 2

Bunnell, FL 32110

Phone: 386-313-4067

Fax: 386-313-4109

Email: glemon@flaglercounty.org

Website: www.flaglercounty.org

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Sincerely,

Don Deal

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Palm Coast Observer

Sea Ray requests zoning change, neighbors fear expansion

by: Jonathan Simmons | News Editor

Flagler Beach resident and city planning review board vice chairwoman Roseanne Stocker already smells the styrene when she's out jogging or cycling on Oceanshore Boulevard. "Sometimes I ask my running friends, 'Do you smell that?' And they say, 'No — Oh, yeah. What is that?' And I say, 'That's styrene. I know what it smells like.' ... It's on A1A when the wind blows out of the west," Stocker said to Flagler Beach City Commissioners at a commission meeting Feb. 12.

The source of the stench is even closer to home: The Sea Ray Boats production facility sitting on unincorporated county land about a quarter mile northwest of Stocker's Lambert Avenue, Flagler Beach home.

Now Stocker and other Lambert residents are concerned things will get worse: Sea Ray is asking the county to amend the future land use map and change the zoning of a 24.4-acre property to its south from residential low-density and conservation to commercial high-density and conservation — the kind of zoning typically used for shopping centers — in what Sea Ray says is a step needed to build a 16-acre employee parking lot, but residents fear is an underhanded attempt to increase production by freeing up areas of Sea Ray's property that are now used for parking for additional industrial use.

The county's planning board, rejecting the formal recommendation of county planner Adam Mengel, voted against the application 7-0 in a Feb. 10 hearing, but the matter will still appear before the County Commission — which has the final say — in March.

Flagler Beach fears

About a dozen residents spoke at the Flagler Beach City Commissioner meeting Feb. 12, most asking the commission to pass a resolution submitted by Commissioner Jane Mealy — a Lambert Avenue resident — urging the county not to approve Sea Ray's proposal.

A few, including the Flagler County Chamber's Gretchen Smith, asked the commission to delay its decision. Charles Faulkner, a Palmetto Avenue resident, warned the commission against taking any steps that would appear anti-business.

"Get the whole story," he said. "Talk directly to the guys who want to build a parking lot, and don't send a message that we're not open to business. ... Don't send that signal out. It'll take us back 10 years."

Don Deal — a Lambert resident, long-term member of Flagler Beach's Planning and Architectural Review board and former member of Flagler County's Long Range Planning Board — said the Sea Ray proposal isn't consistent with the county's comprehensive plan.

"Don't tell me that they were not prepared and this is only a parking lot," he said at the meeting. "That (planning) board heard this same argument, that this is just a parking lot. ... This is an expansion to 16 acres."

Flagler Beach City Planner Larry Torino also sent the Flagler Beach City Commission a [report](#) noting the Sea Ray proposal's conflicts with the county's comprehensive plan.

But Commissioner Joy McGrew thought commissioners should meet with Sea Ray representatives before making a decision.

"I went to the (planning board) meeting and I listened to Sea Ray on Monday, and they did a terrible job. Terrible," she said at the meeting. "Let's at least give Sea Ray a chance to shoot themselves in the other foot."

McGrew said residents like Stocker and Deal, who also spoke at the planning board meeting, had gone over Sea Ray's plan and found numerous problems.

"As far as the comp plan, (Sea Ray) missed it on every mark," she said. "Roseanne (Stocker) did a phenomenal job, Don (Deal) always does a phenomenal job on poking holes in it. And they poked so many that a rain bucket couldn't hold it."

As to the 7-0 county planning board vote against the Sea Ray plan, "I think that's great," she said. "That means Sea Ray ... has to go and come clean and shake about all the cobwebs and all the hidden plans and agendas."

But she worried that Sea Ray, unable to do what it wants with the property, could move elsewhere. "Do we not want Sea Ray to expand? Do we not want businesses in our community to be successful?" she said. "If you think it's not an economic impact for Sea Ray to shut down, think again."

Stinky beaches and busy back streets?

Lambert residents notified of Sea Ray's plans dug up a July, 2013 Sea Ray permit application to the Florida Department of Environmental Protection to increase volatile organic compound emissions up to 978,000 pounds. Sea Ray's 2013 emissions level was about 119,000 pounds, most of it styrene.

Residents submitted a copy of the permit application to the Flagler Beach city commission, marking a part of its text which reads, "The purpose of this construction permit is to authorize the construction associated with additional boat manufacturing operations from other Brunswick Corporation facilities to the Palm Coast facility." The DEP granted the permit.

That alarmed Commissioner Steve Settle.

"The fact that they've applied for a permit for that extra volume of chemicals, it scared the heck out of me," he said.

Residents pointed out that styrene is classified by the National Toxicology Program as "reasonably anticipated to be a carcinogen," although the evidence that the chemical causes cancers like leukemia and lymphoma has been limited and comes from workers exposed to the chemical directly, according to a National Toxicology Program report submitted with backup documents for the Flagler Beach meeting. "Don't say you want to wait ... and give Sea Ray a chance to change their story and make it all pretty and make it sound nice," Stocker said. "If you don't take a stand, people are going to be wondering how it happened in Flagler Beach that our beautiful little town turned into the town that smells."

There were other problems with the proposed change. Lambert Avenue residents bought their homes knowing the property that bordered them — the property Sea Ray now wants to rezone to high-intensity commercial — was zoned low-density residential.

"Yes, the people on Lambert Avenue and that area did move in after Sea Ray was already there, but to me this is not like, 'You built by the airport, you've got to live with the noise,'" Mealy said. "The people who lived here did their due diligence. They looked at what the zoning was behind them. It was low-density residential."

Residents said that even if Sea Ray gets its zoning change and builds only a parking lot — and the company suggested at the planning board meeting that the county could add measures restricting it to just a parking lot — if Sea Ray moves, other businesses could later come in and use the commercial-zoned land for more disruptive uses.

And even adding just a parking lot, they said, would lead to increased noise from traffic and from vehicles with backup alarms.

'Should have grabbed it'

Carney said the county seemed to be pushing for the Sea Ray application, despite clear problems, to increase revenue.

"We need to tell them how we feel," she said at the meeting. "I think the county — I'm going to be honest with you — I think they're looking for a way to make some money off that land. And I'm going to put out the A-word. Why don't we annex?"

Flagler Beach once had the chance to annexing land south of Sea Ray, but did not.

"Boy, we should have grabbed it," Carney said after the Feb. 12 meeting.

According to meeting minutes from the time, in 2004, residents opposed annexation for that property and others, fearing that adding land to the west would change the character of the seaside town.

McGrew said after the meeting that by the time the land south of Sea Ray came up for consideration, "This town was poisoned by previous annexation attempts." Some commissioners at the time had run for office on no-annexation platforms.

"This was before the boom. This town was much smaller then," Mayor Linda Provencher said after the meeting. "I think (residents) thought that by not annexing it, we would remain a smaller community." Commissioners did not discuss Carney's annexation suggestion at the meeting. But they voted 4-1, with McGrew dissenting, to urge the county commission not to approve Sea Ray's proposal.

Putting the plant on trial

County Administrator Craig Coffey said in an interview after the meeting that the Flagler Beach City Commission voted without hearing all the facts.

"We weren't invited or asked to participate, nor was Sea Ray — just the residents," he said. "A lot of people are trying to put the plant on trial."

Coffey said county staff is working to clarify exactly what it is that Sea Ray has proposed — a parking lot, he said, and perhaps an office building — before the County Commission hears the issue March 16.

"We're working on trying to address some of the concern of the residents," he said. "The reality is, from the back of some of those (Lambert area) houses, you can only see the top of the Sea Ray building.

Many of those folks won't even be able to see a car in a parking lot."

Sending a message

The Flagler Beach City Commission meeting followed a rebuke to the county delivered by the Flagler County Planning and Development Board in a unanimous 7-0 vote against the Sea Ray proposal.

Board Chairman Russ Reinke said he could see both sides of the Sea Ray issue and suggested the board might try to enact measures to limit Sea Ray to just a parking lot, but he was not confident that the County Commission would listen.

"I realize that no matter what we do, it goes to the County Commission, and they change their minds anyhow."

He backtracked: "I didn't mean that derogatorily, but the County Commission is the ultimate deciding body in Flagler County on land use changes and things like that. ... Our recommendation is, for the most part, is taken in to consideration very heavily by each one of those commissioners, and then from there, they make their decision." But he said, "I don't know that we can lock this up."

The 7-0 vote was the second time in less than six months that the planning board contravened Mengel's advice on a controversial land use issue. The last time that happened, the board had voted against Salamander Resort's proposal for a 198-room hotel at Hammock Beach — recommended for approval by Mengel — only to have the County Commission, after a marathon 8-hour hearing, [approve it anyway](#) in the early morning hours of Feb. 3.

Planning Board member Thad Crowe said the board should make sure the County Commission knows its opinion.

"Regarding your remarks about the County Commission," he said to Reinke, "I think given their tendency to, I guess, sometimes go in a different direction, I feel it's important to send a message to them if we do feel that way. And for that reason, I would like to make a motion to deny application 2972," the Sea Ray future land use map amendment proposal.

Crowe said the proposal conflicted with the county's comprehensive plan.

After the unanimous vote against the future land use map amendment request, the board voted unanimously to postpone indefinitely Sea Ray's accompanying zoning change application.

'Seems a little berserk'

The votes came after presentations by Mengel and by attorney Sidney Ansbacher, who represented Sea Ray.

Mengel pushed for approval.

“(Sea Ray’s) value as an economic entity and engine cannot be discounted,” he said.

He noted that Sea Ray was willing to agree to restrictions on the 24-acre parcel it wants rezoned commercial, and that even on the Sea Ray land zoned industrial — part of which is now being used for parking and boat mold storage — there are limits to what Sea Ray can do.

“Some commentators have come back and said, ‘Well, there would be an overall expansion of the plant that would be intended here.’ And that could be a likely possibility, and that is Sea Ray’s intent with this,” he said.

But, he said, the county’s comprehensive plan restricts industrial development on an industrial future land use area like Sea Ray’s current facility to a maximum impervious area of 70% and a maximum floor area ratio of 0.45, and those limits can’t be waived.

“This is not an attempt to backdoor industrial operations, industrial expansion, to this property,” he said.

Ansbacher said the decision to request high-intensity commercial zoning was made “after long consultation with Mr. Coffey” and with Mengel, and is “the closest category to an on-site parking facility that you all would have.”

He said the current zoning on the site, owned by The Carter Trust, would allow for up to 49 homes and the associated traffic.

But residents said Mengel’s recommendation would amount to “spot-zoning” for Sea Ray.

Stocker, speaking during public comment, said high-intensity commercial zoning is listed in the county comprehensive plan as intended for “major arterial streets” along the Interstate 95 corridor and that the Sea Ray proposal clearly violated the comprehensive plan. Roberts Road, the road the land in question borders, is a small two-way street.

The change to high-intensity commercial would also hurt neighbors’ property values, she said.

“Think about your own backyards and what would happen. This is our life savings that you’re talking about,” she said. “We neighbors are not anti-Sea Ray. They have a right to operate as they do on their current site. However, we also have the right to expect that our county will honor the principles of proper zoning, and not bend the rules to accommodate one company.”

Deal told the board that the county’s approval would amount to favoritism.

“This is strictly what I would consider accommodation zoning: a spot-zoning, if you will, for Sea Ray Boats, and Sea Ray Boats only,” he said at the meeting.

In comments sent to *The Palm Coast Observer* after the meeting, he questioned why Mengel hadn’t addressed compatibility issues in his recommendation.

“How can the Flagler County Planning and Development Board, made up of two certified planners and five other very astute individuals along with the city of Flagler Beach’s planner, recognize these comprehensive plan issues, and Flagler County’s planner fail to mention them in his staff report?” he said. “You cannot show favoritism in any fashion. Everyone must be treated the same. Me, you or Sea Ray Boats. If not, this is the first thing attorneys look at.”

But developer Mark Langello said at the planning board meeting that residents’ complaints stemmed from a “not in my backyard” attitude. “I think that you should respect their concerns, but I think there’s a happy medium versus just saying no,” he told board members.

Faulkner called residents’ concerns “sensationalized.” “The applicant has already agreed to major limitations. What they want is a parking lot,” he said. “I would ask that you try to understand the real problems as opposed to the make-believe problems. Make-believe problems, oftentimes, do not have a solution, because they’re not real.”

But planning board members questioned the need for high-intensity commercial zoning.

“My issues lie primarily with the compatibility as such a high intensity land use change,” said board member Lauren Kornel. “I see some inconsistencies with the comprehensive plan. ... I’m having a hard time supporting it based on compatibility.”

Board member Michael Duggins said the land use was inappropriate. “The east side of this property needs to be a buffer; it doesn’t need to be a parking lot,” he said. “If Sea Ray doesn’t have enough land that’s left to build a parking lot and accommodate their trucks, then they should go across the street and get some more.”

Board member Pam Richardson said she wished she knew what Sea Ray’s “end game” was. “My thoughts are pretty simple: I just feel like we’re accelerating from zero to 60, and I don’t know which direction we’re going,” she said. “It seems a little berserk.”

The Flagler County Commission will hear Sea Ray’s proposal at its 5 p.m., March 16 meeting at the Government Services Building at 1769 State Road 100 in Bunnell.

Adam Mengel

From: Helga van Eckert
Sent: Monday, February 16, 2015 2:14 PM
To: Adam Mengel
Subject: FW: Sea Ray -FB Consistency Determination
Attachments: Sea Ray Land Use Amendment 2.10.15rev 2.12.15.docx

FYI – didn't know if you'd seen this...

Helga van Eckert
Executive Director
Department of Economic Opportunity
Flagler County Board of County Commissioners
1769 E. Moody Blvd., Bldg. #2, Bunnell, FL 32110
Office: (386) 313-4071
Fax: (386) 313-4101



From: Penny Overstreet [<mailto:POverstreet@CityofFlaglerBeach.com>]
Sent: Monday, February 16, 2015 1:15 PM
To: Helga van Eckert
Subject: FW: Sea Ray -FB Consistency Determination

Hello Helga,
Bruce said you were looking for copies of these documents. Let me know if you need anything else.

Penny Overstreet CMC
City Clerk
City of Flagler Beach
105 S. 2nd Street
Flagler Beach, FL 32136
www.cityofflaglerbeach.com
☎ 386-517-2000 ext. 233
☎ 386-517-2008

Florida has a very broad Public Records Law. Virtually all written communications to or from State and Local Officials and employees are public records available to the public and media upon request. The City of Flagler Beach's policy does not differentiate between personal and business emails. This means email messages, including your e-mail address and any attachments and information we receive online might be disclosed to any person or media making a public records request. E-mail sent on the City system will be considered public and will only be withheld from disclosure if deemed confidential or exempt pursuant to State Law. If you are an individual whose identifying information is exempt under 119.071, Florida Statutes, please so indicate in your email or other communication. If you have any questions about the Florida public records law refer to Chapter 119 Florida Statutes.
Website: www.cityofflaglerbeach.com

From: Larry Torino
Sent: Friday, February 13, 2015 2:14 PM
To: jonathan@palmcoastobserver.com
Cc: Penny Overstreet
Subject: Sea Ray -FB Consistency Determination

Requested document. Have a good weekend

City of Flagler Beach Consistency Report:

1. APPLICATION #2972 – FUTURE LAND USE MAP AMENDMENT FROM RESIDENTIAL LOW DENSITY AND CONSERVATION TO COMMERCIAL HIGH INTENSITY AND CONSERVATION
2. APPLICATION #2973 - REZONING FROM PUD (PLANNED UNIT DEVELOPMENT) DISTRICT TO C-2 (COMMERCIAL AND SHOPPING CENTER) DISTRICT

CONCLUSION OF FINDINGS:

- A. Future Land Use Map Amendment (FLUM)
 - I. Comprehensive Plan (Inconsistent)
 - II. Land Development Code (Inconsistent)
- B. Rezoning petition:
 - I. Proposed zoning district (Inconsistent)
 - II. Furthering Public Interest (inconsistent)

INTRODUCTION:

The proposed FLUM map amendment and accompanying rezoning petition raises bona fide concerns as each relates to the impact upon:

1. The adjoining residential area.
2. The Robert's Road corridor.
3. The City of Flagler Beach.

Each finding is based upon the adopted Flagler County Comprehensive Plan Goals, Objectives, and Policies and regulatory language of the adopted Flagler County Land Development Code. As such, the findings presented are deemed fact based and therefore submitted as substantial competent evidence in rendering a consistency determination for the respective applications.

SUMMARY of Findings:

1. COMPREHENSIVE PLAN

Determination of Consistency:

Future Land Use Element

1. Goal A.1.

Flagler County shall strive to achieve orderly, harmonious and judicious use of the land through a distribution of compatible land uses, fostering the viability of new and existing communities while maintaining the agricultural pursuits of the County, and recognizing and preserving the integrity of the natural environment.

INCONSISTENCY FINDING:

The proposed action to consider a FLUM change from Residential Low Density and Conservation to Commercial High Intensity and Conservation fails to demonstrate harmonious and judicious use of the land area in question and the effect to future orderly development of the neighboring areas. Foremost, the proposed FLUM amendment violates the policy edict of the Comprehensive Plan which specifies all commercial land use shall be confined to those areas designated as such on the FLUM (**Policy 8.6**) and

Policy 13.2 which mandates protection of residential neighborhoods from encroachment of incompatible land uses such as commercial and industrial uses. Flagler County has not demonstrated nor provided documentation that the land uses change and the proposed underlying zoning classification will remain compatible with and further the public interest as it relates to:

- i. The adjoining land FLUM and zoning district classification and balance of Flagler County lands currently designated Residential Low Density.
- ii. The Robert's Road corridor.
- iii. The City of Flagler Beach Robert's Road current FLUM and current zoning designations.

2. Policy 2.2: The Planning Department shall maintain consistency between the Land Development Code and the Comprehensive Plan by the following means:

- 1) Parcels being considered for amendment to the land use map shall be concurrently evaluated for rezoning to the most appropriate zoning district.

INCONSISTENCY FINDING:

The proposed applications are inconsistent with Comprehensive Plan **Policy 8.6** which serves as the basis for "new" commercial development consideration. The proposed underlying zoning fails to meet the most basic criteria of the C-2 General Commercial and shopping center district which states in part "It is intended that such commercial areas will be located around the interchange of I-95 and Palm Coast Parkway, I-95 and SR 100, I-95 and U.S.1, along arterial roads and other suitable areas when consistent with the Flagler County Comprehensive Plan."

The area in question, given its location, lower tier roadway classification and coupled with current and projected future land uses on Robert's Road as delineated on the Flagler County FLUM and Zoning District Map fails to meet the minimum criteria for the C-2 district as it relates to location and consistency with Comprehensive Plan elements identified herein.

3. Policy 8.6: New commercial development shall be limited to commercially designated areas on the "Future Land Use Map". The impact of that commercial development shall be managed through access management, traffic signalization and similar techniques.

INCONSISTENCY FINDING:

The proposed FLUM amendment is fundamentally inconsistent with this requisite.

4. Policy 12.4 – (Policy language below) Although the FLUM amendment does not purport an Industrial designated land use designation, clearly the purpose is to accommodate and enlarge what is presently an active industrial land use and as such, is contrary to established Comprehensive Plan policy, specifically, Policy D.1.4. A legitimate argument that Policy D.1.4 should not be given consideration is ill-advised. The proposed land use amendment is an effort to accommodate an industrial related use in an unrelated zoning classification. This premise is further reinforced by the proposed amendment to the C-2 principal permitted uses category to include "parking" and therefore enable use of the land as proposed. The following is offered in support of the stated inconsistency finding: The elements deemed inconsistent are noted in bold print.

INCONSISTENCY FINDING:

Policy 12.4: In light of the general decline in manufacturing and the economic shift toward services and high technology industries, Flagler County recognizes the need to conduct a Countywide Land Use Study to support and implement the strategies set forth in the Countywide *Strategic Plan for Economic Development*. The Countywide Land Use Study will re-evaluate land use allocations to support a more diversified economic base, determine land use siting requirements for targeted businesses and industries. Flagler County shall obtain input from the City of Bunnell, City of Palm Coast, Flagler County Chamber of Commerce and Enterprise Flagler during the preparation of the study. The County shall complete the Study and recommend appropriate amendment to its Comprehensive Plan by December 2006.

Interim Siting Criteria

Flagler County recognizes that land use must necessarily evolve in response to changing economic community conditions and that areas previously planned for Industrial, Agriculture or other non-residential land use may no longer be suitable for such uses. In considering requests for land use amendments, Flagler County shall apply the following siting and compatibility criteria during the interim period prior to the implementation of the Countywide Land Use Study:

- 1) Areas designated as Industrial on the future Land Use Map shall be considered appropriate for change of land use when one or more of the following conditions exist:
 - A. Site does not meet one or more of the following location/siting criteria:
 - 1) Direct access or proximate access to I-95;
 - 2) Access to the FEC railroad;
 - 3) Proximity to Flagler County Airport;
 - 4) Proximity to supporting services, related industries and existing industrial parks.
 - B. Lack of existing or planned supporting infrastructure;
 - C. **Site has remained undeveloped for more than 20 years or, if located within a designated industrial park, a significant portion of the park has remained undeveloped for more than 20 years;**
 - D. Alternative industrially-designated lands are available to meet projected industrial land use needs on a Countywide basis;
 - E. Proposed land use or uses depend on similar locational criteria for functional needs, i.e., fly-in developments near a runway, business hotels near the interstate etc.
- 2) **Residential land use categories may be considered compatible with adjacent industrial uses and with adjacent Industrial future land use designations provided buffers are utilized as described in Objective 13 (Guide for future development) of the Future Land Use Element and its related policies.**
- 3) Flagler County recognizes that Palm Coast Intracoastal Industrial Park is appropriate for a transition in land use and is no longer suitable for the Industrial land use designation because it includes significant vacant lands that have not functioned with Industrial use during the past 20 years and it does not meet the industrial siting criteria set forth above. **Land Use amendments to change the land use designation from Industrial to alternative land use categories, such as Residential and Mixed Use land use categories, shall be deemed consistent with the compatibility criteria set forth in this policy.**

5. **Policy 13.2:** Flagler County shall implement its Comprehensive Plan through land development regulations which protect residential neighborhoods from encroachment of incompatible land uses such as commercial and industrial uses. This type of protection may require as part of the land development regulations, standards for natural and planted landscape buffers and that less intensive office, commercial, or industrial uses be located adjacent to residential development and that the intensity may increase the further away from residential development.

INCONSISTENCY FINDING:

The proposed land use amendment and underlying zoning is in direct conflict with Policy 13.2 which is a most significant principal declaration.

ECONOMIC ELEMENT

6. **Policy A.3.4:** The County shall continue to coordinate economic development efforts with all cities and other applicable agencies.

INCONSISTENCY FINDING:

The above Policy is called out not in the sense of coordinating an economic growth effort per se between the jurisdictions, but rather Flagler County's failure to co-ordinate with the City of Flagler Beach in the review process given proximate jurisdictional boundaries (See A. Goal Statement Intergovernmental Coordination below).

7. **Goal E:** Flagler County shall promote balanced economic growth while enhancing the quality of life in the County.

INCONSISTENCY FINDING:

The applications and supporting Flagler County documents fail to demonstrate that "quality of life" concerns will not be affected in the immediate and surrounding area.

INTERGOVERNMENTAL COORDINATION

8. **A. Goal Statement:**

Flagler County will develop and maintain intergovernmental coordination mechanisms necessary to achieve consistency among local, county and regional plans and policies and coordinate all development activities in order to improve delivery of services, enhance the quality of life and protect the natural environment.

INCONSISTENCY FINDING:

Flagler County actions are not consistent with the above stated Goal given proximity of jurisdictional boundaries. The proposed amendments are not compatible with the shared development vision for the Robert's Road corridor as presently reflected on the respective FLUM's and zoning maps (See Policy A.3.4 above) .

9. **Policy 5.2:** The County shall utilize the *Northeast Florida Regional Planning Council as a mediator when development issues* or annexation issues cross-jurisdictional boundaries and cannot be resolved by the County or other local governments involved.

INCONSISTENCY FINDING:

The above stated Policy is noted for advisement purposes as a potential resolution option given the discord expressed by Flagler Beach residents and the City of Flagler Beach City Commission should Flagler County continue to proceed with the respective applications, as proposed.

Adam Mengel

From: Gina Lemon
Sent: Monday, February 16, 2015 5:19 PM
To: 'MDeal13797@aol.com'
Cc: Albert J. Hadeed
Subject: RE: Industrial Performance odor standard as it relates to Sea Ray specifically
Attachments: FC Ordinance 98-06.pdf

Good afternoon Mr. Deal –

I am unaware of any ordinance adopted by the County Commission addressing odor that is not included in the [Flagler County Code of Ordinances](#). The amendment to the Flagler County Land Development Code by Ordinance 98-06 adopted (attached for your reference) the Industrial Performance Standards and amended the Flagler County Land Development Code, Section 3.03.18 by adding subsection (G). There appears to be a later amendment to LDC, Section 3.03.18 through Ordinance 2001-20, I have requested a copy of this ordinance and upon receipt I will forward same to.

Thank you,
Gina

From: MDeal13797@aol.com [<mailto:MDeal13797@aol.com>]
Sent: Monday, February 16, 2015 8:51 AM
To: Gina Lemon
Cc: Albert J. Hadeed
Subject: Re: Industrial Performance odor standard as it relates to Sea Ray specifically

Dear Gina,

When you have a few minutes, could you direct me to the verbiage regarding our Industrial Odor ordinance as it relates to Sea Ray Boats specifically, not the generic municode for odor under Industrial Performance Standards. Years ago, when we passed an Industrial Odor ordinance, believe Al Hadeed was involved as a private citizen, we worked with Mike Collins, General Manager of Sea Ray at the time to grandfather in existing operations. However, expansion would have to meet the new County Standard.

Therefore, this goes beyond the standard verbiage in the municode. If you or All could offer me some insights exactly where that language is for my review, it would be much appreciated.

Sincerely,

Don Deal

In a message dated 2/12/2015 11:43:07 A.M. Eastern Standard Time, glemon@flaglercounty.org writes:

To all –

Forwarding Mr. Deal's correspondence as requested below.

Thank you,

Gina

Gina Lemon, Development Review Planner III

Flagler County Planning and Zoning Department

1769 E. Moody Boulevard, Building 2

Bunnell, FL 32110

Phone: 386-313-4067

Fax: 386-313-4109

Email: glemon@flaglercounty.org

Website: www.flaglercounty.org

From: MDeal13797@aol.com [<mailto:MDeal13797@aol.com>]

Sent: Wednesday, February 11, 2015 6:05 PM

To: Gina Lemon

Subject: Flagler County Development and Review Board

Dear Gina,

I do not have all of the e-mail addresses of the Flagler County Development and Review Board members. Could I impose upon you to forward this e-mail to all of them, including the BOCC, County Attorney and Adam.

If this won't work, if you could forward me all of the e-mail addresses of the Development and Review Board members I would appreciate it.

Sincerely,

Don Deal

Here is a cut and paste:

Dear Planning and Development Board members,

I have never had the opportunity to meet many of you until last night. I am also unclear as to your background. However, I wish to compliment each of you for acknowledging the inconsistencies and incompatibilities in reference to the numerous Comprehensive Plan issues we brought up last night.

My background is, I have been serving on the Flagler Beach Planning and Architectural Review Board for close to 20 or more years. Before that, I also served a number of years on Flagler County's Long Range Planning Board. Roseanne Stocker, who you also heard from in the very beginning of the public comment section also serves on the Flagler Beach Planning and Architectural Review Board for almost the same amount of time. Therefore, each of us is very familiar with, both the detail of Comprehensive Plan issues and the analysis of staff reports. We always do our homework as each of you also did last night.

As mentioned, the inconsistencies or incompatibility of the Comprehensive Plan do not change, regardless of whom the applicant is. Every applicant needs to be treated the same.

In closing, I thank each of you for recognizing that fact unanimously 7 to 0 last night in a denial to the FLUM request for Sea Ray Boats from PUD Low Density to High Intensity Commercial.

Sincerely,

Don Deal

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

ORDINANCE NO. 98-06

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF FLAGLER, FLORIDA AMENDING THE LAND DEVELOPMENT CODE OF FLAGLER COUNTY, FLORIDA, ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00. USE AND OTHER REQUIREMENTS BY DISTRICT, 3.03.18. I-INDUSTRIAL DISTRICT. BY ADDING A NEW PART 3.03.18. G. INDUSTRIAL PERFORMANCE STANDARDS INCLUDING THE PURPOSE AND INTENT AND PROVISIONS FOR NOISE, GLARE, AND VIBRATION; PROVIDING ENFORCEMENT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING SEVERABILITY; PROVIDING EFFECTIVE DATE.

WHEREAS, the Future Land Use Element of the Flagler County Comprehensive Plan states the Industrial Land Use category is the most intensive land use with the potential for producing significant environmental and economic impacts; and

WHEREAS, some of the land in Flagler County designated for industrial uses directly abuts, or is located in proximity to land designated for residential uses; and

WHEREAS, on June 18, 1996, the Flagler County Long Range Planning and Development Review Board created a subcommittee to develop industrial performance standards; and

WHEREAS, the Industrial Performance Standards Subcommittee, which included members representing the interests of private industries in Flagler County; met on eight occasions beginning in September, 1996 and ending in June, 1997; and

WHEREAS, the Flagler County Long Range Planning and Development Review Board reviewed and expanded on the recommendations of the Industrial Performance Standards Subcommittee at five regularly scheduled meetings beginning July, 1997 and ending in January, 1998; and

WHEREAS, the Flagler County Long Range Planning and Development Review Board adopted final recommendations in a drafted ordinance for industrial performance standards in January, 1998; and

WHEREAS, the Board of County Commissioners finds that enacting reasonable industrial performance standards shall serve to protect the interest of the public health, safety, and welfare of the citizens of Flagler County.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THAT THE LAND DEVELOPMENT CODE OF FLAGLER COUNTY, FLORIDA, ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00. USE AND OTHER REQUIREMENTS BY DISTRICT, 3.03.18. I-INDUSTRIAL DISTRICT. IS HEREBY AMENDED AS FOLLOWS:

Section 1. Land Development Code of Flagler County, Article III, Zoning District Regulations, Chapter 3.03.18. I-Industrial district., be and the same is hereby amended to add a new part 3.03.18. *G. Industrial performance standards.* to read as follows:

G. Industrial performance standards.

1. The purpose and intent of the industrial performance standards is to provide reasonable measures to protect residential and business districts from the potentially negative impacts of noise, glare, and

Per *[Signature]*
P. Mann

vibration which may be associated with industrial uses.

2. Noise provisions.

- (a) No industry shall emit any source of sound in such a manner as to create a sound level which exceeds the limits prescribed below for more than ten (10) percent of any measurement period. The measurement period shall not be less than ten (10) minutes. Sound levels shall be measured in "dBA", which means the composite abbreviation for the A-weighted sound level and the unit of sound level, the decibel.
- (b) Sound level measurements shall be taken, using standardized noise measuring instrumentation, from both the property line of the industry, which is emanating the noise, and the property line of the receiving land use from which the complaint was filed. In the event the property line of the industry directly abuts the receiving property, one sound level measurement, taken at the shared boundary line of the properties, shall constitute a measurement of both the emanating and receiving properties. An industry exceeding either the sound level limit for the emanating district or the sound level limit for the receiving district shall constitute a violation.

A sound level measurement taken from the property line of the industry emanating the noise may not exceed the following level:

Emanating Land Use District	Time	Sound Level Limit
Industrial	All times	75 dBA

A sound level measurement taken from the property line of the developed land use district receiving the sounds emanating from the industry may not exceed the following levels:

Receiving Land Use District (must be developed property)	Time	Sound Level Limit
Residential including Single-family, Multi-family, Planned Unit Development, and Mobile Home Districts ¹	7:00 a.m. to before 10:00 p.m.	60 dBA
	10:00 p.m. to before 7:00 a.m.	55 dBA
Commercial, Office, and Public Lands Institutional	7:00 a.m. to before 10:00 p.m.	65 dBA
	10:00 p.m. to before 7:00 a.m.	60 dBA
Industrial	All times	75 dBA
Agricultural	All times	75 dBA

- (c) Condition under which sound level limits shall be increased: Where an industry has established its use away from other incompatible uses and subsequently, through encroachment of development, finds itself adjoining a receiving land use district which would require a reduction in noise generation, said industry shall not emit a noise which exceeds the maximum noise limitation for the receiving land-use district by more than 10 decibels.

¹ Residential development within the Agricultural Land Use District is also included in this category. In such cases, the sound level measurement for the receiving category shall be taken from a location approximately one-hundred (100) feet from the residential structure rather than the property line.

APH

(d) The following shall be excepted from the sound level limits:

- (1) Air conditioners, when functioning with the manufacturer's standard mufflers and noise-reducing equipment in use and when functioning in proper operating condition according to the manufacturer's standards. The same exemption shall apply to lawn mowers and agricultural equipment used during daylight hours.
- (2) Construction operations for which building permits have been issued or where a written agreement is in effect with the county authorizing such activity, provided all equipment is operated in accord with the manufacturer's specifications and with all standard manufacturers' mufflers and noise reducing equipment in use and in proper operating condition, and such operations occur between the hours of 7:00 a.m. and 6:00 p.m.
- (3) Any noise resulting from any authorized emergency vehicle responding to an emergency or acting in time of emergency.
- (4) Calls for emergency assistance, warning calls, noises of safety signals, and warning devices.
- (5) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner of the premises served by any such alarm to turn off the alarm.
- (6) All noises coming from the normal operation of railroad trains and aircraft.
- (7) Those motor vehicles which have noise emissions controlled by Florida Statutes, up to the dBA levels allowed by law.
- (8) Construction, installation, or repair by any utility serving the industry if undertaken to address an emergency situation.
- (9) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit or written agreement has been issued.

3. Glare provisions.

- (a) Every industrial use shall be so operated as to prevent the emission of glare of such intensity as to be readily perceptible beyond the lot line of the property on which the use is located.
- (b) Outdoor lighting including the illumination of the parking areas, pedestrian paths, signage, and spot lighting used for aesthetic, or decorative reasons is exempted from this provision except that such outdoor lighting shall be designed to minimize the illumination cast on adjacent residential areas by directing such lights, if possible, toward the interior of the industrial property and/or by reducing the wattage or candle power of the lights.

4. Vibration provisions.

- (a) Every industrial use shall be so operated as to prevent perceptible vibrations beyond the lot line of the property on which the use is located.
- (b) Industrial operations proposing to use vibration causing equipment shall either increase the building setback or pad the base on which the equipment will rest to insure adequate ground area or padding to absorb all vibrations prior to them moving off the industrial property in any perceptible quantity.

AJA

Section 2. Enforcement. The provisions of this ordinance shall be enforced by the civil citation system. The civil citation amounts shall be as prescribed by resolution of the Board of County Commissioners.

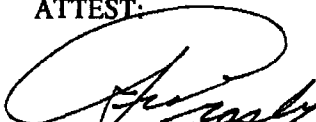
Section 3. Inclusion in the Code. It is the intent of the Board of County Commissioners of Flagler County, and is hereby provided that the provisions of this ordinance shall be made part of the Flagler County Code; that the sections of this ordinance may be renumbered or relettered; and that the word "ordinance" may be changed to "section", "article", "chapter" or other appropriate designation to accomplish such intention.

Section 4. Severability. It is the intent of the Board of County Commissioners of Flagler County, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect upon filing with the Department of State, per Section 125.66, Florida Statutes.

PASSED AND ADOPTED THIS 18 DAY OF May, 1998.

ATTEST:

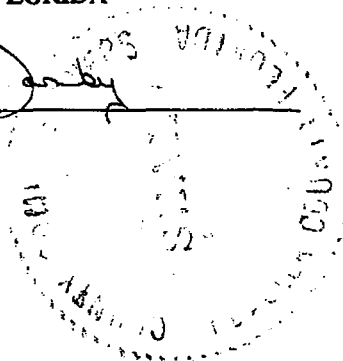


Syd Crosby, Clerk and
Ex Officio Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

5.19.98


James A. Darby, Chairman





Flagler Realtor seeking to buy former Lehigh cement plant site

By Tony Holt
tony.holt@news-journal.com

FLAGLER BEACH — Sea Ray Boats, which is seeking to expand its manufacturing facility in eastern Flagler County, may have more neighbors soon.

Maintaining harmonious relations with its neighbors has always been a priority for Sea Ray, a company spokesman said Monday. But those relations could be further tested if a large residential community is built nearby.

Jim Cullis, president of Grand Haven Realty, confirmed Monday he is seeking to purchase the former Lehigh Portland Cement Company plant site, a mixed-use planned unit development north of Roberts Road and east of Colbert Lane, near the Sea Ray plant. He said the closing date on that property, which encompasses more than 80 acres, is April 3.

That is raising some eyebrows at Sea Ray, said company spokesman Craig Wall.

“It concerns me when we have a potential residential (site) bordering our property,” said Wall. “The compatibility between industrial and residential is always a concern.”

Earlier this month, the Flagler County planning board voted unanimously to reject county’s staff recommendation to approve a rezoning of the property along the south of the boat dealer’s property. Wall said the rezoning is necessary to allow construction of a parking lot.

Several residents are opposed to it. Flagler County commissioners are expected to vote on the issue in March.

While officials with the boat-production company await the upcoming county vote, a significant transaction for land near the plant is in the works. The property is owned by Brazos XVI, a holding company, according to the Flagler County Property Appraiser’s Office. All 21 parcels listed under the company’s ownership were valued together at \$1.5 million as of January 2014, said Property Appraiser Jay Gardner.

Cullis said he is in the “due diligence” phase with the holding company and he expects the deal to close. He declined to disclose the purchase price.

The Lehigh cement plant, at the northern end of Roberts Road, was one of Flagler County’s biggest industries in the 1950s. The plant closed in 1964, laying off more than 150 workers. It wasn’t until the mid-1980s that the county managed to lure a big employer for the industrial site — Sea Ray, the boat manufacturer and Brunswick Corp. subsidiary.

Carl Laundrie, a Flagler County spokesman, said Monday no new plans regarding the old Lehigh plant site have gone before any county board at this point. If a development is proposed, it eventually will have to go before county commissioners and the public. In 2004, commissioners voted to change the industrial land use on the property Cullis is seeking to purchase. That switch made it possible for a residential complex to be built there. It was something Sea Ray publicly opposed at the time.

Cullis said there was a plan in place for a “high-rise” project, but it didn’t move forward because the real estate market tanked and it didn’t make good business sense to pay “top dollar” for a large piece of land at that time.

Now the land is worth about 20 percent of what it was in 2005, he said.

Cullis added that future plans for that site are comparatively less ambitious than a decade ago.

“We can do a lot of things with it that don’t require high-rise condos or something high-density,” Cullis said.

Cullis said he has had discussions with Sea Ray officials and they have been open and honest.

“You’ve got to work with Sea Ray or else you’re in for a long haul,” he said. “I intend to be a good neighbor to them.”

While admitting his concerns, Wall said Cullis has been willing to listen.

“We’ve had a decent working relationship with Jim Cullis in the past,” Wall said.

Adam Mengel

From: MDeal13797@aol.com
Sent: Tuesday, February 17, 2015 12:22 PM
To: Adam Mengel; Gina Lemon; Doug Gutierrez
Cc: Albert J. Hadeed; Christie L. Mayer
Subject: Re: Public Records Request

February 17, 2015

Mr. Adam Mengel
Ms. Gina Lemon
Mr. Doug Gutierrez

Re: *Public Records Request – County of Flagler/Sea Ray Boats Request*

Dear Mr. Adam Mengel of the Flagler County Planning Dept. :

Pursuant to Chapter 119, Florida Statutes, I hereby request a copy of all documents in the custody, control or possession of the County of Flagler, Florida, and any office or agency thereof relied upon, referred to or in any way relating to the current (2015) Sea Ray Boats comprehensive plan amendment and rezoning request, County response(s) thereto, proposals by Sea Ray, requested modifications by Sea Ray and the County's responses thereto, including submittals or communications from or to Sea Ray or any entity customarily referred to as "Sea Ray", or their agent, legal representatives or employees regarding the proposed comprehensive plan amendment, rezoning and site plan review, negotiations, proposals, and any other documentation related to the Sea Ray comprehensive plan amendment, rezoning or site plan request, response, proposals by Sea Ray, requested modifications by Sea Ray and the County's responses thereto in regard to Sea Ray's comprehensive plan amendment, rezoning requests and site plan submittal, if any. This request specifically includes, but is not limited to, correspondence, documentation, and previous County staff responses to Florida Department of Community Affairs (DCA) objections to a prior Sea Ray plan amendment and/or rezoning proposal referenced in the current County staff report.

This request applies to drafts, as well as final copies. It also encompasses all internal County memoranda, correspondence and emails; all correspondence and emails received by a County employee or official; and all correspondence and emails sent by a County employee or official.

If the County maintains that any document which falls within the scope of this request is not subject to disclosure, please explain in writing the basis for claiming such a privilege and the applicable statutory citation. Please refer to §117.07(1)(3), Florida Statutes, as to the procedure for claiming an exemption.

Please call me at (386) 439-5367 if you have any questions about this request and to arrange a time when I can come to the County building to inspect and copy the documents if the County is unable to transmit a copy of the requested documents digitally.

Thank you for your attention to this request.

Sincerely,

Don Deal

Cc: Al Hadeed, County Attorney

Adam Mengel

From: Adam Mengel
Sent: Tuesday, February 17, 2015 1:00 PM
To: MDeal13797@aol.com
Cc: Albert J. Hadeed; Christie L. Mayer; Gina Lemon; Doug Gutierrez; 'Julie Murphy'
Subject: RE: Public Records Request

Tracking:	Recipient	Delivery	Read
	MDeal13797@aol.com		
	Albert J. Hadeed	Delivered: 2/17/2015 1:00 PM	Deleted: 2/25/2015 1:10 AM
	Christie L. Mayer	Delivered: 2/17/2015 1:00 PM	Read: 2/17/2015 2:07 PM
	Gina Lemon	Delivered: 2/17/2015 1:00 PM	Read: 2/17/2015 1:38 PM
	Doug Gutierrez	Delivered: 2/17/2015 1:00 PM	Read: 2/17/2015 3:01 PM
	'Julie Murphy'	Delivered: 2/17/2015 1:00 PM	Read: 2/17/2015 1:01 PM

Good afternoon Mr. Deal:

This is being forwarded to Julie Murphy, the County's Public Information Officer, for a response.

Thank you for your inquiry.

Adam

Adam Mengel, AICP, LEED AP BD+C
Planning and Zoning Director
Flagler County Planning and Zoning Department
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110
Direct line: (386) 313-4065
E-mail: amengel@flaglercounty.org
Visit our website: www.flaglercounty.org

 Go Green: Please do not print this e-mail unless you really need to.

From: MDeal13797@aol.com [<mailto:MDeal13797@aol.com>]
Sent: Tuesday, February 17, 2015 12:22 PM
To: Adam Mengel; Gina Lemon; Doug Gutierrez
Cc: Albert J. Hadeed; Christie L. Mayer
Subject: Re: Public Records Request

:

February 17, 2015

Mr. Adam Mengel
Ms. Gina Lemon
Mr. Doug Gutierrez

Re: Public Records Request – County of Flagler/Sea Ray Boats Request

Dear Mr. Adam Mengel of the Flagler County Planning Dept. :

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Thank you for your attention to this request.

Sincerely,

Don Deal

Cc: Al Hadeed, County Attorney

Adam Mengel

From: MDeal13797@aol.com
Sent: Tuesday, February 17, 2015 1:18 PM
To: Adam Mengel
Subject: Re: Public Records Request

Thank you Adam. Have a wonderful day.

Sincerely,

Don

In a message dated 2/17/2015 12:59:43 P.M. Eastern Standard Time, amengel@flaglercounty.org writes:

Good afternoon Mr. Deal:

This is being forwarded to Julie Murphy, the County's Public Information Officer, for a response.

Thank you for your inquiry.

Adam

Adam Mengel, AICP, LEED AP BD+C

Planning and Zoning Director

Flagler County Planning and Zoning Department

1769 E. Moody Blvd., Building 2, Suite 105

Bunnell, FL 32110

Direct line: (386) 313-4065

E-mail: amengel@flaglercounty.org

Visit our website: www.flaglercounty.org



Go Green: Please do not print this e-mail unless you really need to.

From: MDeal13797@aol.com [mailto:MDeal13797@aol.com]

Sent: Tuesday, February 17, 2015 12:22 PM

To: Adam Mengel; Gina Lemon; Doug Gutierrez

Cc: Albert J. Hadeed; Christie L. Mayer

Subject: Re: Public Records Request

February 17, 2015

Mr. Adam Mengel

Ms. Gina Lemon

Mr. Doug Gutierrez

Re: Public Records Request – County of Flagler/Sea Ray Boats Request

Dear Mr. Adam Mengel of the Flagler County Planning Dept. :

Pursuant to Chapter 119, Florida Statutes, I hereby request a copy of all documents in the custody, control or possession of the County of Flagler, Florida, and any office or agency thereof relied upon, referred to or in any way relating to the current (2015) Sea Ray Boats comprehensive plan amendment and rezoning request, County response(s) thereto, proposals by Sea Ray, requested modifications by Sea Ray and the County's responses thereto, including submittals or communications from or to Sea Ray or any entity customarily referred to as "Sea Ray", or their agent, legal representatives or employees regarding the proposed comprehensive plan amendment, rezoning and site plan review, negotiations, proposals, and any other documentation related to the Sea Ray comprehensive plan amendment, rezoning or site plan request, response, proposals by Sea Ray, requested modifications by Sea Ray and the County's responses thereto in regard to Sea Ray's comprehensive plan amendment, rezoning requests and site plan submittal, if any. This request specifically includes, but is not limited to, correspondence, documentation, and previous County staff responses to Florida Department of Community Affairs (DCA) objections to a prior Sea Ray plan amendment and/or rezoning proposal referenced in the current County staff report.

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Thank you for your attention to this request.

Sincerely,

Don Deal

Cc: Al Hadeed, County Attorney

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Gina Lemon
Sent: Tuesday, February 24, 2015 9:53 AM
To: 'MDeal13797@aol.com'
Cc: Adam Mengel; Julie Murphy
Subject: RE: Industrial Performance odor standard
Attachments: 20010618 BCC Minutes CRD Petition for moratorium industrial odor.pdf; 20011001 BCC minutes 2nd reading and adoption Ord 2001-20 Amend LDC 3.03.18.pdf; 20011001 BCC minutes 2nd reading and adoption Ord 2001-20 Amend LDC 3.03.18 o.pdf; 20010917 BCC minutes 1st reading amend LDC 3.03.18.pdf; 20010806 BCC minutes 2nd reading and adoption temp moratorium Ordinance 2001-14.pdf; 20010716 BCCminutes 1st reading temp moratorium Industrial District.pdf

Good morning Mr. Deal –

After extensive research this morning, I believe I have found what you are referring to. Perhaps it is the temporary moratorium adopted as a result of your appearance before the BCC in June of 2001 where you presented the BCC with a Petition. I have requested the copies of the following ordinances and resolution from the County Clerk's office and am waiting the receipt of same.

Ordinance 2001-14 – Adopting temporary moratorium
Ordinance 2001-20 – Amendment to FCLDC, Section 3.03.18
Resolution 2001-91 – Civil Citation Penalty Violation Performance Standards

The full BCC meeting minutes may be viewed online at <http://www.flaglerclerk.com/recordscommission.htm>. I have attached the excerpts of the minutes used to identify the above noted ordinances.

Hopefully this satisfies your inquiry.

Thank you,
Gina

Gina Lemon, Development Review Planner III
Flagler County Planning and Zoning Department
1769 E. Moody Boulevard, Building 2
Bunnell, FL 32110
Phone: 386-313-4067
Fax: 386-313-4109
Email: glemon@flaglercounty.org
Website: www.flaglercounty.org

From: MDeal13797@aol.com [mailto:MDeal13797@aol.com]
Sent: Tuesday, February 24, 2015 7:57 AM
To: Gina Lemon
Subject: Fwd: Industrial Performance odor standard

Dear Gina,

Did you have a chance to find the odor ordinance update that was adopted during 2001. I believe you will find it during the months of Sept. and/or Oct. of 2001. Would you please forward to me at your convenience.

Sincerely,

Don Deal

From: glemon@flaglercounty.org
To: MDeal13797@aol.com
CC: ahadeed@flaglercounty.org
Sent: 2/16/2015 5:18:18 P.M. Eastern Standard Time
Subj: RE: Industrial Performance odor standard as it relates to Sea Ray specifically

Good afternoon Mr. Deal –

I am unaware of any ordinance adopted by the County Commission addressing odor that is not included in the [Flagler County Code of Ordinances](#). The amendment to the Flagler County Land Development Code by Ordinance 98-06 adopted (attached for your reference) the Industrial Performance Standards and amended the Flagler County Land Development Code, Section 3.03.18 by adding subsection (G). **There appears to be a later amendment to LDC, Section 3.03.18 through Ordinance 2001-20, I have requested a copy of this ordinance and upon receipt I will forward same to.**

Thank you,

Gina

From: MDeal13797@aol.com [<mailto:MDeal13797@aol.com>]
Sent: Monday, February 16, 2015 8:51 AM
To: Gina Lemon
Cc: Albert J. Hadeed
Subject: Re: Industrial Performance odor standard as it relates to Sea Ray specifically

Dear Gina,

When you have a few minutes, could you direct me to the verbiage regarding our Industrial Odor ordinance as it relates to Sea Ray Boats specifically, not the generic municode for odor under Industrial Performance Standards. Years ago, when we passed an Industrial Odor ordinance, believe Al Hadeed was involved as a private citizen, we worked with Mike Collins, General Manager of Sea Ray at the time to grandfather in existing operations. However, expansion would have to meet the new County Standard.

Therefore, this goes beyond the standard verbiage in the municode. If you or All could offer me some insights exactly where that language is for my review, it would be much appreciated.

Sincerely,

Don Deal

In a message dated 2/12/2015 11:43:07 A.M. Eastern Standard Time, glemon@flaglercounty.org writes:

To all –

Forwarding Mr. Deal's correspondence as requested below.

Thank you,

Gina

Gina Lemon, Development Review Planner III
Flagler County Planning and Zoning Department
1769 E. Moody Boulevard, Building 2
Bunnell, FL 32110
Phone: 386-313-4067
Fax: 386-313-4109
Email: glemon@flaglercounty.org
Website: www.flaglercounty.org

From: MDeal13797@aol.com [<mailto:MDeal13797@aol.com>]
Sent: Wednesday, February 11, 2015 6:05 PM
To: Gina Lemon
Subject: Flagler County Development and Review Board

Dear Gina,

I do not have all of the e-mail addresses of the Flagler County Development and Review Board members. Could I impose upon you to forward this e-mail to all of them, including the BOCC, County Attorney and Adam.

If this won't work, if you could forward me all of the e-mail addresses of the Development and Review Board members I would appreciate it.

Sincerely,

Don Deal

Here is a cut and paste:

Dear Planning and Development Board members,

I have never had the opportunity to meet many of you until last night. I am also unclear as to your background. However, I wish to compliment each of you for acknowledging the inconsistencies and incompatibilities in reference to the numerous Comprehensive Plan issues we brought up last night.

My background is, I have been serving on the Flagler Beach Planning and Architectural Review Board for close to 20 or more years. Before that, I also served a number of years on Flagler County's Long Range Planning Board. Roseanne Stocker, who you also heard from in the very beginning of the public comment section also serves on the Flagler Beach Planning and Architectural Review Board for almost the same amount of time. Therefore, each of us is very familiar with, both the detail of Comprehensive Plan issues and the analysis of staff reports. We always do our homework as each of you also did last night.

As mentioned, the inconsistencies or incompatibility of the Comprehensive Plan do not change, regardless of whom the applicant is. Every applicant needs to be treated the same.

In closing, I thank each of you for recognizing that fact unanimously 7 to 0 last night in a denial to the FLUM request for Sea Ray Boats from PUD Low Density to High Intensity Commercial.

Sincerely,

Don Deal

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

JUNE 18, 2001

REGULAR MEETING

Present: Chairman Darby, Commissioners Hanns, King, Kanbar and McGuire, Clerk Wadsworth, County Administrator Haas, Interim County Attorney Whidden, and Clerk's Secretary to the Board Bates

Chairman Darby called the meeting to order at 4:35 p.m.

Commissioner Hanns led the Pledge to the Flag.

ANNOUNCEMENTS BY THE CHAIRMAN

Chairman Darby stated Item 3 had been cancelled.

Stated also, per a memo from Interim County Attorney Whidden, there were no quasi-judicial items on this agenda.

June 18, 2001
Regular Meeting

ITEM 27 – CITIZENS FOR RESPONSIBLE DEVELOPMENT - ISSUE A TEMPORARY MORATORIUM ON ODOR PRODUCING INDUSTRY UNTIL FLAGLER COUNTY ADOPTS AN INDUSTRIAL ODOR ORDINANCE

Don Deal, 1580 Lambert Avenue, Flagler Beach, representing the Citizens for Responsible Development, presented petitions containing over six hundred signatures requesting the BCC to adopt an industrial odor ordinance and a moratorium on new odor producing industry until an industrial odor ordinance was passed.

(The petitions are on file in the Finance Department of the Flagler County Clerk's Office.)

Stated he was also a member of the Long Range Planning Board and was before the BCC to discuss a loophole in the County's land development code, which was the lack of an industrial odor ordinance. Often industrial odors were considered hazardous air pollutants and the concern was to close this loophole to protect the community as the County grew. Flagler County had to be very careful with having only one industrial zoning as virtually any type of industry could locate here, and, per the Land Development Code, heavy industry could locate within fifty feet of a residential area.

Stated the County could not look to permitting agencies like the Department of Environmental Protection (DEP) for help regarding odor enforcement, because they dealt only with the permit of air pollutants and not with odor. Clearly direction was needed and if the BCC did not address this issue, in five years a lot of people would be complaining.

Stated this moratorium was only a short-tem request while an ordinance could be drawn up because they could not take the chance of something slipping in, and clarified the odor ordinance was only for industry that required a DEP air permit.

Chairman Darby asked Mr. Whidden if the request being made was within the authority of the BCC to grant.

Interim County Attorney Whidden stated if the request was that a moratorium be done at this meeting, then the answer was no. An ordinance for a moratorium must be adopted in the same manner as any other ordinance, so he could not recommend immediate BCC action being taken.

Stated the BCC could direct a moratorium ordinance be evaluated, drafted, and presented to the BCC, however, since a ninety day period was being requested he recommended the BCC obtain outside counsel as his tenure with the County was somewhat limited and this issue balanced quality of life versus property rights, and involved several significant legal issues.

Chairman Darby asked if the BCC could take action to initiate the drafting of such an ordinance.

Interim County Attorney Whidden responded yes.

Commissioner Kanbar asked which industries required a DEP permit.

Mr. Deal stated any facility that generated air pollutants required a DEP permit. For instance, a pulp wood mill would need an air permit.

(Item 27 – continued)

Commissioner McGuire asked Mr. Whidden his opinion on what kind of industries required a DEP permit.

Interim County Attorney Whidden stated he had not researched that question.

Commissioner Kanbar stated the BCC could then be ruling on something it had no definitive information on what industries were involved.

Interim County Attorney Whidden stated that was a possibility.

Chairman Darby stated the BCC had the option of having staff devise an ordinance based upon ordinances that existed elsewhere and then bring a draft back to the BCC for consideration.

Mr. Whidden stated per state statute, each county or municipality had the ability to administer and establish a local pollution control program that exceeded DEP standards. However, those local programs must meet four requirements by the state, 1) be approved by the DEP to meet the requirements of the state law; 2) provide by ordinance those things which were more restrictive and extensive than the state law; 3) provide for the enforcement by administrative or judicial process in the ordinance; and 4) provide for administrative organizations, staff, financial and other resources necessary to effectively and efficiently carry the local program.

Stated in 1980's Alachua County attempted to adopt such an ordinance but had some difficulties in the courts in adopting standards that did not meet DEP requirements.

Chairman Darby asked if Mr. Whidden had done any research to find ordinances that did work.

Mr. Whidden stated he had been advised of an ordinance in the City of Jacksonville and others that apparently had not been challenged under this particular act. If the BCC wished to go in that direction, he would suggest outside counsel look into that.

Commissioner Hanns stated he appreciated the legal input in reference to a moratorium. It was not uncommon for Flagler County to enact a moratorium and the BCC had done so with regard to telecommunications towers, manufactured homes, and multi-family housing.

Stated it was his understanding the ordinance being discussed would not affect any existing businesses in Flagler County, as they would be grandfathered in. But the parties most affected by this, such as McKinna Yachts who recently inquired about moving into this area, should have representatives work with the County staff in formulating the odor ordinance.

Stated Mr. Whidden emphasized the BCC did not have the ability to put on a moratorium at this time, and he respected the opinion of legal staff. He did not always agree with attorneys, but the BCC would face the consequences if it thought it was smarter than people educated in the law and tried to do something that was improper, and he did not want to be a party to that.

June 18, 2001
Regular Meeting

(Item 27 – continued)

Chairman Darby asked if it was an appropriate BCC action to impose a moratorium for a period of time until an odor ordinance was put in place, as had been done with the reserve parcels.

Interim County Attorney Whidden stated one criteria which had been upheld for moratoria was the development of land use regulations to meet a need of a county that was unmet or not dealt with. His earlier point emphasized that it was not an immediate action that could be taken by the BCC, but it could set forth the process for staff to evaluate and present a duly noticed ordinance to the BCC.

Chairman Darby stated when the reserve parcels moratorium was put into effect the County Attorney was Al Hadeed, and his advice to the BCC at that time was that it could do the moratorium, but there was a specific and rather restrictive process the BCC had to follow. That action resulted in the BCC and each commissioner individually being sued, even though all of the opportunities for filings and everything else had been fulfilled according to the County's legal representatives. It took four years for that case to be dismissed by the federal court, remanded back to a state court then to the appellate court, with the final decision exonerating each of the commissioners for the action.

Stated the Planning Department might have input into what was pending that could be affected in a negative way by a moratorium, and he hoped that whatever legal advice was given would avoid the scenario of the commissioners being sued individually, as well as an elected body.

Commissioner Hanns stated he appreciated the Chairman sharing that because the consequences were the BCC members were liable to be sued individually.

Stated he believed the BCC needed to set a moratorium into place as soon as possible, if necessary, and then put the odor ordinance on a fast track as the number one priority. The County could mirror as close as possible an existing odor ordinance and then bring it to the committee. Stated he did not see how this proposed action would curtail McKinna Yachts from coming into Flagler County, because they want to be a good citizen and neighborly business, and should want to do what it could to enhance the way of life here in Flagler County without any damaging side effects.

A motion was made by Commissioner Hanns that the BCC immediately set into place a committee to include those individuals with pertinent interests, such as Sea Ray Boats, the Economic Development Commission, Chamber of Commerce, and McKinna Yachts, to participate in formulating an odor ordinance. Seconded by Commissioner Kanbar.

Commissioner McGuire asked, for clarification, if the motion was to form a committee and then start drafting an ordinance.

Commissioner Hanns stated that was correct and bring it back to the BCC as soon as possible.

County Administrator Haas asked about a moratorium.

(Item 27 – continued)

Chairman Darby stated a moratorium was not referenced in the motion.

Commissioner Hanns stated if a moratorium was necessary the Legal Department would bring it back to the BCC, but Mr. Whidden had said the BCC could not do so at this time.

Chairman Darby stated the former county attorney gave the BCC a way to enact a moratorium. He did not believe the BCC went through the process of establishing an ordinance in order to enact a moratorium before the ordinance was drafted and brought back. He thought the BCC was able to move forward with a moratorium almost immediately.

Interim County Attorney Whidden stated he would disagree with that opinion, and he could clearly advise the BCC that when a moratorium was enacted it must be done so with the same statutory procedure used to enact any other ordinance.

Chairman Darby asked were there no emergency provisions to enact a moratorium if something was pending that might be detrimental to the public safety and welfare.

Interim County Attorney Whidden stated there was, but, in his opinion, it did not apply to the strengthening of a prohibition allowed in a zoning district. The statutory authority under Chapter 163 stated emergency ordinances did not apply to extensions, modifications to existing uses, or restrictions of uses in zoning classifications.

Commissioner King stated he understood the BCC could not enact a moratorium, but if it wanted to enact an ordinance so a moratorium could be put into place then the BCC would have to follow the same procedure it would take to enact any other ordinance. Asked if that was correct.

Interim County Attorney Whidden stated that was his advice to the BCC.

Commissioner King asked Mr. Whidden, if the BCC could not impose a moratorium without going through the ordinance process, what could be done to protect the community in the interim if someone came in and proposed to build a pulp wood mill, for example.

Interim County Attorney Whidden stated certain people had vested rights under the ordinances that currently existed in the County and if someone made application they would be treated under those existing codes.

Mr. Deal stated his concern was if the County did not do a moratorium something could happen, as Commissioner King suggested, which was what they wanted to avoid. Ninety days was not going to run off a clean, light industry that wanted to locate to Flagler County. All they were asking for was the best protection for the County.

(Item 27 – continued)

Interim County Attorney Whidden stated there were more issues than what Mr. Deal was telling the BCC. Not only was it whether or not a business was run off, but whether or not a business created a cause of action against the County.

Chairman Darby stated he still thought a moratorium could be done.

Commissioner McGuire asked if the BCC would agree to instruct staff to prepare a first reading of a moratorium ordinance for the July meeting while moving forward with the motion that Commissioner Hanns offered.

Interim County Attorney Whidden stated if the BCC wished to proceed on those grounds then it should instruct staff to evaluate a moratorium and report back to the BCC with an ordinance and outside counsel's recommendations on the legality of the ordinance.

Commissioner McGuire asked Mr. Haas what was the first step in preparing an ordinance, and if the BCC could give notice of that at this meeting.

County Administrator Haas stated the BCC could give notice to staff to prepare an ordinance, but an advertisement would need to be placed in the newspaper ten days prior to the public hearing.

Commissioner King asked if Commissioner McGuire was talking about a moratorium ordinance.

Commissioner McGuire stated that was correct. He wanted to do a moratorium, but the current motion did not do that.

Chairman Darby stated he thought the BCC could do a moratorium now and have staff come back with the ordinance process. He was not sure about a committee because committees had a tendency to draw things out. He could support that process contingent upon legal not coming back with statutory law to the contrary.

Commissioner Hanns questioned what would be the problem with mirroring the Jacksonville ordinance, advertising it, and bringing it to the BCC at the next meeting. That would take the same amount of time as doing a moratorium, so why not just go forward with an odor ordinance.

Commissioner McGuire stated Commissioner Hanns wanted to create a committee to study it, so in his opinion it would not take the same time.

Commissioner Hanns stated Commissioner McGuire misunderstood his motion. The motion was to start an ordinance, but to have key people participate when drafting that ordinance. Perhaps committee was the wrong term to use.

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(Item 27 – continued)

Chairman Darby suggested allowing staff to draft an ordinance to be brought back to the BCC, and then it could be subjected to a committee at that time, if necessary. In the interim the moratorium could be put in place to keep something from happening.

Commissioner Hanns asked if he was saying to do both simultaneously.

Chairman Darby stated yes, and if legal counsel came up with enough specificity to tell the BCC it had done wrong, he would call a special meeting in the next four days to undo what was done.

Commissioner McGuire stated as much as he supported a moratorium he was not going to pretend to have more knowledge on the subject than Mr. Whidden did and ignore the advice he had just given the BCC about enacting a moratorium at this time.

Chairman Darby asked what applications were pending.

County Administrator Haas stated he could not tell the BCC what was in the pipeline that would require a DEP air permit, there may be nothing.

Interim County Attorney Whidden stated his advice was in order to lawfully enact a moratorium it must go through the ordinance process and this would not qualify under the emergency exception because they were dealing with the actual list of prohibited uses within a zoning category, therefore, a public notice and public hearings were required.

Chairman Darby asked what if the BCC did the moratorium as an official action of the BCC .

Interim County Attorney Whidden stated he would not recommend that because it was clear under the case law of the State of Florida that a moratorium must be adopted by the ordinance process.

Commissioner Hanns stated he would appreciate former County Attorney Hadeed giving the BCC his point of view. Not to argue legal points, but to help the BCC reflect back on that time Chairman Darby referred and what it had dealt with.

Chairman Darby called a five-minute recess so he could meet with Mr. Hadeed.

The meeting recessed at 8:00 p.m.

The meeting reconvened at 8:05 p.m.

(Item 27 – continued)

Chairman Darby asked both Mr. Whidden and Mr. Hadeed to come to the podium.

Stated he met briefly with Mr. Hadeed and he had agreed to assist the BCC through some of the discussion stages and with some of the historical data.

Al Hadeed, former County Attorney, stated what Mr. Whidden had communicated was that the BCC could not enact an ordinance at this meeting.

Commissioner King asked if the BCC could enact a moratorium, yes or no.

Mr. Hadeed stated the BCC could commence the process that led to the moratorium and put everybody that wanted to do business in Flagler County on notice that a moratorium would be going into effect.

Interim County Attorney Whidden stated he disagreed with one point. The County would be considering the adoption of an ordinance to create a moratorium, but it would not be a done deal where in two weeks something was going to be adopted. None of the County's ordinances were like that and certainly this one would not be. It would be subject to a public hearing where numerous comments would be heard on the viability, need, and desirability, pro and con, for the BCC to make its legislative decision on the ordinance.

Mr. Hadeed stated that was correct, but the decision the BCC was being asked to make now was whether or not there was a need for a moratorium. If the BCC concluded there was a need, then it would instruct staff to proceed accordingly.

Stated Chairman Darby and Commissioner Hanns would recall a series of actions were taken by the BCC for the reserve parcel moratorium it enacted. First, the BCC determined a need for a moratorium; second, the BCC adopted a specific procedure for exempting individuals from the affect of the moratorium; third, it set up a task force to study the issue; and fourth, drafting of the final substantive ordinance was begun. The BCC also continued to enact various provisions that facilitated the moratorium throughout that process.

Stated obviously anything the BCC did was going to expose it to suit, and, unfortunately, that was part of the burden accompanying public officials

Stated if the BCC decided on a moratorium that action must be taken in good faith, be non-discriminatory, be for a community good, it must be of limited duration, and then a decision made in quick order.

Interim County Attorney Whidden stated the ordinance in question must also be appropriate to the comprehensive planning of, for example, industrial/commercial uses.

Commissioner King urged the motion maker and the second to withdraw their motion to allow Mr. Hadeed to help structure a motion that encompassed all of the things he had just illustrated.

(Item 27 – continued)

Commissioner McGuire stated he had a motion; he was just waiting for clarification on the motion already on the floor.

Commissioner King asked, before the current motion was restructured, if the motion Mr. Hadeed intended would offer some immediate relief or any kind of safeguard to residential areas.

Mr. Hadeed stated the maximum protection that could be offered, as a stopgap measure, was to authorize and direct staff to prepare a moratorium ordinance to be brought back to the BCC as soon as possible after the publication of the proper notice and examination of the record that had been presented, and any other factors staff believed pertinent.

Commissioner McGuire stated Mr. Hadeed was saying the very same thing that Mr. Whidden had said. Asked if that was correct.

Mr. Hadeed stated that was correct, but what he tried to do was add a little more specificity by referring to the record and other factors that the staff might find pertinent

Interim County Attorney Whidden stated the BCC would want to hear other public comments before it made its findings.

Commissioner Hanns stated he would restructure his motion, but first wanted to ask if the motion on the floor could be amended to include the moratorium ordinance and have the two ordinances be worked on at the same time to expedite the matter.

Mr. Hadeed stated that could be done, and would support the good faith requirements of the law, as well as the promptness requirement.

Commissioner Hanns restructured his motion to instruct staff, based on the record submitted to the BCC and any other factors deemed relevant, to immediately prepare a moratorium ordinance to be brought back at the earliest legal opportunity for the BCC's consideration, and that staff also begin working on the actual odor ordinance and bring that back to the BCC at the appropriate, but prompt, time.

Interim County Attorney Whidden recommended the BCC receive public comments before making its finding.

Commissioner Kanbar concurred with the restructured motion.

Commissioner King amended the motion to include having staff notify any entities that may be affected by the proposed ordinances. Seconded by Commissioner Hanns.

(Item 27 – continued)

Chairman Darby called the question on the amendment. No nay votes, motion carried unanimously.

Chairman Darby requested public comment on the motion before the BCC:

Alma Nemrava, Sea Colony, spoke in support of an odor ordinance.

Viki Neri, Palm Coast, spoke in support of an odor ordinance.

Marlene Lieb, The Hammock, read statement from the Historic Task Force for Flagler County in support of industrial odor ordinance and a moratorium.

Fred Apelquist, Palm Coast, spoke in favor of an odor ordinance, but against a moratorium.

Brenda Farrell, Flagler Beach, spoke in favor of the effort to enact an odor ordinance.

Mr. Cameron, Flagler Beach, spoke against a moratorium but in favor of an odor ordinance.

Christine Mullen, Flagler Beach, spoke in support of an odor ordinance.

Donald Hoskins, The Hammock, spoke in support of both a moratorium and odor ordinance.

Victor Rugg, Flagler Beach, spoke in support of an odor ordinance.

Michaela Mertz, spoke in support of clean, light industries.

Bob Tate, Flagler Beach, spoke in favor of an odor ordinance.

Tom Cook, Flagler Beach, spoke in support of an odor ordinance and a moratorium.

Bud Andrews, Flagler Beach, spoke in support of the motion.

Mollie DiLello, Palm Coast, spoke in support of the motion.

Arnold Levine, President of the Palm Coast Civic Association, stated the Civic Association voted to support an odor ordinance.

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Anne Wilson, The Hammock, thanked the BCC for its motion.

Glenn Roland, Flagler Beach, spoke in favor of an odor ordinance.

Dick Morris, Executive Director of the Flagler County Palm Coast Chamber of Commerce, stated the Chamber supported an odor ordinance, but was not in favor of moratorium.

Diane Cline, Flagler Beach, spoke against restricting industries, but could support an odor ordinance.

Gary Bell, Flagler Beach, spoke in favor of an odor ordinance.

Joe Zaia, Flagler Beach, spoke in support of the motion.

Al Hadeed, The Hammock, spoke in favor of an odor ordinance.

Robert Desat, Flagler Beach, spoke in favor of an odor ordinance.

There was no further public comment.

Chairman Darby stated Mr. Deal asked to be allowed to make some closing remarks.

Mr. Deal stated the BCC needed to do what was best for the County.

Stated he wanted it to be perfectly clear that they were talking about industrial odor regulation. This was a countywide issue and as citizens of this community they did not want other areas to experience what some Lambert Avenue residents had already experienced.

Commissioner King stated he also wanted it to be clear they were speaking of an industrial odor ordinance and that the proposed ordinance would not affect the agricultural community.

Chairman Darby asked if there was any reservation to the contrary.

There was no response to the contrary.

Commissioner McGuire asked if the BCC needed to set guidelines on the hiring and payment of outside counsel or was that within the prerogative of the County Attorney.

(Item 27 – continued)

Interim County Attorney Whidden stated there was a line item in the County Attorney's budget for outside counsel and he would determine the cost and try to keep it within a certain cap.

Commissioner Kanbar stated many people came to Flagler County for the quality of life and the commissioners must maintain that quality of life for all of the citizens in the County.

Stated private property rights were important and the BCC was not taking away anyone's private property rights, but was looking at a moratorium against industries that were not clean industries.

Chairman Darby asked Mr. Whidden if he had any reservations about what the BCC had done so far in the meeting.

Interim County Attorney Whidden stated not with the BCC's anticipated action, but asked the Chairman to reiterate the motion and the findings.

Chairman Darby stated the BCC was prepared to take action on a motion that had been dutifully put on the floor and subjected to public comment, both adversarial and supportive.

Stated the findings were such that this was an industrial odor ordinance, and the ordinance process for an accompanying moratorium would be fully implemented and followed, including all advertisements and the required public hearings as determined by legal staff. The moratorium was not a delaying tactic to keep any applicant from coming into Flagler County and applying under the existing codes. This was a non-discriminatory action of the BCC and applied to anyone who wished to participate in the economic development of the County.

Interim County Attorney Whidden stated that would be his understanding of the findings, and a subsequent meeting would be held to further consider the enactment of said ordinance.

Chairman Darby stated he shared Commissioner Kanbar's position regarding private property rights, but he felt private property rights extended to all property owners and not just to those who wished to develop property. They also extended to existing owners who had already developed their property to protect the quality of life.

Stated to effect an odor ordinance was not an unusual action of a governmental entity and enjoyed wide participation and support in the community and was being done to protect and enhance the quality of life in Flagler County, as opposed to being a discriminatory practice against individuals who would claim a violation of their private property rights. This process would be subjected to advertising and a public hearing, or hearings, as the law defined.

Stated those that had expressed an interest for or against the issue were reminded that if they expected their position to prevail or change with the BCC, they should attend future hearings to make their preferences and thoughts known.

Chairman Darby called the question. No nay votes, motion carried unanimously.

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PUBLIC HEARINGS

**ITEM 1 - 1ST READING AND PUBLIC HEARING - ORDINANCE - MORATORIUM
INDUSTRIAL ZONING DISTRICTS**

The following information was provided by Jennifer Barrett, Planning Director:

***Board Of County Commissioners
Agenda Request (Public Hearing)***

Item # 1

SUBJECT: AN ORDINANCE ESTABLISHING A NINETY (90) DAY MORATORIUM IN THE "1" INDUSTRIAL ZONING DISTRICT IN FLAGLER COUNTY ON THE ACCEPTANCE AND PROCESSING OF NEW AND EXISTING APPLICATIONS FOR PERMITS FOR ANY USE WHICH REQUIRES AN AIR CONSTRUCTION PERMIT OR AIR OPERATION PERMIT FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PURSUANT TO SECTION 62-210.300, FLORIDA ADMINISTRATIVE CODE; PROVIDING FOR TERMINATION OF THE TEMPORARY MORATORIUM; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

DATE: July 16, 2001

DEPT.: County Attorney's Office

ASSIGNED TO: Richard R. Whidden, Jr., Interim County Attorney
Scott Glass, Esquire, Shutts & Bowen law firm, Orlando
Jennifer Barrett, AICP, Planning Director

STATEMENT OF ISSUE: 1st Reading Public Hearing regarding a proposed Ordinance enacting a moratorium in industrial zoning districts.

JUSTIFICATION: At its meeting on June 18, 2001, the Board of County Commissioners authorized the scheduling and advertisement of public hearings for a proposed Ordinance enacting a moratorium in industrial zoning districts.

SCHEDULE: 1st Public Hearing: July 16, 2001
2nd Public Hearing: August 6, 2001

BACKGROUND: At the June 18, 2001 meeting of the Board of County Commissioners, a group of Flagler County citizens submitted a petition to the Board requesting that a moratorium be adopted to prevent the approval of new or expanding odor producing industry development applications until the County adopts an odor ordinance. The petition submission was accompanied by testimony from several proponents and opponents of the odor ordinance.

The Board considered the lengthy public comments and requested that staff proceed with preparation of an ordinance to adopt a moratorium after which staff was requested to research and draft an ordinance to address

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(Item 1 – continued)

The Board considered the lengthy public comments and requested that staff proceed with preparation of an ordinance to adopt a moratorium after which staff was requested to research and draft an ordinance to address odors and smells emanating from businesses zoned "I" Industrial District that would normally require a permit from the Department of Environmental Protection.

FACTS AND ISSUES: Section 3.03.18 G. Industrial Performance Standards of the Flagler County Land Development Code does not address odors and smells emanating from businesses. The standards do address other potential nuisances: noise, glare, and vibration. Due to the nature of some industrial businesses, odors and smells that may emanate from certain businesses may be nuisances and create a negative impact on nearby property, especially residential uses. Generally, cities and counties that include performance standards in their land development codes do include provisions for regulation of odors and smells.

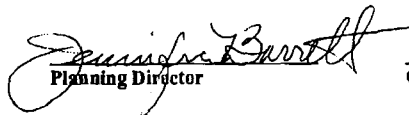
Adoption of the moratorium ordinance requested will prevent approval of new and expanded industrial uses that may be potential odor producers and permit staff to carefully research and prepare an odor ordinance that will address future odor and smells.


ALTERNATIVES: Staff does not propose any alternatives.

RECOMMENDATION: Staff recommends that the Board of County Commissioners conduct a first public hearing and first reading of a proposed Ordinance enacting a moratorium in industrial zoning districts. Furthermore, the Board is requested to hold the second public hearing and reading on August 6. Section 125.66, Florida Statutes requires that there be two public hearings on a land use moratorium ordinance. One of the two public hearings must be after 5:00 pm unless the Board votes, by at least a majority vote plus one, to hold the meeting at a time before 5:00 pm. Accordingly, the Board should set the date and time for the second public hearing on the moratorium ordinance by a recorded vote at the first public hearing.

ATTACHMENTS:

1. Proposed Ordinance and Map Showing existing "I" Industrial Districts
2. Scott Glass' resume


Jennifer Barrett
Planning Director


County Administrator

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(Item 1 – continued)

Chairman Darby opened the Public Hearing.

Roseanne Stocker, Flagler Beach, stated she represented the Citizens for Responsible Development, and was also a member of the Flagler Beach Planning and Architectural Review Board.

Read the following list of endorsements received from civic groups in support of this moratorium: Palm Coast Civic Association; Florida A1A Scenic Highway; Flagler Beach Scenic Highway CAG, Inc.; Eagle Rock Ranch Homeowners' Association; Flagler Beach Rotary Club; and Flagler Beach Historical Museum, Inc.

Stated petitions containing close to seven hundred signatures had already been presented and presented petitions containing an additional one hundred fifty signatures.

(The letters of endorsement and the petitions are on file in the Finance Department of the Flagler County Clerk's Office.)

Stated this moratorium would only affect air polluting industries and read the following fifteen "facts" that compelled a temporary moratorium for the community:

- 1) A tremendous loophole presently existed in the County's zoning code;
- 2) The County's zoning code did not classify, categorize, or otherwise restrict the type of industrial facility that located in Flagler County;
- 3) The Land Development Code allowed an industrial facility to locate next to a residential neighborhood with only a fifty-foot buffer;
- 4) County zoned industrial land was in close proximity to residential communities in the City of Palm Coast and the City of Flagler Beach;
- 5) County zoned industrial land was in close proximity to residential communities in the County, such as Plantation Bay, Eagle Rock Ranch, Sugar Mill;
- 6) Industrial odors can affect the County's newly designated Scenic Highway A1A Corridor;
- 7) County zoned industrial land was in close proximity to Wadsworth Park;
- 8) County zoned industrial land was in close proximity to the County's public beaches;
- 9) County zoned industrial land was in close proximity to only public high school;
- 10) County zoned industrial land was in close proximity to a K-8 school;
- 11) Industrial odors could have a significant impact on residential property values and quality of life;
- 12) Other communities have recognized the need to adopt industrial odor ordinances, such as the City of Palm Coast, City of Flagler Beach; Seminole County, Brevard County, City of Daytona Beach, City of South Daytona, City of Melbourne, City of New Smyrna Beach, and City of Jacksonville;
- 13) Industrial air pollution can trigger heart attacks according to a *News-Journal* article that quoted the American Heart Association;
- 14) Several hundred acres of industrially zoned land laid just south of a new high density development coming into the County called Palm Coast Plantation; and
- 15) The County can not run the risk of letting an air polluting industry come in while the County was preparing an industrial odor ordinance.

Viki Neri, Palm Coast, spoke in favor of the moratorium and the odor ordinance. Stated not having an ordinance could affect the entire County and its tourist industry.

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Arnold Levine, President of the Palm Coast Civic Association, stated the members of the Civic Association voted unanimously for a temporary moratorium.

Brenda Farrell, Flagler Beach, spoke in support of the proposed moratorium in order to allow time for development and passage of an appropriate odor control ordinance.

Don Kerry, Palm Coast, stated he was a chemical engineer from the University of Florida and retired from the Environmental Protection Agency in Washington, DC. Encouraged the BCC to adopt a temporary moratorium to help the County develop an ordinance.

Victor Rugg, Flagler Beach, spoke in support of the moratorium to help protect what Flagler County now was.

Gary Bell, Flagler Beach, stated Dick Morris of the Chamber of Commerce made his paycheck from the companies in Flagler County and his job was to try to push through business interests.

Nan Neville, Flagler Beach, stated industrial odors could destroy the quality of life and urged the BCC to adopt the moratorium.

Frank Ream, Flagler Beach, stated it was an unnecessary gamble not to pass this moratorium.

Steve Marro, Executive Director of Enterprise Flagler, stated they were not opposed to a moratorium on odor producing industries nor to an ordinance that created restrictions and guidelines on those industries, their only concern was that it be done in a timely manner.

Ken Hayes stated he had been in Flagler County only a few months, but had been in the pulp paper industry for over forty years, and decided to relocate here where the air was clean.

Tony Cattogio, President of the Flagler Palm Coast Chamber of Commerce, stated the Chamber was not opposed to an odor ordinance, but wanted it done in a timely manner and that it suited the needs of the entire community. Spoke in support of Dick Morris and the job he did.

Michaela Mertz, Flagler Beach, spoke in support of an odor ordinance to attract people to the County. Questioned how many businesses were against an odor ordinance.

Don Deal, Flagler Beach, stated he was a senior member of the County's Long Range Planning Board and was also a member of the Flagler Beach Planning and Architectural Review Board. Reiterated this moratorium only applied to air polluting industry and was temporary. Agreed desirable industry needed to locate in Flagler County, but safeguards had to be put in place.

(Item 1 – continued)

Al Hadeed, The Hammock, stated he represented Flagler County Visions 20/20, which was a countywide growth management organization. Complimented the County's staff on the excellent job done with regard to the moratorium.

Suggested the following modifications to the proposed ordinance:

Modifications to Proposed Ordinance

Add the following 'whereas' clauses to better explain why the moratorium is necessary
Insert these on the first page just before the last whereas which talks about the county's power to adopt regulations:

Whereas, the Board of County Commissioners of Flagler County further finds that this regulatory gap must be addressed expeditiously due to the circumstances of the County's rapid growth from an agricultural to a predominantly suburban community and the corresponding efforts to market and sell industrially zoned lands near recently improved infrastructure; and

Whereas, the Board of County Commissioners of Flagler County further finds that the Cities of Flagler Beach and Palm Coast have recently enacted ordinances that control industrial odors, but such protections do not exist for the adjoining unincorporated lands of the county; and

Whereas, the Board of County Commissioners of Flagler County further finds that it must protect its substantial greenway system and its state designated scenic highways from the irreversible impacts of objectionable industrial odors; and

Add the following sentence to 'Section One' on page two to clarify the application of the moratorium:

The imposition of this moratorium is not intended to affect the processing of any applications which were properly filed with Flagler County on or before June 18, 2001.

Delete the references on the last page to the multiple advertisements and readings, and include the standard language for county ordinance enactments. (This ordinance requires only one public hearing under Section 125.66 of Florida Statutes.)

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(Item 1 – continued)

Mr. Hadeed stated he disagreed this moratorium needed two public hearings and read from Florida Statute 125.66. He felt there would be no harm to have only one public hearing and would serve the public interest. Requested the BCC enact the temporary moratorium.

Commissioner McGuire asked when would the ninety-day clock start on the moratorium.

Mr. Hadeed responded the ninety-day clock could not start until the BCC enacted the moratorium ordinance.

There was no further public comment.

Chairman Darby closed the Public Hearing.

Interim County Attorney Whidden stated he was recommending the more conservative approach of holding two public hearings because he believed the law required it and the consequence, if Mr. Hadeed was wrong, was that the ordinance would be void from the beginning. That was a high risk that he would not recommend the County take.

Introduced Scott Glass, partner with the law firm of Shutts and Bowen in Orlando, who was the County's legal counsel in this matter.

Scott Glass stated he agreed with most of Mr. Hadeed's remarks, but disagreed with him on the question of the number of public hearings. Also read from Florida Statute 125.66.

Stated the BCC had great legislative discretion, which meant it was very difficult to attack a moratorium on a substantive basis, so if someone should attack it they would do so generally on a procedural basis. He respectfully disagreed with Mr. Hadeed on that position.

Stated the ordinance required that one of the two public hearings be held after 5:00 p.m. unless the BCC by super majority voted to set it at a time other than 5:00 p.m. Suggested, if the BCC followed the advice he and Mr. Whidden offered to set a second public hearing and wished to do so at a time other than 5:00 p.m., a motion should be made and approved with the support of at least four members.

Commissioner Hanns stated a correction needed to be made to the map attached to the proposed ordinance. On that map the Old Brick Road was mislabeled as US-1.

Mr. Glass stated the map would be corrected.

Commissioner Hanns stated he appreciated what Mr. Glass said about the two public hearings, but once this was adopted the odor ordinance itself had to go through two more public hearings. Stated Mr. Hadeed has had a lot of success in defending moratorium ordinances for the County.

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(Item 1 – continued)

Commissioner King asked if Mr. Glass agreed with what Mr. Hadeed had suggested with the exception of the discussion about the two public hearings.

Mr. Glass responded yes, and encouraged the BCC to incorporate those suggestions.

Chairman Darby asked if Mr. Glass had participated in the process and the drafting of the moratorium process.

Mr. Glass stated he drafted the proposed ordinance.

Chairman Darby asked, if the map was going to be an appendix to the ordinance to show the areas affected, should those areas not be more carefully delineated.

Mr. Glass stated he would suggest the map not be appended to the ordinance and that the ordinance merely refer to the County's official zoning maps. The map currently attached to the proposed ordinance was included for advertising purposes and for information only. Stated he would strongly recommend that a map not be incorporated into the actual ordinance.

Chairman Darby asked what safety measures did the County have in existing regulations to prevent an odor producing facility from seeking a location in an area not zoned industrial.

Mr. Glass stated he assumed the County's zoning regulations did not now permit a type of odor producing business other than in industrial areas.

County Administrator Haas stated to say that the other zoning classes did not allow odor of any kind was probably not accurate. All one would have to do was drive by Burger King to realize odors were produced, but there were other ways in the Land Development Code that would restrict and prohibit a business that would generate an industrial odor.

Chairman Darby stated what if a pulp mill wanted to locate on a tract of land surrounded by forest in the western portion of the County. Asked how would the County deny them.

Jennifer Barrett, Planning Director, stated if someone proposed a pulp mill in the western area of the County they would have to obtain a rezoning and future land use map amendment, and it was unlikely staff would support something like that. The infrastructure was not in place to support industrial type uses, including a pulp mill.

Chairman Darby asked what if they applied for a change in zoning.

Mr. Glass stated they would have to do a comprehensive plan amendment, which would be a legislative decision.

(Item 1 – continued)

Chairman Darby stated he saw that as a potential loophole and the County might fall prey to some opportunity for the odor producing elements to come in another way.

Asked Mr. Glass about counties that offend the air quality in neighboring counties because of the type of industry they allowed.

Mr. Glass stated theoretically that was dealt with through the intergovernmental coordination element of the comprehensive plan, so they knew what was on your side of the county line and you had knowledge and some input into what was their side. Stated obviously, the BCC could not legislate or enforce an odor control ordinance for another county, but it could challenge their comprehensive plan amendments and rezoning like any other affected party.

Chairman Darby stated comments had been made that implied County staff was not moving at a pace to move this through the system quicker and the appropriate priority was not being attached to this issue. Asked if staff could have the odor ordinance ready in sixty days.

County Administrator Haas stated he believed staff could have a draft ready in sixty days, but not in a timeframe tighter than that.

Chairman Darby stated earlier Mr. Glass said if the BCC held two public hearings on an issue like this it would lessen the risk of litigation against the County because everybody's interests would be protected, and because of that he would prefer the BCC hold two public hearings.

Commissioner King stated he had received phone calls regarding the proposed moratorium and odor ordinance and there seemed to be a idea that this would affect Sea Ray and its employees, and other businesses in the County. He would like to appeal to the press if anything was written about this that it be made clear that this did not have an impact on Sea Ray nor any other business that was not an industrial odor producer.

Commissioner Hanns stated a moratorium sounded harsh, but it was really just an opportunity for a government to correct things not in place. The BCC had previously done moratoriums with the telecommunication towers, multi-family housing, and manufactured homes.

Asked if two public hearings were held, could the BCC make the moratorium effective as of the date of this meeting.

Mr. Glass stated the BCC would want to start the ninety-days as of the date of this meeting.

A motion was made by Commissioner Hanns to approve on first public hearing an ordinance establishing a moratorium with the ninety-day window to start as of the date of this meeting; to instruct staff to have the odor ordinance before the BCC for first public hearing ready as soon as possible; delete the map from the ordinance; and incorporate Mr. Hadeed's modifications in total. Seconded by Commissioner Kanbar, for discussion.

July 16, 2001
Regular Meeting

(Item 1 – continued)

Commissioner Kanbar stated he did not see an adversarial relationship between the business community and the citizens, because everyone wanted clean light industry and good paying jobs for the citizens. He also thought it was a mission of county government to remain vigilant to insure the quality of the environment was maintained for all the citizens of the County.

Stated he would like to see the ordinance done in sixty days rather than ninety days.

Commissioner Kanbar amended the motion to change the moratorium from ninety days to sixty days. Seconded by Commissioner Hanns, for discussion.

Commissioner Hanns stated his motion was to start the ninety-day clock at this meeting, if approved, but it did not appear that anyone else was interested in going along with this.

Chairman Darby stated he would support sixty days.

Commissioner McGuire stated since the moratorium was going to accomplish what was wanted, questioned why the BCC would want to rush staff to get it done in sixty days. With a ninety-day moratorium the BCC could take its time and get it done the right way the first time.

Commissioner King stated he agreed with Commissioner McGuire. Also he did not second the motion because it did not include holding two public hearings and questioned why the BCC would want to expose the County to additional litigation. Stated he guaranteed it would be a lot cheaper to hold a second public hearing than it would be to become involved in litigation.

Commissioner Hanns stated we need to get something in place and the BCC could always amend once the ordinance was in place. It was quite simple to amend an ordinance.

County Administrator Haas stated if the BCC was going with the premise that it required two public hearings, then the first reading would be August 20 and then final adoption would be September 4. However, at the last meeting it was discussed that there were constituent groups that wanted to review the proposed ordinance, but he did not think the time frame would allow for the Long Range Planning Board, the Chamber of Commerce, or any other group to review it.

Chairman Darby asked if staff preferred ninety days.

County Administrator Haas stated it was always easier to present a document to the BCC without having to go from one group to another and making changes. If the BCC wanted to involve the Chamber of Commerce, as they requested, the Long Range Planning Board or others, then staff was going to need more time than having first reading August 20.

Chairman Darby stated a moratorium could be misused to thwart economic growth and the BCC could get caught up in that by giving the ordinance to one group after another to look at and it could then drag on and on.

July 16, 2001
Regular Meeting

(Item 1 – continued)

Commissioner McGuire stated he supported the ninety days so he could have the extra time to research it and make sure it was done properly the first time, and he absolutely opposed rushing through it just to get it done because it could be amended later. The BCC should err on the side of caution and not rush it through.

Chairman Darby stated he could support that.

Commissioner Hanns withdrew his second to the amendment.

Commissioner Kanbar withdrew the amendment.

Commissioner King amended the motion to go through the two public hearings as recommended by Interim County Attorney Whidden and Mr. Glass. Seconded by Commissioner McGuire.

Commissioner McGuire stated he understood Mr. Glass to say earlier that the BCC needed to schedule the second public hearing after 5:00 p.m.

Interim County Attorney Whidden stated that was correct unless the BCC by a four to one or better majority approved to have it at another time.

Commissioner King clarified his amendment included waiving the requirement to have the second public hearing after 5:00 p.m. and schedule it for the August 6 meeting at 9:00 a.m.

Commissioner McGuire concurred.

Commissioner Hanns stated the BCC was made up of five individuals, but this item was bigger than all of us and he thought logic prevailed. Stated he would support the amendment.

Chairman Darby called the question on the amendment. No nay votes, motion carried unanimously.

Chairman Darby called the question on the main motion. No nay votes, motion carried unanimously.

The meeting recessed at 11:10 a.m.

The meeting reconvened at 11:20 a.m.

August 6, 2001
Regular Meeting

PUBLIC HEARINGS

**ITEM 1 - 2ND READING AND PUBLIC HEARING - ORDINANCE - MORATORIUM-
INDUSTRIAL ZONING DISTRICTS**

Chairman Darby reviewed the following information provided by Planning Director Jennifer Barrett:

***Board Of County Commissioners
Agenda Request (Public Hearing)
Item # 1***

SUBJECT: SECOND PUBLIC HEARING OF AN ORDINANCE ESTABLISHING A SIXTY-NINE (69) DAY MORATORIUM IN THE "I" INDUSTRIAL ZONING DISTRICT IN FLAGLER COUNTY ON THE ACCEPTANCE AND PROCESSING OF NEW AND EXISTING APPLICATIONS FOR PERMITS FOR ANY USE WHICH REQUIRES AN AIR CONSTRUCTION PERMIT OR AIR OPERATION PERMIT FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PURSUANT TO SECTION 62-210.300, FLORIDA ADMINISTRATIVE CODE; PROVIDING FOR TERMINATION OF THE TEMPORARY MORATORIUM; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

DATE: August 6, 2001

DEPT.: Planning Department

ASSIGNED TO: Scott Glass, Esquire, Shutts & Bowen law firm, Orlando
Jennifer Barrett, AICP, Planning Director

STATEMENT OF ISSUE: 2nd Reading Public Hearing regarding a proposed Ordinance enacting a moratorium in industrial zoning districts.

JUSTIFICATION: At its meeting on June 18, 2001, the Board of County Commissioners (BCC) authorized the scheduling and advertisement of public hearings for a proposed Ordinance enacting a moratorium in industrial zoning districts. On July 16, 2001 the first public hearing was conducted and approved by the BCC.

SCHEDULE: 1st Public Hearing: July 16, 2001 -
2nd Public Hearing: August 6, 2001

BACKGROUND: At the June 18, 2001 meeting of the Board of County Commissioners, a group of Flagler County citizens submitted a petition to the Board requesting that a moratorium be adopted to prevent the approval of new or expanding odor producing industry development applications until the County adopts an odor ordinance. The petition submission was accompanied by testimony from several proponents and opponents of the odor ordinance.

August 6, 2001
Regular Meeting

(Item 1 – continued)

The BCC considered the lengthy public comments and requested that staff proceed with preparation of an ordinance to adopt a moratorium after which staff was requested to research and draft an ordinance to address odors and smells emanating from businesses zoned "I" Industrial District that would normally require a permit from the Department of Environmental Protection.

FACTS AND ISSUES: Section 3.03.18 G. Industrial Performance Standards of the Flagler County Land Development Code does not address odors and smells emanating from businesses. The standards do address other potential nuisances: noise, glare, and vibration. Due to the nature of some industrial businesses, odors and smells that may emanate from certain businesses may be nuisances and create a negative impact on nearby property, especially residential uses. Generally, cities and counties that include performance standards in their land development codes do include provisions for regulation of odors and smells.

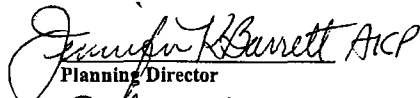

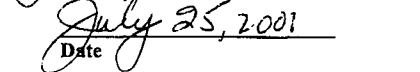
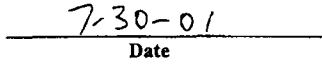
Adoption of the moratorium ordinance requested will prevent approval of new and expanded industrial uses that may be potential odor producers and permit staff to carefully research and prepare an odor ordinance that will address future odor and smells.

ALTERNATIVES: Staff does not propose any alternatives.

RECOMMENDATION: Staff recommends that the BCC conduct a second public hearing and second reading of a proposed Ordinance enacting a moratorium in industrial zoning districts. Furthermore, the BCC unanimously voted to hold the second public hearing and reading on August 6.

ATTACHMENTS:

1. Proposed Ordinance
2. Scott Glass' Resume

 _____ Planning Director	 _____ County Administrator
 _____ Date	 _____ Date

August 6, 2001
Regular Meeting

(Item 1 – continued)

Chairman Darby opened the Public Hearing.

Steve Marro, Executive Director of Enterprise Flagler, spoke in opposition to the odor moratorium.

Arnold Levine, President of the Palm Coast Civic Association, stated the Civic Association voted unanimously in favor of an odor ordinance moratorium.

Roseanne Stocker, Citizens for Responsible Development, stated her organization received unanimous support from every civic association in Flagler County in favor of the moratorium.

Brenda Farrell, Flagler Beach, urged the BCC to pass the moratorium and to work on developing an ordinance that would have some impact.

Don Deal stated they had to safeguard their quality of life, their property values, the air they breathed, their beaches and their parks.

There was no further public comment.

Chairman Darby closed the Public Hearing.

Commissioner Kanbar stated in reviewing this document he noted that the proposed moratorium would expire on October 14 and asked if that was enough time to develop the odor ordinance.

County Administrator Haas stated the BCC had spoken clearly and staff would have enough time to bring forward a document.

Commissioner King stated he wanted to appeal to the press that this did not have any bearing on Sea Ray Boats, an industry that was already in Flagler County, or new businesses other than industrial odor producing facilities that would locate to the County.

A motion was made by Commissioner King to approve Item 1. Seconded by Commissioner Hanns.

Chairman Darby called the question. No nay votes, motion carried.

(Ordinance 2001-14 is on file in the Finance Department of the Flagler County Clerk's Office.)

September 17, 2001
Regular Meeting

ITEM 31 - 1ST PUBLIC HEARING - AMENDMENT TO FLAGLER COUNTY LAND DEVELOPMENT CODE - ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00 USE AND OTHER REQUIREMENTS BY DISTRICT, SECTION 3.03.18 - I-INDUSTRIAL DISTRICT - AMENDING THE PURPOSE AND INTENT OF G. INDUSTRIAL PERFORMANCE STANDARDS AND ADDITION OF PART 6. ODOR PROVISIONS

The following information was provided by Jennifer Barrett, Planning Director:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA REQUEST - ITEM # 31

SUBJECT: AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF FLAGLER, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF FLAGLER COUNTY, FLORIDA, ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00 USE AND OTHER REQUIREMENTS BY DISTRICT, 3.03.18. I-INDUSTRIAL DISTRICT, BY AMENDING THE PURPOSE AND INTENT OF G. INDUSTRIAL PERFORMANCE STANDARDS AND ADDING A NEW PART 5. ODOR PROVISIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

DATE OF MEETING: September 17, 2001

SUBJECT/GOALS/OBJECTIVES: The objective of this request to have the Board of County Commissioners hold a public hearing to consider the attached ordinance. The purpose of the ordinance is to regulate odorous emissions produced by businesses located on County land zoned I Industrial District.

JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES: The Long Range Planning and Development Review Board (LRPB) met over a period of time between 1996 and 1998 to review and expand upon language to be included in the Land Development Code that would regulate odorous emissions. The ordinance did not pass at that time. The Citizens for Responsible Development, represented by Don Deal, brought the issue of controlling odor-producing industrial businesses back to the Board of County Commissioners on June 18, 2001. Mr. Deal requested that the Board issue a temporary moratorium to prevent new business from locating in the I Industrial zoning district until County staff could write an odor ordinance for review and approval of the Board. The ordinance will apply only to new businesses locating in the I Industrial zoning district and to the extension, expansion or enlargement of a twenty-five (25) percent or more of the gross floor area, excepting office and administrative areas. The twenty-five (25) percent shall be that amount accumulated since the effective date of this ordinance. Existing businesses will be grand fathered but will continue to be scrutinized for air permit violations by Department of Environmental Protection.

The Board agreed to impose a 120-day moratorium and subsequently held two public hearings on July 16 and August 6 on the moratorium. The ordinance establishing a moratorium was approved on August 6, 2001. The moratorium became effective on July 16, 2001 and expires on October 14, 2001. Since that date, staff has worked with legal counsel to draft an ordinance to control odor-producing industry. Staff and legal counsel have researched the ordinances of numerous counties and cities to determine how they have implemented performance standards to control odorous omissions. Ordinances reviewed include Brevard County, Duval County, Orange County, Alachua County and the Cities of Jacksonville, Palm Coast and Flagler Beach. In addition, the staff has talked with the Planning Director of Brevard County, the Department of Environmental Protection, and various interested stakeholders and business owners to solicit their input. DEP notified staff that it does respond to complaints but will not provide enforcement services for the County.

September 17, 2001
Regular Meeting

(Item 31 – continued)

The Long Range Planning and Development Review Board discussed a draft ordinance at its August meeting and recommended that it be a "performance based odor ordinance", like the Brevard County ordinance. The Long Range Planning and Development Review Board unanimously supports the adoption of the moratorium and odor ordinance.

The ordinance was re-drafted to incorporate the language of the Brevard County odor ordinance. The costs associated with implementation of the ordinance are an issue that must be considered. In order to implement the ordinance, a code enforcement officer must be trained to respond to complaints, collect air samples, send them for testing, and follow through on investigations. In addition to costs for staff and air sampling containers, testing an air sample costs not less than \$300 per sample. The costs will increase with the types of odors tested. Staff was informed by Brevard County staff that \$15,000 per incident for testing would not be unusual.

The Brevard County ordinance serves as the basis for the ordinance drafted for Flagler County. The ordinance references, and adopts by reference, the ambient standards from the American Industrial Hygiene Association entitled "Odor Threshold for Chemicals with Established Occupational Health Standards." The attached ordinance includes amended language that integrates the addition of the odor ordinance performance standards with the language addressing the existing performance standards for noise, glare, and vibration.

COORDINATION: Planning Department.

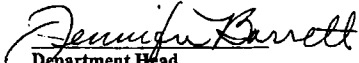
PROPOSED SCHEDULE: 1st Public Hearing: September 17, 2001
2nd Public Hearing: October 1, 2001

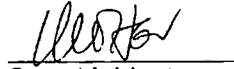
ASSIGNED TO: Planning Department and County Attorney.

COST: Approximately \$15,000 per incident **FUND:** General

RECOMMENDATIONS: Staff recommends that the Board of County Commissioners review the odor ordinance attached to this report at the first public hearing and approve it by adopting it.

ATTACHMENTS: 1. Odor Ordinance
2. Tables 5.1 and 5.3 (from the American Industrial Hygiene Association entitled "Odor Threshold for Chemicals with Established Occupational Health Standards.")


Department Head
September 12, 2001
Date


County Administrator
9-12-01
Date

September 17, 2001
Regular Meeting

(Item 31 – continued)

County Administrator Haas stated staff had received a number of inquiries about whether this was going to be adopted on one reading or two readings. As the BCC had instructed there would be two public hearings, with the second public hearing scheduled for October 1, 2001.

Chairman Darby opened the Public Hearing.

Don Deal, member of the Flagler County Long Range Planning Board (LRPB) and the City of Flagler Beach Architectural Review Board, stated this proposed ordinance was supported by the LRPB and was an exact duplicate of the Brevard County ordinance. The LRPB recommended Sea Ray Boats be grandfathered into this ordinance. Spoke further in support of the ordinance.

Nan Neville, Flagler Beach, spoke in support of the odor ordinance.

Arnold Levine, President of the Palm Coast Civic Association, Director of the Flagler County Audubon Society, booster member of the Chamber of Commerce and a member of Citizens for Responsible Development, spoke in support of the odor ordinance.

Brenda Farrell, Flagler Beach, read from a transcript of a radio commentary regarding Sea Ray Boats being Knoxville, Tennessee's worst air polluter. Spoke in support of the odor ordinance.

Gerry Marino, Flagler Beach, spoke in support of the odor ordinance and only allowing Sea Ray Boats' current operation to be grandfathered in.

Frank Green, Flagler Beach, spoke in opposition to any future expansion of Sea Ray Boats.

Drew Page, Daytona Beach, stated some comments attributed to him needed to be cleared up. The statement that McKenna Yachts could not pass Volusia County's odor control was untrue. The BCC needed to be very careful if this ordinance was concerned with the location of McKenna Yachts in Flagler County.

Kent Ryan, Flagler Beach, stated he was not in opposition to an odor ordinance, but saw some concerns that this was a measurable ordinance. In his opinion there was a lot of open concern for any industries that would come to Flagler County.

Garry Bell, Flagler Beach, stated the chambers of commerce and other organizations looked to bring businesses into the County, but yet the only business they could find was another boat building, so it seemed to him they were not doing a very good job.

Michaela Merz, Flagler Beach, stated the County should attract industries that were not air polluters. Spoke in support of the ordinance.

(Item 31 – continued)

Jack Plimpton, Flagler Beach, spoke against grandfathering in any expansion of Sea Ray Boats.

Al Hadeed, representing Flagler County Visions 20/20, complimented staff for bringing this ordinance to the BCC so quickly, and pointed out this was not an exact duplication of the Brevard County ordinance as was earlier stated. Provided and reviewed some suggested changes to the proposed ordinance.

(The changes suggested by Mr. Hadeed are on file in the offices of the Planning Department and the County Attorney.)

Stated also, some of the language in the proposed ordinance was not a part of the advertised ordinance.

Chairman Darby asked about the propriety of the public hearing and the advertised ordinance. Asked if that raised a question with the County Attorney.

County Attorney Kern stated the BCC could continue with public hearing. This was the first public hearing and one of the purposes of the first public hearing was to make any amendments the BCC decided to do and to get the language down before the final hearing.

Commissioner McGuire asked how long had the Brevard County ordinance been in effect.

County Administrator Haas stated for about eighteen months and there had been no challenges to that ordinance. There were two complaints where the ordinance was applied and those resulted in a fee to code enforcement of approximately \$5,000 per complaint.

Mr. Hadeed stated Brevard County had been addressing odor issues for many years and had been acknowledged as engaging in the most performance-based analysis in land use and in this area, in particular.

Doug Batchelor, Flagler Beach, spoke in support of the odor ordinance.

Robert Merrill, attorney representing Sea Ray Boats, provided “friendly” amendments to the proposed odor ordinance. Expressed a desire to meet with County staff and Mr. Hadeed to discuss all the suggested changes to have a subjective and fair standard put in place.

(The amendments suggested by Mr. Merrill are on file in the offices of the Planning Department and the County Attorney.)

Kevin Drouilliard, Beverly Beach, encouraged adoption of the odor ordinance because he was concerned about the effects on the health of the children living in the area.

September 17, 2001
Regular Meeting

(Item 31 – continued)

Chairman Darby stated there had not been any expert testimony given that the odors generated by Sea Ray Boats caused a public health concern.

Viki Neri, Palm Coast, spoke in support of the odor ordinance and against allowing expansion of Sea Ray Boats.

Paul Haydt, Chairman of the LRPB, stated the LRPB initiated this ordinance and supported the temporary moratorium. The three points the LRPB encouraged were: 1) that there be a set standard; 2) that citizens could be assured the problem would not get worse; and 3) that businesses and potential businesses know exactly what was expected and how to conform.

Chairman Darby stated the BCC may make language changes to the ordinance and asked if the LRPB would be adverse to those changes not coming back to the LRPB for consideration.

Mr. Haydt stated the LRPB looked at this as a work in progress. The LRPB would meet again later this week and he would take back any changes that were made and come back to the BCC with the recommendation made by the LRPB.

Mollie DiLello, Palm Coast, spoke in support of the odor ordinance.

Robert Ducette, Flagler Beach, stated he lived two hundred yards from Sea Ray Boats and most days the odors were not that bad. Questioned if Sea Ray Boats was allowed to expand by 25% could that mean more odors.

Tom Sheehan, board member of the Flagler Beach Chamber of Commerce, stated he felt the odor ordinance would not inhibit business growth and was needed to protect the quality of life in Flagler County.

Roseanne Stocker, Flagler Beach, spoke in support of the odor ordinance and stated the Citizens for Responsible Development was not anti-business nor was it anti-Sea Ray Boats.

Commissioner King read a statement from Linda Adkins, Flagler Beach, supporting the odor ordinance and opposing any expansion of Sea Ray Boats.

There was no further public comment.

Chairman Darby closed the Public Hearing.

Commissioner Hanns stated what the BCC heard during this public hearing was similar to what had been heard at many other meetings. The BCC directed staff not to infringe on rights of Sea Ray and to grandfather them in. However the expansion question came up and I am sure that

(Item 31 - continued)

Stated in many meetings and in dialogue the BCC had been steadfast in pushing for this ordinance, so some of the comments made were repetitious or reinforced what was already moving forward. Rather than go backward and possibly allow this to get totally out of hand, asked if Mr. Haas believed all the principles who spoke and staff could get together and rework this ordinance to incorporate some of the proposed changes.

County Administrator Haas agreed they could get together and work through some of the issues.

Commissioner Hanns asked if Mr. Haas knew of any plans for the expansion of Sea Ray Boats.

County Administrator Haas stated he was not aware of any plans for expansion. Just about any building permit pulled by Sea Ray would have triggered the language from the Brevard County ordinance, and from staff's understanding that was not what the BCC had intended. So staff looked at that language in Section 3 and went to the Land Development Code and under non-conforming use found there were exceptions to when a non-conforming use was triggered, and that was where the 25% expansion language came from.

Stated he felt there were some concerns with the language in Section 4, as well, that addressed the determination of violations.

Commissioner Hanns asked if it would be beneficial to staff for the BCC to go through some of these proposed changes or should the BCC just pass it pending the second reading.

County Administrator Haas asked that the BCC pass it as presented on first reading, because the public clearly understood that staff was going to look at the grandfather clause and that there would more than likely be some modification to that.

Commissioner Hanns stated the intent of the BCC to go along with this ordinance had been well documented, but he believed there needed to be some other input from the BCC members.

A motion was made by Commissioner Hanns to approve on first reading as presented pending many amendments. Seconded by Commissioner Kanbar.

Commissioner Kanbar stated he felt he BCC was sending a message to the business community that it wanted to promote clean industry within Flagler County that brought in high paying jobs for its citizens and enhanced the tax base.

Stated he had a concern about the expense of the equipment necessary to have a full-fledged testing program in place. Asked if staff had researched that.

County Administrator Haas stated only through discussions with Brevard County, and staff would recommend the BCC do as Brevard County did and hire a consultant to do the testing. It would be a prohibitive expense for staff to do it in-house.

September 17, 2001
Regular Meeting

(Item 31 – continued)

Commissioner Kanbar stated another concern on the 35% enhancement and the issue seemed to come around to Sea Ray Boats, but it was not really supposed to focus on Sea Ray.

Stated he heard technology existed in the industry to clean up odor, and evidently Sea Ray had to do that in Brevard County. Asked, if the BCC allowed a 25% expansion, could it be done as long as Sea Ray controlled all the odors the County wanted controlled as measured by a quantitative process.

County Administrator Haas stated the BCC could put in any language it wanted, beyond saying Sea Rays' existing use was subject to the ordinance.

Commissioner Kanbar stated the LRPB would be meeting later in the week and the chairman indicated the changes could be given to them for review and before the second reading could come back to the BCC with a recommendation on the changes.

County Administrator Haas stated he thought the motion was for staff to meet with Mr. Hadeed and Mr. Merrill.

Commissioner Kanbar asked if the LRPB was included.

County Administrator Haas stated that was not part of the motion.

Commissioner Kanbar asked if the motion could be amended to include LRPB, if it was done within the timeframe before the second reading.

Commissioner Hanns stated yes, if it were timely. He would agree to include the LRPB. But this odor ordinance was in no way intended to close down Sea Ray Boas.

Commissioner Kanbar stated he agreed completely.

Chairman Darby stated the motion maker and the second talked about LRPB, Mr. Merrill and Mr. Hadeed, but no one had mentioned the citizen group that first brought this issue before the BCC. Asked if they were meant to be included also.

Commissioner Hanns stated he meant to include all those that brought this issue forward.

Commissioner Kanbar concurred.

Commissioner King asked Mr. Hadeed if he said earlier that the proposed ordinance was not the same as Brevard County had.

(Item 31 – continued)

Mr. Hadeed stated it was not exactly the same.

Commissioner King stated Mr. Haas said the 25% expansion language was added because staff felt a repair to an existing building at Sea Ray might trigger the odor ordinance. Asked if the changes proposed by Mr. Hadeed in that regard were exactly what Brevard County had.

Mr. Hadeed stated it was not.

Commissioner King asked then if a simple repair would trigger the ordinance in the language Mr. Hadeed had provided.

Mr. Hadeed stated no. The revision he provided focused when the use was expanded or enlarged. It had nothing to do with exterior changes and would even allow building modifications.

Chairman Darby stated staff had asked for a recess and suggested the time be used to deliberate the issue with all the principle players involved.

The meeting recessed at 7:50 p.m.

The meeting reconvened at 8:10 p.m.

Chairman Darby asked what would staff like to suggest to the BCC at this time.

County Administrator Haas suggested the BCC approve the motion as it was currently structured with the understanding that there were going to be some language changes in Section 3 and Section 4. And between now and October 1 the minor differences of opinion could be worked out between the principles and some language brought back that everyone would agree upon. They were very close, but to try to rewrite those two sections on the fly might be more problematic than adopting it “as is” with the understanding that those two sections were going to be changed.

Stated also, he thought the issue of expansion was essentially a moot point as Sea Ray indicated it had no plans to expand its production capabilities and the rewrite would reflect that.

Chairman Darby asked who were the principles.

County Administrator Haas stated Sea Ray Boats, County staff, Mr. Deal, and Mr. Hadeed.

Chairman Darby offered to any of the individuals just mentioned the opportunity to make a counterpoint to the comments Mr. Haas had just made.

September 17, 2001
Regular Meeting

(Item 31 – continued)

Mike Collins, General Manager for Sea Ray Boats, stated his one main issue was the fact that someone's reasonable nose would not be able to trigger a violation, and he felt that was covered in the revised language, except to indicate the specific steps necessary to initiate the ordinance.

Stated he did not foresee Sea Ray expanding production, but had looked at expanding its warehouse area and of the administrative offices.

Mr. Hadeed stated the change contemplated to the language was exactly as he had suggested.

Mr. Deal agreed with Mr. Haas' suggestion.

County Attorney Kern stated he felt the language had been narrowed down and felt they could come back with a workable ordinance.

Mr. Haydt stated the LRPB would work with the parties involved.

Commissioner McGuire stated he had two concerns with Section 1G.4. One was the sentence a reasonable person using normal senses and no mechanical equipment could trigger compliance. He thought it should be harder than that.

Stated the biggest concern he had was the final sentence said at some point it became incumbent upon the business to prove it was in compliance. However, he felt it was government's job to prove the business was not in compliance, and so he did not believe nor could he support an odor ordinance that was going to put the burden on the business as opposed to the government. Asked for that concern to be addressed in the rewrite.

Asked if this ordinance was passed was the BCC going to inadvertently impact a fast food restaurant, for example, that discharged odors that he personally found offensive at times, or an auto repair shop that worked on diesel engines. Asked if other businesses could trigger this ordinance.

County Administrator Haas stated the possibility existed. Restaurants were not often located in industrial properties, but whatever businesses were located on an industrial property would have to meet these thresholds. However, the grandfather provision would apply to those other existing businesses as well.

Commissioner McGuire asked for any information that staff could provide on what kinds of businesses would create the odors that would trigger this ordinance.

Commissioner King stated Section 1G.4. read, "No activity shall be carried on which may be or may become dangerous to public health, safety, or welfare which increases the fire insurance rate for adjoining or adjacent property, or which is illegal."

Asked the criteria business met now for fire insurance.

September 17, 2001
Regular Meeting

(Item 31 – continued)

County Administrator Haas stated he knew the regulations on that were dramatically different than they used to be, but staff would research that answer to that question.

There was no further comment.

Chairman Darby called the question. No nay votes, motion carried unanimously.

October 1, 2001
Regular Meeting

ITEM 3 – 2ND PUBLIC HEARING – AMENDMENT TO FLAGLER COUNTY LAND DEVELOPMENT CODE – ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00 USE AND OTHER REQUIREMENTS BY DISTRICT, SECTION 3.03.18 I-INDUSTRIAL DISTRICT, AMENDING THE PURPOSE AND INTENT OF G. INDUSTRIAL PERFORMANCE STANDARDS AND ADDING A NEW PART 5. ODOR PROVISIONS; ADOPTING CIVIL CITATION PENALTY AMOUNTS FOR VIOLATION OF ODOR PERFORMANCE STANDARDS BY RESOLUTION

Chairman Darby reviewed the following information provided by Planning Director Jennifer Barrett:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA REQUEST – ITEM # 3

SUBJECT: SECOND PUBLIC HEARING OF AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF FLAGLER, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF FLAGLER COUNTY, FLORIDA, ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00 USE AND OTHER REQUIREMENTS BY DISTRICT, 3.03.18. I-INDUSTRIAL DISTRICT, BY AMENDING THE PURPOSE AND INTENT OF G. INDUSTRIAL PERFORMANCE STANDARDS AND ADDING A NEW PART 5. ODOR PROVISIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

DATE OF MEETING: OCTOBER 1, 2001

SUBJECT/GOALS/OBJECTIVES: The objective of this request is to have the Board of County Commissioners hold a public hearing to consider the attached ordinance and related resolution. The purpose of the ordinance is to regulate odorous emissions produced by businesses located on County land zoned I Industrial District. The resolution that accompanies the ordinance implements the civil citation system penalty for violation of the ordinance.

JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES: The Long Range Planning and Development Review Board (LRPB) met between 1996 and 1998 to review and expand upon language to be included in the Land Development Code that would regulate odorous emissions. The ordinance did not pass at that time. Citizens for Responsible Development, represented by Don Deal, brought the issue of controlling odor-producing industrial businesses back to the Board of County Commissioners on June 18, 2001. Mr. Deal requested that the Board issue a temporary moratorium to prevent new business from locating in the I Industrial zoning district until County staff could write an odor ordinance for review and approval of the Board. The ordinance will apply only to new businesses locating in the I Industrial zoning district and to the extension, expansion or enlargement of any existing, non-conforming use of land excepting the erection of new storage, office and administrative structures or installation of equipment that will reduce emissions so long as such erection or installation is not accompanied by an expansion or enlargement of industrial production capacity. Existing businesses will be grand fathered but will continue to be scrutinized for air permit violations by Department of Environmental Protection.

The Board agreed to impose a 120-day moratorium and subsequently held two public hearings on July 16 and August 6 on the moratorium. The ordinance establishing a moratorium was approved on August 6, 2001. The moratorium became effective on July 16, 2001 and expires on October 14, 2001. The first public hearing on the proposed amendments was held before the Board of County Commissioners on September 17, 2001. Prior to that date, staff worked with legal counsel to draft an ordinance to control odor-producing industry. Staff and legal counsel

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researched the ordinances of numerous counties and cities to determine how they have implemented performance standards to control odorous omissions. Ordinances reviewed include Brevard County, Duval County, Orange County, Alachua County and the Cities of Jacksonville, Palm Coast and Flagler Beach. In addition, staff talked with the Brevard County Planning Director and Code Enforcement Supervisor, the Department of Environmental Protection, and various interested stakeholders and business owners to solicit their input. DEP notified staff that it does respond to complaints but will not provide enforcement services for the County.

The Long Range Planning and Development Review Board discussed a draft ordinance at its August meeting and recommended that it be a "performance based odor ordinance", like the Brevard County ordinance. The Long Range Planning and Development Review Board supports the adoption of the moratorium and odor ordinance.

Section 3.03.00 and Section 3.03.18. G have been amended to incorporate the language of the Brevard County odor ordinance. The costs associated with implementation of the ordinance are an issue that must be considered. The ordinance also references, and adopts by reference, the ambient standards from the American Industrial Hygiene Association entitled "Odor Threshold for Chemicals with Established Occupational Health Standards." The attached ordinance includes amended language that integrates the addition of the odor ordinance performance standards with the language addressing the existing performance standards for noise, glare, and vibration.

In order to implement the ordinance, a code enforcement officer must be trained to respond to complaints, collect air samples, send them for testing, and follow through on investigations. In addition to costs for staff and air sampling containers, testing an air sample costs not less than \$300 per sample. The costs will increase with the types of odors tested. Brevard County earmarks \$20,000 per year for the County Code Enforcement Budget to fund investigation costs of violations of the County's performance standards for odor, vibration and dust.

The first public hearing was held on September 17, 2001. The BCC directed Staff to meet with the principals involved in drafting the ordinance to work out unresolved issues regarding the "Applicability", "Determination of Violations" paragraphs and "Odor Provisions" subparagraphs (a) through (c). Staff met with stakeholders on September 24, 2001. The stakeholders and County staff reached consensus on changes to these paragraphs. The attached draft reflects those changes agreed to by the parties involved. The revised ordinance incorporates the civil citation enforcement system the County uses in lieu of the Brevard language that created problems for some of the Board members at the last hearing. (See subsection 4 of ordinance). The civil citation system requires that you adopt a civil penalty amount for first, second and the third visitations. The maximum is \$500 by state law for any one of them. The adopting resolution is attached. The staff recommends \$300 for the first, \$400 for the second and \$500 for the third offense, to help the County lower its laboratory costs.

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COORDINATION: Planning Department.

PROPOSED SCHEDULE: 1st Public Hearing: September 17, 2001 Approved First Reading
2nd Public Hearing: October 1, 2001

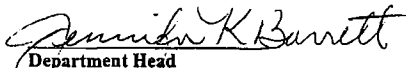
ASSIGNED TO: Planning Department and County Attorney.

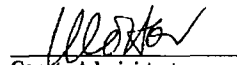
COST: Approximately \$15,000 per incident **FUND:** General

RECOMMENDATIONS: Staff recommends that the Board of County Commissioners hold a second and final public hearing to review the revised proposed ordinance regulating odorous emissions and approve it by adopting it. The Board also is requested to adopt the attached Resolution.

ATTACHMENTS:

1. Ordinance No. 01- (as revised and ready for adoption – redline, strikethrough and colors removed)
2. Ordinance No. 01- (as submitted to the BCC on September 17 with the addition of changes shown in redline, strikethrough and colors)
3. Resolution No. 2001- Adopting Civil Citation Penalty Amounts for Violation of Odor Performance Standards.


Department Head
September 25, 2001
Date


County Administrator
9-25-01
Date

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Planning Director Barrett stated at the Public Hearing on September 17, 2001 the BCC voted to adopt the ordinance with the understanding that staff and the principals would get together and work out the unresolved issues.

Stated she would explain the changes being made from the September 17, 2001 meeting.

Stated Page 1 had no changes. Stated on Page 2, they deleted the references to the City of Jacksonville and other nationally recognized odor control ordinances. Stated on Page 3, at the top of page, they deleted the first section of the first paragraph and what they saw was a replacement. Stated the reason they eliminated the words unreasonably noxious or offensive or unreasonable annoyance or a nuisance, etc., was because that was basically subjective and confusing. Stated Page 3 under Applicability was one of the main issues in the odor ordinance, and they added a few words that began with, "If any existing, nonconforming use of land is extended, expanded or enlarged, these performance standards shall apply only with respect to such extended, expanded, or enlarged portion or use of land." Stated that was altered a little bit to address the issue of Sea Ray Boats.

Stated any existing boat manufacturing facilities must comply with all the regulations of Federal Standards within 3 years of August 22, 2001, so they had Federal Standards that would be implemented and enforced against any violator.

Stated Page 3, Determination of violations - they found there were some inconsistencies and confusion and came up with a new paragraph to incorporate the civil citation system. "The performance standards shall be enforced using the civil citation system as provided by Chapter 9, Article III of the Flagler County Code except to the extent amended herein." Stated Resolution 2001 showed the implementing document that would impose those fines in case of violation.

Stated under Determination of violations, "if a violation is found, the officer shall issue a civil citation. After an entity has received three citations, the officer shall refer the next following violation(s), if within 12 months of the first violation, for judicial enforcement by the County of the performance standards. The County shall seek to enjoin the violation by the offending industrial entity as a public nuisance. Three citations, followed by another violation determination, if all are within 12 months, shall constitute a public nuisance per se for purposes of enforcing these odor performance standards. In such judicial enforcement, the County may pursue compliance under the other remedies authorized by the County Code." Stated this document and the Flagler County Code were all linked together to bring about consistency and order in how this was to be done.

Stated Section 2, paragraph 5 Odor provisions – would also be inserted in the Flagler County Land Development Code.

County Administrator Haas stated it was an escalating fine, so the first time they would be cited they would pay a \$300 fine that would start the 12 month clock ticking. Stated if there were four violations within 12 months of the first \$300 fine then they would seek some sort of judicial remedy to bring them into compliance.

Ms. Barrett stated the tables they referenced in the code tied the testing to 110 compounds from 36 sources out of 336 referring to the odor thresholds for chemicals with established occupational health hazards. Stated this was a publication prepared by the American Industrial Hygiene Association (AIHA).

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Stated a scientific engineer with Atlas Scientific Technologies, Inc., met with the principals on Friday to explain the technical aspects. Stated different odors have different needs for measurement and may have different criteria. Stated on Page 4 putting in NIOSH, OSHA, EPA, and ACGIH they were opening the door to some scientific methods of measuring odors.

Stated in their meeting they amended the language of Section 5 (a) Performance requirements. Stated "The plans shall be signed and sealed by an engineer registered in the State of Florida. The plans shall be reviewed by the TRC."

Ms. Barrett provided the following summary:

**Summary
of
AIHA Odor Thresholds for Chemicals with Established
Occupational Health Standards**

1. The document is a compendium of worldwide data.
2. AIHA reviewed and categorized all data sources (366 references).
3. All data was categorized into three basic groups
 - a. Primary Source- actual experiments conducted and reported
 - b. Secondary Source- Not primary threshold measurement experiment (Code C1-C4)
 - c. Omitted or Not Reviewed
4. A total of 191 sources of odor thresholds were evaluated.
5. A total of 36 sources survived the phase II critique and yielded "acceptable odor threshold values". (Code A)
6. A total of 110 of the compounds that have TLVs (182 listed compounds) were found to have "acceptable odor threshold values".
7. 25% of the 110 compounds have odor thresholds higher than the TLVs.
8. 75% of the 110 compound have odor thresholds lower than the TLVs.
9. Table 5.1 lists all TLV compounds and the corresponding "acceptable odor threshold" range and geometric mean.
10. The range of all values are also presented. (last column)
11. Table 5.3 lists odor thresholds from all sources including rejected data.

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Ms. Barrett read the following letter into the record:

Mr. David Haas
County Administrator
Flagler County, Florida
1200 E. Moody Blvd. #1
Bunnell, Fl 32110

October 1, 2001

Mr. Haas

I enjoyed meeting with you and the other staff members on September 28, 2001 to discuss the proposed odor ordinance. I believe that much helpful information was discussed that will assist the County in finalizing an ordinance that will meet the objectives of the County while providing sound scientific basis and practical manageability.

As you requested, I contacted Mr. Bruno Ferraro of Grove Scientific and discussed the four issues that were still undecided at the close of our meeting on Friday. I will summarize our discussion of each of these topically below.

1. **Inclusion of Table 5.3.**

As I indicated in our meeting, this table presents all data contained in the compendium including data that was rejected by the AIHA. It is scientifically invalid to include this table as a standard and will introduce significant problems regarding applicability and enforcement of the ordinance.

Mr. Ferraro is in agreement with this position and stated that if the table is included "*it will cause confusion*".

2. **Testing Protocol**

As I indicated in our meeting, the proposed ordinance did not include the appropriate reference to the analytical methods that should be used to analyze air samples. Mr. Ferraro is in agreement and the following wording is suggested.

All analyses shall be conducted in accordance with applicable ASTM, NIOSH, OSHA, EPA or ACGIH methods.

3. **Engineer's Certification**

As I indicated in our meeting, the paragraph requiring the signature and seal of a registered engineer is most probably unachievable and lends no real value to the ordinance. Mr. Ferraro is in agreement and supports the deletion of this element.

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4. Use Geometric Mean Verses the Range of Values

As I indicated in our meeting, the use of the range and specifically the lowest value in the range is not a valid representation of the "accepted" data and presents significant technical and practical problems. I suggest that if the County is going to use the "AIHA Odor Thresholds for Chemicals with Established Occupational Health Standards" as a reference for inclusion into the proposed ordinance, that the application of the data be consistent with the AIHA. Thus using the geometric mean as stated on page 9 of the document.

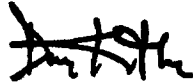
"The geometric mean value or recommended best estimate for odor threshold for each of the compounds is given in Table 5.1. Geometric means were computed for the mean odor threshold values. This is a common practice in sensory evaluation as it accounts for the wide range of response over several orders of magnitude."

Mr. Ferraro agreed that this is a scientifically valid method to express and apply the odor threshold data. But he indicated that he and his client would rather favor the use of the range of data.

I hope that the information that is presented above will assist the County in achieving the finalization of the odor ordinance. If you need any clarification or additional information please do not hesitate to call me.

Sincerely,

ATLAS Scientific Technologies, Inc.



Dave W. Knothe, CIH

President

Commissioner Kanbar asked if she was talking about nuisance smells or hazardous smells.

Ms. Barrett stated they were talking about nuisance smells in the ordinance.

Commissioner Kanbar asked if Sea Ray Boats would have to fall under Federal Standards within 3 years and wanted clarification on if the Federal Standards were for hazardous or just nuisance odors or for chemicals that caused a problem.

Ms. Barrett stated the title on the Federal Register said, National Emissions Standards for Hazardous Air Pollutants for Boat Manufacturing.

Commissioner Kanbar stated if Sea Ray Boats enlarged their facility during the next 3 years the enlarged portion of the plant would apply to the odor ordinance. Asked how would they determine that the odor was coming from that portion of the new addition, or from the old portion of the plant.

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County Administrator Haas stated staff was told that some sort of inert element into the process would be detected whenever the odor sample was analyzed. Stated they also had a problem of whether or not Sea Ray Boat Company enlarged their facility and McKenna Yacht abutted their property and both produced styrene.

Stated if the code enforcement officer smelled the odor he would open a canister to suck in the odorous air. Stated the canister would be sent to a lab where they would determine what compound was in the canister. Stated those readings would be compared to the thresholds in the manual.

Stated if the canister came back with a presence of styrene, the problem would then be whether or not it was from McKenna Yacht or Sea Ray Boats. Stated he thought they had consensus on the process with the exception of which standard they were going to use, was it the lowest detectable limit or the geometric mean.

Commissioner Kanbar stated he did not want this perceived by the public or the industry as an antigrowth policy or antigrowth ordinance in anyway. Stated the County needed good high paying jobs in Flagler County and he did not want to discourage that in anyway. Stated they had to be very delicate in the balance and approach they used on this subject.

Commissioner Hanns asked if staff was comfortable with the ordinance, and if in the future it needed to be amended would that be possible.

Ms. Barrett stated staff was comfortable with the ordinance.

County Attorney Kern stated an ordinance could be amended, and he thought they had a defensible ordinance that had scientific standards behind it.

County Administrator Haas stated the issue that was in contention was which level they would use whether it was the lowest value or the geometric mean. Stated he would suggest eliminating Table 5.3 from consideration as one of the standards and test the ordinance for a year.

Commissioner Hanns stated the BCC had to work for what was best for the County and those who lived here. Stated he did not want anything that was going to lessen the total environment in Flagler County. Stated he believed a lot of competent people spoke and put their input into this issue and he would like to see it go forward.

Commissioner McGuire asked if it was true that the odors on industrial land were going to be more restrictive than the odors they allowed on commercial land. Stated he was not able to find which businesses they were beginning to lock out from coming to the County.

County Administrator Haas stated staff was repeatedly told that no such list existed tying these odors to a list of businesses. Stated whether or not it was different on commercial property they had no odor standard for commercial land.

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Commissioner McGuire asked if in the standards they were about to adopt was there a way to ask other counties in the State, with similar standards, who they had found that those standards prohibited and who they had found could meet those standards.

County Administrator Haas stated they used the Brevard County ordinance as a guide and Brevard County did not have a lot of particulars, or complaints, or development requests on their industrial property.

Ms. Barrett stated she spoke with several counties and cities and most nuisance ordinances were not as detailed as this. Stated most nuisance ordinances said, they could not create any odor beyond the property line, and if they did, they were in violation.

Commissioner Kanbar stated he thought they had to have something on a test basis for a year to see if it worked. Stated he definitely thought they should pass an odor ordinance today and did not want to see it lay dormant.

Ms. Barrett stated many land development codes do need to stand the test of time because they had to be tested to find if they worked.

Commissioner Kanbar stated they would have objective measurements after a year to fine tune the ordinance.

Chairman Darby asked if staff knew to what extent the Brevard County ordinance had been enforced.

Ms. Barrett stated they talked about boat manufacturers and that had not come to be a test yet.

Chairman Darby asked about odor tracing.

Ms. Barrett stated as far as she knew they had not done odor tracing. Stated Brevard County did collect some samples, but she thought the tracer was different.

Chairman Darby asked if Brevard County's ordinance included inert elements.

County Administrator Haas stated there was no reference to it in their odor ordinance.

Chairman Darby asked if Flagler County was the first to think about inert elements.

County Administrator Haas stated he was told that the science existed and that it was employed in a number of scenarios by various consultants.

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Stated Mr. Million who would be the potential new manufacturer moving into the area agreed that if the science existed he was willing to employ it, so he believed it was possible.

Chairman Darby asked how did he propose staff would enforce the ordinance.

County Administrator Haas stated odors tended to move around and the winds tended to shift fairly regularly at the beach, and the consultants he had spoken with were not really convinced they would be able to trap any odors.

Chairman Darby stated it was not going to be perfect, but he wanted to do what they could to put in effect certain notice by law that it was a County that looked upon this with some significance and seriousness.

Commissioner King asked what was the costs of the testing.

County Administrator Haas stated he was told to trace for styrene and the inert element would be a cost of \$300.00. Stated the County would initially pay for the \$300 test, and if there was a violation, the resolution attached to the ordinance would create a fine for the violator of \$300.00.

Commissioner King asked if the tracer could tell if the odor was coming from Sea Ray Boats or McKenna Yachts.

County Administrator Haas stated he was told if they added the inert element they would need a consultant to determine how they would impose that on McKenna Yachts and Sea Ray Boats, in the event they expanded.

Chairman Darby opened the Public Hearing.

Al Hadeed who represented Visions 20/20, stated all the changes underscored in their text was designed to simplify and make the process more practical for the County, for businesses and the public. Stated he thought Table 5.3 could be utilized where Table 5.1 did not give a value.

Chairman Darby asked who was to determine the applicability if it was not set forth in the ordinance.

Mr. Hadeed stated Table 5.1 listed 110 compounds that the Hygiene Association determined were the threshold values and those were odorous compounds. Stated for some of the 110 compounds they did not have the lowest value and for some they did not have the geometric mean.

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Commissioner Kanbar asked if the 110 compounds were related to boat building. Asked if the 110 compounds would be captured in Table 5.1 when they were tested on an objective basis.

Mr. Hadeed stated there were 110 compounds that emitted odors that in certain concentrations were hazardous. Stated the Hygiene Association determined at what level they could detect the odor.

Chairman Darby stated he would like it to become automatically embraced in the ordinance without the BCC doing additional revisions and amendments.

County Attorney Kern stated he thought it was provided for in 5, Odor provisions (b) where it said, "or the latest reprint or revision,".

Mr. Hadeed stated both the Hygiene Association's standards and testing procedures were updated and incorporated automatically. Stated there were certain compounds in Table 5.1 that had an asterisk for their lowest value and geometric mean and he was suggesting for those compounds a reference be made to Table 5.3.

Chairman Darby asked if in the interest of consensus for an odor ordinance was he willing to bend to staffs recommendation to the BCC.

Mr. Hadeed stated with two exceptions the limited use of Table 5.3, and what he thought was the appropriate resolution of the lowest value, geometric mean issue that was addressed. Stated he thought one year after the ordinance was in place was a very useful tool and staff would certainly have more information from the Hygiene Association.

Stated the lowest value meant for a particular compound in a validated study at which people detected the odor, and the geometric mean was more of averaging a variety of studies. Stated the geometric means was if there were five studies done they looked at and plotted all of their data and found where the mean was, which meant 50% were below and 50% were above.

Commissioner Kanbar stated in the one year test they were trying to take both into consideration.

Mr. Hadeed stated a geometric mean was going to allow more loading of those emissions where it was the same producers adjoining each other within the same district. Stated the lowest value addressed co-location because it required the new plant to keep its emissions lower than the geometric mean. Stated the new plant had to go to the lower because there was a neighbor also emitting the same amount.

Commissioner Kanbar stated they were really looking at one manufacturer Sea Ray Boats, so how did that apply.

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Mr. Hadeed stated Visions 20/20 did not look at this issue as a Sea Ray issue, they were talking about industrial districts that were across the County and abutted a variety of neighborhoods.

Commissioner King stated the geometric mean allowed for more odor in a concentrated area.

Mr. Hadeed suggested they use the lowest value and use Table 5.3 only in a limited way.

County Administrator Haas stated he thought when they left the meeting on Friday there was a consensus that Table 5.3 represented some faulty science and should not be included. Stated if they went with Table 5.1 they regulated the odors that were offensive, as it related to the boat industry, which was the impetus for this entire discussion.

County Attorney Kern stated Table 5.1 was a defensible standard and the less ambiguous they made this ordinance the better off staff was if they had to defend it.

Roseanne Stocker, Citizens for Responsible Development, and Flagler Beach Planning and Architectural Review Board, spoke in favor of the lowest acceptable value.

Victor Rug, Lambert Avenue, spoke in favor of adopting Table 5.1.

Gary Bell, Flagler Beach, asked if McKenna Yachts received a permit to build before the one year was up would they be grandfathered in.

County Attorney Kern stated the permit would not grandfather in McKenna Yachts.

Viki Neri, Palm Coast, spoke in favor of the lowest acceptable value.

Carole McCleery spoke in favor of the lowest acceptable value.

Brenda Farrell spoke in favor of the lowest acceptable value.

Sam Cline, Flagler County, stated he trusted that the BCC would take staff's recommendations and judge them wisely.

Nan Neville, Flagler Beach, spoke in favor of the odor ordinance.

Don Hoskins, Hammock, stated in Section 2, paragraph 5, line 14 all those capital letters should be explained. Spoke in favor of the odor ordinance with provisions for periodic reviews to assure it did not become outdated.

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John Moylan, Flagler Beach, stated he did not believe Brevard County would have gone forward with their ordinance if it could not be enforced.

Bonnie Sims stated she felt they should have a panel of noses to say there was or was not an odor.

Ann Wilson, Scenic A1A Corridor Advocacy Group supported the ordinance.

Alma Nemrava spoke in favor of the lowest acceptable value.

Marlene Lieb, Hammock, stated in the ordinance on Page 3, before Section 2, the last sentence said, "In such judicial enforcement, the County may pursue". Stated she would like to see, "will pursue". Spoke in favor of the lowest acceptable value.

Mollie DiLello, Palm Coast, stated do it right the first time so they would not have to go through this again.

Frank Ram, Flagler Beach, thanked all the people who participated.

Don Deal, Long Range Planning Board, spoke in favor of the lowest acceptable range.

Bruno Ferraro, President, Grove Scientific & Engineering Company, stated he was hired by the Citizens for Responsible Development. Stated he was in the air pollution business for over twenty-three years and made his living doing this kind of monitoring. Stated Page 4, (a) Performance standard, was probably the most important factor for an industry coming into the County. Stated if the objective was to protect public health and welfare from nuisance odors, he highly encouraged the BCC that they accept the lowest value.

Stated the confusion about Table 5.1 and Table 5.3 in those instances where a chemical was not referenced, either through the acceptable or geometric mean on Table 5.1, they could then use Table 5.3 as an additional reference, using those numbers for a lack of a number on Table 5.1.

Stated Brevard County's ordinance was based on the lowest acceptable value because that was what people smelled. Stated if they went with the geometric mean they had the potential to lose 50% of the noses out there. Stated by going with the lowest value you would then be addressing all those individuals impacted by an odor.

Joseph Zaia, Flagler Beach, asked for zero tolerance and to not extend the ordinance for another year.

Donald Carey, Palm Coast, stated the lowest accepted value would give them an idea where they stood.

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Charlie Faulkner, Senior Vice President, Palm Coast Holdings, asked that the BCC delete Table 5.3 to set a geometric mean as their standard by which they would determine an industry was in violation. Stated if they did that they would have an ordinance that both protected the interest of their citizenry and the quality of all of their lives.

Michaela Mertz, Flagler Beach, spoke in favor of the lowest acceptable range.

Joe Mayes, Palm Coast, spoke in favor of the lowest acceptable value.

Kathy Doucette, Flagler Beach, spoke in favor of the lowest acceptable value.

Chairman Darby closed the Public Hearing.

Chairman Darby stated it appeared the major contention was between Table 5.1 and Table 5.3 and staff recommended Table 5.1 without referencing Table 5.3. Stated there was substantial input to include Table 5.3 to some varied degree. Stated the County Attorney recommended that his defensible position was Table 5.1.

County Attorney Kern stated from his perspective it was easier to go from a tighter standard to a lesser standard.

There was BCC consensus to spell out acronyms in the ordinance.

County Attorney Kern stated on Page 3, Section 1, Item 4 correct “per use” to “per se”.

Chairman Darby stated there was a reference to Page 3, Section 1, Item 4 change the word may pursue to “will pursue”.

There was BCC consensus to change the words “may pursue” to “will pursue” in the ordinance.

Chairman Darby asked staff if Sea Ray Boats agreed to use the lowest acceptable range.

County Administrator Haas stated yes.

Chairman Darby asked if the BCC adopted the lowest value was it defensible.

County Attorney Kern stated they could defend that.

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County Administrator Haas stated he could not find any chemicals that said, none.

Mr. Hadeed stated some of the compounds in Table 5.1 there was no value provided, and for those it would be appropriate to look at Table 5.3.

Bruno Ferraro explained the compounds to the BCC.

Commissioner McGuire stated a resident had some concern that one code enforcement officer would decide whether or not to test.

County Administrator Haas stated if code enforcement detected an odor, testing would begin.

Commissioner McGuire wanted to know if one citizen out of 50,000 called everyday were they forced to start a test everyday because of that one citizen.

County Administrator Haas stated one of the questions he raised was once the ordinance fell to staff to manage they had to make sure they had a manageable ordinance that they could afford.

Commissioner Kanbar stated if a citizen made a call to code enforcement and they determined there was an odor they would then put a canister in place. Stated that seemed manageable unless they went through a process of waiting until they had ten or twenty complaints. Stated one complaint should trigger the code enforcement officer to do his job and put the canister out.

Chairman Darby stated because they had an ordinance against odors the public was going to expect an immediate response. Asked how Mr. Haas proposed the BCC establish the ordinance that gave staff the leverage to enforce the law, as quickly as possible, under the circumstances.

County Administrator Haas stated in light of this discussion they needed to pull the test the first time called.

Chairman Darby stated the BCC thought about this issue in terms of lawmaking and were not going to get the best world in this ordinance from the beginning.

Stated many speakers asked for the lowest value interpretation to be the law. Stated if there was a motion to approve the ordinance it would be to use Table 5.1 deferring to the lowest value acceptable, and to use the references of Table 5.3 where applicable and deemed appropriate by staff.

Commissioner Hanns asked if there were any safeguards in place for someone who would use this ordinance and call in a complaint as a prank.

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County Administrator Haas stated staff did accept anonymous code complaints.

Commissioner Hanns asked if a written complaint had to be given to staff.

County Attorney Kern stated code enforcement sometimes had neighbors that were afraid of other neighbors and had a serious situation where they did not want to give their names.

County Administrator Haas stated he wanted to let the BCC know the standard was 17 parts per million and Sea Ray Boats indicated they tested at 70 parts per million at their property line.

Commissioner Hanns asked if they were misleading those who spoke before the BCC that if this ordinance went into place today that tomorrow they could call code enforcement.

County Administrator Haas stated if the public called and Code Enforcement placed a canister that later tested for styrene, he would think they would try to find someone who was producing styrene. Stated as part of their development and review they needed to require that any subsequent business that came into the County that produced styrene needed to put some sort of inert tracer in their process to make it easier for code enforcement to track.

A motion was made by Commissioner Hanns that the ordinance address the lowest acceptable value, include Table 5.1 with Table 5.3 used only selectively for Table 5.1 compounds, and include the following changes: Page 3, Section 1, Item 4 “nuisance per use” be changed to “nuisance per se”, and on Page 3, Section 1, Item 4 “the County may pursue” be changed to “the County will pursue”. Seconded by Commissioner King.

Commissioner Kanbar stated he thought the technology was available today for most firms that wanted to relocate to Flagler County to reach the lowest acceptable value.

Chairman Darby asked if Mr. Kern found it defensible to use the lowest values.

County Attorney Kern stated that was correct.

Chairman Darby called the question. No nay votes, motion carried.

A motion was made by Commissioner Hanns to accept the resolution. Seconded by Commissioner King.

Chairman Darby called the question. No nay votes, motion carried.

(Ordinance 2001-20 and Resolution 2001-91 are on file in the Finance Department of the Flagler County Clerk’s Office.)

October 1, 2001
Regular Meeting

**ITEM 3 - 2ND PUBLIC HEARING - AMENDMENT TO FLAGLER COUNTY
LAND DEVELOPMENT CODE - ARTICLE III, ZONING DISTRICT
REGULATIONS, SECTION 3.03.00 USE AND OTHER REQUIREMENTS BY
DISTRICT, SECTION 3.03.18 I-INDUSTRIAL DISTRICT, AMENDING THE
PURPOSE AND INTENT OF G. INDUSTRIAL PERFORMANCE
STANDARDS AND ADDING A NEW PART 5. ODOR PROVISIONS;
ADOPTING CIVIL CITATION PENALTY AMOUNTS FOR VIOLATION OF
ODOR PERFORMANCE STANDARDS BY RESOLUTION**

Chairman Darby reviewed the following information provided by Planning Director Jennifer Barrett:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA REQUEST - ITEM # 3

SUBJECT: SECOND PUBLIC HEARING OF AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF FLAGLER, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF FLAGLER COUNTY, FLORIDA, ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00 USE AND OTHER REQUIREMENTS BY DISTRICT, 3.03.18. I-INDUSTRIAL DISTRICT, BY AMENDING THE PURPOSE AND INTENT OF G. INDUSTRIAL PERFORMANCE STANDARDS AND ADDING A NEW PART 5. ODOR PROVISIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

DATE OF MEETING: OCTOBER 1, 2001

SUBJECT/GOALS/OBJECTIVES: The objective of this request is to have the Board of County Commissioners hold a public hearing to consider the attached ordinance and related resolution. The purpose of the ordinance is to regulate odorous emissions produced by businesses located on County land zoned I Industrial District. The resolution that accompanies the ordinance implements the civil citation system penalty for violation of the ordinance.

JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES: The Long Range Planning and Development Review Board (LRPB) met between 1996 and 1998 to review and expand upon language to be included in the Land Development Code that would regulate odorous emissions. The ordinance did not pass at that time. Citizens for Responsible Development, represented by Don Deal, brought the issue of controlling odor-producing industrial businesses back to the Board of County Commissioners on June 18, 2001. Mr. Deal requested that the Board issue a temporary moratorium to prevent new business from locating in the I Industrial zoning district until County staff could write an odor ordinance for review and approval of the Board. The ordinance will apply only to new businesses locating in the I Industrial zoning district and to the extension, expansion or enlargement of any existing, non-conforming use of land excepting the erection of new storage, office and administrative structures or installation of equipment that will reduce emissions so long as such erection or installation is not accompanied by an expansion or enlargement of industrial production capacity. Existing businesses will be grand fathered but will continue to be scrutinized for air permit violations by Department of Environmental Protection.

The Board agreed to impose a 120-day moratorium and subsequently held two public hearings on July 16 and August 6 on the moratorium. The ordinance establishing a moratorium was approved on August 6, 2001. The moratorium became effective on July 16, 2001 and expires on October 14, 2001. The first public hearing on the proposed amendments was held before the Board of County Commissioners on September 17, 2001. Prior to that date, staff worked with legal counsel to draft an ordinance to control odor-producing industry. Staff and legal counsel

(Item 3 – continued)

researched the ordinances of numerous counties and cities to determine how they have implemented performance standards to control odorous omissions. Ordinances reviewed include Brevard County, Duval County, Orange County, Alachua County and the Cities of Jacksonville, Palm Coast and Flagler Beach. In addition, staff talked with the Brevard County Planning Director and Code Enforcement Supervisor, the Department of Environmental Protection, and various interested stakeholders and business owners to solicit their input. DEP notified staff that it does respond to complaints but will not provide enforcement services for the County.

The Long Range Planning and Development Review Board discussed a draft ordinance at its August meeting and recommended that it be a "performance based odor ordinance", like the Brevard County ordinance. The Long Range Planning and Development Review Board supports the adoption of the moratorium and odor ordinance.

Section 3.03.00 and Section 3.03.18. G have been amended to incorporate the language of the Brevard County odor ordinance. The costs associated with implementation of the ordinance are an issue that must be considered. The ordinance also references, and adopts by reference, the ambient standards from the American Industrial Hygiene Association entitled "Odor Threshold for Chemicals with Established Occupational Health Standards." The attached ordinance includes amended language that integrates the addition of the odor ordinance performance standards with the language addressing the existing performance standards for noise, glare, and vibration.

In order to implement the ordinance, a code enforcement officer must be trained to respond to complaints, collect air samples, send them for testing, and follow through on investigations. In addition to costs for staff and air sampling containers, testing an air sample costs not less than \$300 per sample. The costs will increase with the types of odors tested. Brevard County earmarks \$20,000 per year for the County Code Enforcement Budget to fund investigation costs of violations of the County's performance standards for odor, vibration and dust.

The first public hearing was held on September 17, 2001. The BCC directed Staff to meet with the principals involved in drafting the ordinance to work out unresolved issues regarding the "Applicability", "Determination of Violations" paragraphs and "Odor Provisions" subparagraphs (a) through (c). Staff met with stakeholders on September 24, 2001. The stakeholders and County staff reached consensus on changes to these paragraphs. The attached draft reflects those changes agreed to by the parties involved. The revised ordinance incorporates the civil citation enforcement system the County uses in lieu of the Brevard language that created problems for some of the Board members at the last hearing. (See subsection 4 of ordinance). The civil citation system requires that you adopt a civil penalty amount for first, second and the third visitations. The maximum is \$500 by state law for any one of them. The adopting resolution is attached. The staff recommends \$300 for the first, \$400 for the second and \$500 for the third offense, to help the County lower its laboratory costs.

October 1, 2001
Regular Meeting

(Item 3 – continued)

COORDINATION: Planning Department.

PROPOSED SCHEDULE: 1st Public Hearing: September 17, 2001 Approved First Reading
2nd Public Hearing: October 1, 2001

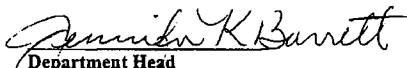
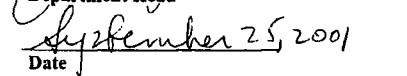
ASSIGNED TO: Planning Department and County Attorney.

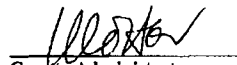
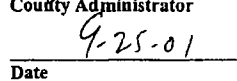
COST: Approximately \$15,000 per incident **FUND:** General

RECOMMENDATIONS: Staff recommends that the Board of County Commissioners hold a second and final public hearing to review the revised proposed ordinance regulating odorous emissions and approve it by adopting it. The Board also is requested to adopt the attached Resolution.

ATTACHMENTS:

1. Ordinance No. 01- (as revised and ready for adoption – redline, strikethrough and colors removed)
2. Ordinance No. 01- (as submitted to the BCC on September 17 with the addition of changes shown in redline, strikethrough and colors)
3. Resolution No. 2001- Adopting Civil Citation Penalty Amounts for Violation of Odor Performance Standards.


Department Head

Date


County Administrator

Date

(Item 3 – continued)

Planning Director Barrett stated at the Public Hearing on September 17, 2001 the BCC voted to adopt the ordinance with the understanding that staff and the principals would get together and work out the unresolved issues.

Stated she would explain the changes being made from the September 17, 2001 meeting.

Stated Page 1 had no changes. Stated on Page 2, they deleted the references to the City of Jacksonville and other nationally recognized odor control ordinances. Stated on Page 3, at the top of page, they deleted the first section of the first paragraph and what they saw was a replacement. Stated the reason they eliminated the words unreasonably noxious or offensive or unreasonable annoyance or a nuisance, etc., was because that was basically subjective and confusing. Stated Page 3 under Applicability was one of the main issues in the odor ordinance, and they added a few words that began with, "If any existing, nonconforming use of land is extended, expanded or enlarged, these performance standards shall apply only with respect to such extended, expanded, or enlarged portion or use of land." Stated that was altered a little bit to address the issue of Sea Ray Boats.

Stated any existing boat manufacturing facilities must comply with all the regulations of Federal Standards within 3 years of August 22, 2001, so they had Federal Standards that would be implemented and enforced against any violator.

Stated Page 3, Determination of violations - they found there were some inconsistencies and confusion and came up with a new paragraph to incorporate the civil citation system. "The performance standards shall be enforced using the civil citation system as provided by Chapter 9, Article III of the Flagler County Code except to the extent amended herein." Stated Resolution 2001 showed the implementing document that would impose those fines in case of violation.

Stated under Determination of violations, "if a violation is found, the officer shall issue a civil citation. After an entity has received three citations, the officer shall refer the next following violation(s), if within 12 months of the first violation, for judicial enforcement by the County of the performance standards. The County shall seek to enjoin the violation by the offending industrial entity as a public nuisance. Three citations, followed by another violation determination, if all are within 12 months, shall constitute a public nuisance per se for purposes of enforcing these odor performance standards. In such judicial enforcement, the County may pursue compliance under the other remedies authorized by the County Code." Stated this document and the Flagler County Code were all linked together to bring about consistency and order in how this was to be done.

Stated Section 2, paragraph 5 Odor provisions – would also be inserted in the Flagler County Land Development Code.

County Administrator Haas stated it was an escalating fine, so the first time they would be cited they would pay a \$300 fine that would start the 12 month clock ticking. Stated if there were four violations within 12 months of the first \$300 fine then they would seek some sort of judicial remedy to bring them into compliance.

Ms. Barrett stated the tables they referenced in the code tied the testing to 110 compounds from 36 sources out of 336 referring to the odor thresholds for chemicals with established occupational health hazards. Stated this was a publication prepared by the American Industrial Hygiene Association (AIHA).

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(Item 3 – continued)

Stated a scientific engineer with Atlas Scientific Technologies, Inc., met with the principals on Friday to explain the technical aspects. Stated different odors have different needs for measurement and may have different criteria. Stated on Page 4 putting in NIOSH, OSHA, EPA, and ACGIH they were opening the door to some scientific methods of measuring odors.

Stated in their meeting they amended the language of Section 5 (a) Performance requirements. Stated "The plans shall be signed and sealed by an engineer registered in the State of Florida. The plans shall be reviewed by the TRC."

Ms. Barrett provided the following summary:

**Summary
of
AIHA Odor Thresholds for Chemicals with Established
Occupational Health Standards**

1. The document is a compendium of worldwide data.
2. AIHA reviewed and categorized all data sources (366 references).
3. All data was categorized into three basic groups
 - a. Primary Source- actual experiments conducted and reported
 - b. Secondary Source- Not primary threshold measurement experiment (Code C1-C4)
 - c. Omitted or Not Reviewed
4. A total of 191 sources of odor thresholds were evaluated.
5. A total of 36 sources survived the phase II critique and yielded "acceptable odor threshold values". (Code A)
6. A total of 110 of the compounds that have TLVs (182 listed compounds) were found to have "acceptable odor threshold values".
7. 25% of the 110 compounds have odor thresholds higher than the TLVs.
8. 75% of the 110 compound have odor thresholds lower than the TLVs.
9. Table 5.1 lists all TLV compounds and the corresponding "acceptable odor threshold" range and geometric mean.
10. The range of all values are also presented. (last column)
11. Table 5.3 lists odor thresholds from all sources including rejected data.

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(Item 3 – continued)

Ms. Barrett read the following letter into the record:

Mr. David Haas
County Administrator
Flagler County, Florida
1200 E. Moody Blvd. #1
Bunnell, Fl 32110

October 1, 2001

Mr. Haas

I enjoyed meeting with you and the other staff members on September 28, 2001 to discuss the proposed odor ordinance. I believe that much helpful information was discussed that will assist the County in finalizing an ordinance that will meet the objectives of the County while providing sound scientific basis and practical manageability.

As you requested, I contacted Mr. Bruno Ferraro of Grove Scientific and discussed the four issues that were still undecided at the close of our meeting on Friday. I will summarize our discussion of each of these topically below.

1. **Inclusion of Table 5.3.**

As I indicated in our meeting, this table presents all data contained in the compendium including data that was rejected by the AIHA. It is scientifically invalid to include this table as a standard and will introduce significant problems regarding applicability and enforcement of the ordinance.

Mr. Ferraro is in agreement with this position and stated that if the table is included "*it will cause confusion*".

2. **Testing Protocol**

As I indicated in our meeting, the proposed ordinance did not include the appropriate reference to the analytical methods that should be used to analyze air samples. Mr. Ferraro is in agreement and the following wording is suggested.

All analyses shall be conducted in accordance with applicable ASTM, NIOSH, OSHA, EPA or ACGIH methods.

3. **Engineer's Certification**

As I indicated in our meeting, the paragraph requiring the signature and seal of a registered engineer is most probably unachievable and lends no real value to the ordinance. Mr. Ferraro is in agreement and supports the deletion of this element.

(Item 3 – continued)

4. Use Geometric Mean Verses the Range of Values

As I indicated in our meeting, the use of the range and specifically the lowest value in the range is not a valid representation of the "accepted" data and presents significant technical and practical problems. I suggest that if the County is going to use the "AIHA Odor Thresholds for Chemicals with Established Occupational Health Standards" as a reference for inclusion into the proposed ordinance, that the application of the data be consistent with the AIHA. Thus using the geometric mean as stated on page 9 of the document.

"The geometric mean value or recommended best estimate for odor threshold for each of the compounds is given in Table 5.1. Geometric means were computed for the mean odor threshold values. This is a common practice in sensory evaluation as it accounts for the wide range of response over several orders of magnitude."

Mr. Ferraro agreed that this is a scientifically valid method to express and apply the odor threshold data. But he indicated that he and his client would rather favor the use of the range of data.

I hope that the information that is presented above will assist the County in achieving the finalization of the odor ordinance. If you need any clarification or additional information please do not hesitate to call me.

Sincerely,

ATLAS Scientific Technologies, Inc.



Dave W. Knothe, CIH

President

Commissioner Kanbar asked if she was talking about nuisance smells or hazardous smells.

Ms. Barrett stated they were talking about nuisance smells in the ordinance.

Commissioner Kanbar asked if Sea Ray Boats would have to fall under Federal Standards within 3 years and wanted clarification on if the Federal Standards were for hazardous or just nuisance odors or for chemicals that caused a problem.

Ms. Barrett stated the title on the Federal Register said, National Emissions Standards for Hazardous Air Pollutants for Boat Manufacturing.

Commissioner Kanbar stated if Sea Ray Boats enlarged their facility during the next 3 years the enlarged portion of the plant would apply to the odor ordinance. Asked how would they determine that the odor was coming from that portion of the new addition, or from the old portion of the plant.

(Item 3 – continued)

County Administrator Haas stated staff was told that some sort of inert element into the process would be detected whenever the odor sample was analyzed. Stated they also had a problem of whether or not Sea Ray Boat Company enlarged their facility and McKenna Yacht abutted their property and both produced styrene.

Stated if the code enforcement officer smelled the odor he would open a canister to suck in the odorous air. Stated the canister would be sent to a lab where they would determine what compound was in the canister. Stated those readings would be compared to the thresholds in the manual.

Stated if the canister came back with a presence of styrene, the problem would then be whether or not it was from McKenna Yacht or Sea Ray Boats. Stated he thought they had consensus on the process with the exception of which standard they were going to use, was it the lowest detectable limit or the geometric mean.

Commissioner Kanbar stated he did not want this perceived by the public or the industry as an antigrowth policy or antigrowth ordinance in anyway. Stated the County needed good high paying jobs in Flagler County and he did not want to discourage that in anyway. Stated they had to be very delicate in the balance and approach they used on this subject.

Commissioner Hanns asked if staff was comfortable with the ordinance, and if in the future it needed to be amended would that be possible.

Ms. Barrett stated staff was comfortable with the ordinance.

County Attorney Kern stated an ordinance could be amended, and he thought they had a defensible ordinance that had scientific standards behind it.

County Administrator Haas stated the issue that was in contention was which level they would use whether it was the lowest value or the geometric mean. Stated he would suggest eliminating Table 5.3 from consideration as one of the standards and test the ordinance for a year.

Commissioner Hanns stated the BCC had to work for what was best for the County and those who lived here. Stated he did not want anything that was going to lessen the total environment in Flagler County. Stated he believed a lot of competent people spoke and put their input into this issue and he would like to see it go forward.

Commissioner McGuire asked if it was true that the odors on industrial land were going to be more restrictive than the odors they allowed on commercial land. Stated he was not able to find which businesses they were beginning to lock out from coming to the County.

County Administrator Haas stated staff was repeatedly told that no such list existed tying these odors to a list of businesses. Stated whether or not it was different on commercial property they had no odor standard for commercial land.

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(Item 3 – continued)

Commissioner McGuire asked if in the standards they were about to adopt was there a way to ask other counties in the State, with similar standards, who they had found that those standards prohibited and who they had found could meet those standards.

County Administrator Haas stated they used the Brevard County ordinance as a guide and Brevard County did not have a lot of particulars, or complaints, or development requests on their industrial property.

Ms. Barrett stated she spoke with several counties and cities and most nuisance ordinances were not as detailed as this. Stated most nuisance ordinances said, they could not create any odor beyond the property line, and if they did, they were in violation.

Commissioner Kanbar stated he thought they had to have something on a test basis for a year to see if it worked. Stated he definitely thought they should pass an odor ordinance today and did not want to see it lay dormant.

Ms. Barrett stated many land development codes do need to stand the test of time because they had to be tested to find if they worked.

Commissioner Kanbar stated they would have objective measurements after a year to fine tune the ordinance.

Chairman Darby asked if staff knew to what extent the Brevard County ordinance had been enforced.

Ms. Barrett stated they talked about boat manufacturers and that had not come to be a test yet.

Chairman Darby asked about odor tracing.

Ms. Barrett stated as far as she knew they had not done odor tracing. Stated Brevard County did collect some samples, but she thought the tracer was different.

Chairman Darby asked if Brevard County's ordinance included inert elements.

County Administrator Haas stated there was no reference to it in their odor ordinance.

Chairman Darby asked if Flagler County was the first to think about inert elements.

County Administrator Haas stated he was told that the science existed and that it was employed in a number of scenarios by various consultants.

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(Item 3 -- continued)

Stated Mr. Million who would be the potential new manufacturer moving into the area agreed that if the science existed he was willing to employ it, so he believed it was possible.

Chairman Darby asked how did he propose staff would enforce the ordinance.

County Administrator Haas stated odors tended to move around and the winds tended to shift fairly regularly at the beach, and the consultants he had spoken with were not really convinced they would be able to trap any odors.

Chairman Darby stated it was not going to be perfect, but he wanted to do what they could to put in effect certain notice by law that it was a County that looked upon this with some significance and seriousness.

Commissioner King asked what was the costs of the testing.

County Administrator Haas stated he was told to trace for styrene and the inert element would be a cost of \$300.00. Stated the County would initially pay for the \$300 test, and if there was a violation, the resolution attached to the ordinance would create a fine for the violator of \$300.00.

Commissioner King asked if the tracer could tell if the odor was coming from Sea Ray Boats or McKenna Yachts.

County Administrator Haas stated he was told if they added the inert element they would need a consultant to determine how they would impose that on McKenna Yachts and Sea Ray Boats, in the event they expanded.

Chairman Darby opened the Public Hearing.

Al Hadeed who represented Visions 20/20, stated all the changes underscored in their text was designed to simplify and make the process more practical for the County, for businesses and the public. Stated he thought Table 5.3 could be utilized where Table 5.1 did not give a value.

Chairman Darby asked who was to determine the applicability if it was not set forth in the ordinance.

Mr. Hadeed stated Table 5.1 listed 110 compounds that the Hygiene Association determined were the threshold values and those were odorous compounds. Stated for some of the 110 compounds they did not have the lowest value and for some they did not have the geometric mean.

(Item 3 – continued)

Commissioner Kanbar asked if the 110 compounds were related to boat building. Asked if the 110 compounds would be captured in Table 5.1 when they were tested on an objective basis.

Mr. Hadeed stated there were 110 compounds that emitted odors that in certain concentrations were hazardous. Stated the Hygiene Association determined at what level they could detect the odor.

Chairman Darby stated he would like it to become automatically embraced in the ordinance without the BCC doing additional revisions and amendments.

County Attorney Kern stated he thought it was provided for in 5, Odor provisions (b) where it said, "or the latest reprint or revision,".

Mr. Hadeed stated both the Hygiene Association's standards and testing procedures were updated and incorporated automatically. Stated there were certain compounds in Table 5.1 that had an asterisk for their lowest value and geometric mean and he was suggesting for those compounds a reference be made to Table 5.3.

Chairman Darby asked if in the interest of consensus for an odor ordinance was he willing to bend to staffs recommendation to the BCC.

Mr. Hadeed stated with two exceptions the limited use of Table 5.3, and what he thought was the appropriate resolution of the lowest value, geometric mean issue that was addressed. Stated he thought one year after the ordinance was in place was a very useful tool and staff would certainly have more information from the Hygiene Association.

Stated the lowest value meant for a particular compound in a validated study at which people detected the odor, and the geometric mean was more of averaging a variety of studies. Stated the geometric means was if there were five studies done they looked at and plotted all of their data and found where the mean was, which meant 50% were below and 50% were above.

Commissioner Kanbar stated in the one year test they were trying to take both into consideration.

Mr. Hadeed stated a geometric mean was going to allow more loading of those emissions where it was the same producers adjoining each other within the same district. Stated the lowest value addressed co-location because it required the new plant to keep its emissions lower than the geometric mean. Stated the new plant had to go to the lower because there was a neighbor also emitting the same amount.

Commissioner Kanbar stated they were really looking at one manufacturer Sea Ray Boats, so how did that apply.

(Item 3 – continued)

Mr. Hadeed stated Visions 20/20 did not look at this issue as a Sea Ray issue, they were talking about industrial districts that were across the County and abutted a variety of neighborhoods.

Commissioner King stated the geometric mean allowed for more odor in a concentrated area.

Mr. Hadeed suggested they use the lowest value and use Table 5.3 only in a limited way.

County Administrator Haas stated he thought when they left the meeting on Friday there was a consensus that Table 5.3 represented some faulty science and should not be included. Stated if they went with Table 5.1 they regulated the odors that were offensive, as it related to the boat industry, which was the impetus for this entire discussion.

County Attorney Kern stated Table 5.1 was a defensible standard and the less ambiguous they made this ordinance the better off staff was if they had to defend it.

Roseanne Stocker, Citizens for Responsible Development, and Flagler Beach Planning and Architectural Review Board, spoke in favor of the lowest acceptable value.

Victor Rug, Lambert Avenue, spoke in favor of adopting Table 5.1.

Gary Bell, Flagler Beach, asked if McKenna Yachts received a permit to build before the one year was up would they be grandfathered in.

County Attorney Kern stated the permit would not grandfather in McKenna Yachts.

Viki Neri, Palm Coast, spoke in favor of the lowest acceptable value.

Carole McCleery spoke in favor of the lowest acceptable value.

Brenda Farrell spoke in favor of the lowest acceptable value.

Sam Cline, Flagler County, stated he trusted that the BCC would take staff's recommendations and judge them wisely.

Nan Neville, Flagler Beach, spoke in favor of the odor ordinance.

Don Hoskins, Hammock, stated in Section 2, paragraph 5, line 14 all those capital letters should be explained. Spoke in favor of the odor ordinance with provisions for periodic reviews to assure it did not become outdated.

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(Item 3 – continued)

John Moylan, Flagler Beach, stated he did not believe Brevard County would have gone forward with their ordinance if it could not be enforced.

Bonnie Sims stated she felt they should have a panel of noses to say there was or was not an odor.

Ann Wilson, Scenic A1A Corridor Advocacy Group supported the ordinance.

Alma Nemrava spoke in favor of the lowest acceptable value.

Marlene Lieb, Hammock, stated in the ordinance on Page 3, before Section 2, the last sentence said, "In such judicial enforcement, the County may pursue". Stated she would like to see, "will pursue". Spoke in favor of the lowest acceptable value.

Mollie DiLello, Palm Coast, stated do it right the first time so they would not have to go through this again.

Frank Ram, Flagler Beach, thanked all the people who participated.

Don Deal, Long Range Planning Board, spoke in favor of the lowest acceptable range.

Bruno Ferraro, President, Grove Scientific & Engineering Company, stated he was hired by the Citizens for Responsible Development. Stated he was in the air pollution business for over twenty-three years and made his living doing this kind of monitoring. Stated Page 4, (a) Performance standard, was probably the most important factor for an industry coming into the County. Stated if the objective was to protect public health and welfare from nuisance odors, he highly encouraged the BCC that they accept the lowest value.

Stated the confusion about Table 5.1 and Table 5.3 in those instances where a chemical was not referenced, either through the acceptable or geometric mean on Table 5.1, they could then use Table 5.3 as an additional reference, using those numbers for a lack of a number on Table 5.1.

Stated Brevard County's ordinance was based on the lowest acceptable value because that was what people smelled. Stated if they went with the geometric mean they had the potential to lose 50% of the noses out there. Stated by going with the lowest value you would then be addressing all those individuals impacted by an odor.

Joseph Zaia, Flagler Beach, asked for zero tolerance and to not extend the ordinance for another year.

Donald Carey, Palm Coast, stated the lowest accepted value would give them an idea where they stood.

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(Item 3 – continued)

Charlie Faulkner, Senior Vice President, Palm Coast Holdings, asked that the BCC delete Table 5.3 to set a geometric mean as their standard by which they would determine an industry was in violation. Stated if they did that they would have an ordinance that both protected the interest of their citizenry and the quality of all of their lives.

Michaela Mertz, Flagler Beach, spoke in favor of the lowest acceptable range.

Joe Mayes, Palm Coast, spoke in favor of the lowest acceptable value.

Kathy Doucette, Flagler Beach, spoke in favor of the lowest acceptable value.

Chairman Darby closed the Public Hearing.

Chairman Darby stated it appeared the major contention was between Table 5.1 and Table 5.3 and staff recommended Table 5.1 without referencing Table 5.3. Stated there was substantial input to include Table 5.3 to some varied degree. Stated the County Attorney recommended that his defensible position was Table 5.1.

County Attorney Kern stated from his perspective it was easier to go from a tighter standard to a lesser standard.

There was BCC consensus to spell out acronyms in the ordinance.

County Attorney Kern stated on Page 3, Section 1, Item 4 correct “per use” to “per se”.

Chairman Darby stated there was a reference to Page 3, Section 1, Item 4 change the word may pursue to “will pursue”.

There was BCC consensus to change the words “may pursue” to “will pursue” in the ordinance.

Chairman Darby asked staff if Sea Ray Boats agreed to use the lowest acceptable range.

County Administrator Haas stated yes.

Chairman Darby asked if the BCC adopted the lowest value was it defensible.

County Attorney Kern stated they could defend that.

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(Item 3 – continued)

County Administrator Haas stated he could not find any chemicals that said, none.

Mr. Hadeed stated some of the compounds in Table 5.1 there was no value provided, and for those it would be appropriate to look at Table 5.3.

Bruno Ferraro explained the compounds to the BCC.

Commissioner McGuire stated a resident had some concern that one code enforcement officer would decide whether or not to test.

County Administrator Haas stated if code enforcement detected an odor, testing would begin.

Commissioner McGuire wanted to know if one citizen out of 50,000 called everyday were they forced to start a test everyday because of that one citizen.

County Administrator Haas stated one of the questions he raised was once the ordinance fell to staff to manage they had to make sure they had a manageable ordinance that they could afford.

Commissioner Kanbar stated if a citizen made a call to code enforcement and they determined there was an odor they would then put a canister in place. Stated that seemed manageable unless they went through a process of waiting until they had ten or twenty complaints. Stated one complaint should trigger the code enforcement officer to do his job and put the canister out.

Chairman Darby stated because they had an ordinance against odors the public was going to expect an immediate response. Asked how Mr. Haas proposed the BCC establish the ordinance that gave staff the leverage to enforce the law, as quickly as possible, under the circumstances.

County Administrator Haas stated in light of this discussion they needed to pull the test the first time called.

Chairman Darby stated the BCC thought about this issue in terms of lawmaking and were not going to get the best world in this ordinance from the beginning.

Stated many speakers asked for the lowest value interpretation to be the law. Stated if there was a motion to approve the ordinance it would be to use Table 5.1 deferring to the lowest value acceptable, and to use the references of Table 5.3 where applicable and deemed appropriate by staff.

Commissioner Hanns asked if there were any safeguards in place for someone who would use this ordinance and call in a complaint as a prank.

(Item 3 – continued)

County Administrator Haas stated staff did accept anonymous code complaints.

Commissioner Hanns asked if a written complaint had to be given to staff.

County Attorney Kern stated code enforcement sometimes had neighbors that were afraid of other neighbors and had a serious situation where they did not want to give their names.

County Administrator Haas stated he wanted to let the BCC know the standard was 17 parts per million and Sea Ray Boats indicated they tested at 70 parts per million at their property line.

Commissioner Hanns asked if they were misleading those who spoke before the BCC that if this ordinance went into place today that tomorrow they could call code enforcement.

County Administrator Haas stated if the public called and Code Enforcement placed a canister that later tested for styrene, he would think they would try to find someone who was producing styrene. Stated as part of their development and review they needed to require that any subsequent business that came into the County that produced styrene needed to put some sort of inert tracer in their process to make it easier for code enforcement to track.

A motion was made by Commissioner Hanns that the ordinance address the lowest acceptable value, include Table 5.1 with Table 5.3 used only selectively for Table 5.1 compounds, and include the following changes: Page 3, Section 1, Item 4 “nuisance per use” be changed to “nuisance per se”, and on Page 3, Section 1, Item 4 “the County may pursue” be changed to “the County will pursue”. Seconded by Commissioner King.

Commissioner Kanbar stated he thought the technology was available today for most firms that wanted to relocate to Flagler County to reach the lowest acceptable value.

Chairman Darby asked if Mr. Kern found it defensible to use the lowest values.

County Attorney Kern stated that was correct.

Chairman Darby called the question. No nay votes, motion carried.

A motion was made by Commissioner Hanns to accept the resolution. Seconded by Commissioner King.

Chairman Darby called the question. No nay votes, motion carried.

(Ordinance 2001-20 and Resolution 2001-91 are on file in the Finance Department of the Flagler County Clerk’s Office.)

Adam Mengel

From: Gina Lemon
Sent: Tuesday, February 24, 2015 5:38 PM
To: 'MDeal13797@aol.com'
Cc: Adam Mengel; Julie Murphy
Subject: FW: Industrial Performance odor standard
Attachments: Ordinance - ORD 2001-20 - AMEND INDUSTRIAL PERFORMANCE STANDARDS.PDF;
Ordinance - ORD 2001-14 - INDUSTRIAL ZONING DISTRICT MORATORIUM.PDF;
Resolution - RES 2001-91 - REGULAR - ODOR PERFORMANCE STANDARDS
VIOLAT....pdf

Good afternoon Mr. Deal –

As indicated earlier today, attached are the 2 ordinances and the related resolution.

Gina

From: Gina Lemon
Sent: Tuesday, February 24, 2015 9:53 AM
To: 'MDeal13797@aol.com'
Cc: Adam Mengel; Julie Murphy
Subject: RE: Industrial Performance odor standard

Good morning Mr. Deal –

After extensive research this morning, I believe I have found what you are referring to. Perhaps it is the temporary moratorium adopted as a result of your appearance before the BCC in June of 2001 where you presented the BCC with a Petition. I have requested the copies of the following ordinances and resolution from the County Clerk's office and am waiting the receipt of same.

Ordinance 2001-14 – Adopting temporary moratorium
Ordinance 2001-20 – Amendment to FCLDC, Section 3.03.18
Resolution 2001-91 – Civil Citation Penalty Violation Performance Standards

The full BCC meeting minutes may be viewed online at <http://www.flaglerclerk.com/recordscommission.htm>. I have attached the excerpts of the minutes used to identify the above noted ordinances.

Hopefully this satisfies your inquiry.

Thank you,
Gina

Gina Lemon, Development Review Planner III
Flagler County Planning and Zoning Department
1769 E. Moody Boulevard, Building 2
Bunnell, FL 32110
Phone: 386-313-4067
Fax: 386-313-4109
Email: glemon@flaglercounty.org
Website: www.flaglercounty.org

From: MDeal13797@aol.com [mailto:MDeal13797@aol.com]

Sent: Tuesday, February 24, 2015 7:57 AM

To: Gina Lemon

Subject: Fwd: Industrial Performance odor standard

Dear Gina,

Did you have a chance to find the odor ordinance update that was adopted during 2001. I believe you will find it during the months of Sept. and/or Oct. of 2001. Would you please forward to me at your convenience.

Sincerely,

Don Deal

From: glemon@flaglercounty.org

To: MDeal13797@aol.com

CC: ahadeed@flaglercounty.org

Sent: 2/16/2015 5:18:18 P.M. Eastern Standard Time

Subj: RE: Industrial Performance odor standard as it relates to Sea Ray specifically

Good afternoon Mr. Deal –

I am unaware of any ordinance adopted by the County Commission addressing odor that is not included in the [Flagler County Code of Ordinances](#). The amendment to the Flagler County Land Development Code by Ordinance 98-06 adopted (attached for your reference) the Industrial Performance Standards and amended the Flagler County Land Development Code, Section 3.03.18 by adding subsection (G). **There appears to be a later amendment to LDC, Section 3.03.18 through Ordinance 2001-20, I have requested a copy of this ordinance and upon receipt I will forward same to.**

Thank you,

Gina

From: MDeal13797@aol.com [mailto:MDeal13797@aol.com]

Sent: Monday, February 16, 2015 8:51 AM

To: Gina Lemon

Cc: Albert J. Hadeed

Subject: Re: Industrial Performance odor standard as it relates to Sea Ray specifically

Dear Gina,

When you have a few minutes, could you direct me to the verbiage regarding our Industrial Odor ordinance as it relates to Sea Ray Boats specifically, not the generic municode for odor under Industrial Performance Standards. Years ago, when we passed an Industrial Odor ordinance, believe Al Hadeed was involved as a private citizen, we worked with Mike Collins, General Manager of Sea Ray at the time to grandfather in existing operations. However, expansion would have to meet the new County Standard.

Therefore, this goes beyond the standard verbiage in the municode. If you or All could offer me some insights exactly where that language is for my review, it would be much appreciated.

Sincerely,

Don Deal

In a message dated 2/12/2015 11:43:07 A.M. Eastern Standard Time, glemon@flaglercounty.org writes:

To all –

Forwarding Mr. Deal's correspondence as requested below.

Thank you,

Gina

Gina Lemon, Development Review Planner III

Flagler County Planning and Zoning Department

1769 E. Moody Boulevard, Building 2

Bunnell, FL 32110

Phone: 386-313-4067

Fax: 386-313-4109

Email: glemon@flaglercounty.org

Website: www.flaglercounty.org

From: MDeal13797@aol.com [<mailto:MDeal13797@aol.com>]

Sent: Wednesday, February 11, 2015 6:05 PM

To: Gina Lemon

Subject: Flagler County Development and Review Board

Dear Gina,

I do not have all of the e-mail addresses of the Flagler County Development and Review Board members. Could I impose upon you to forward this e-mail to all of them, including the BOCC, County Attorney and Adam.

If this won't work, if you could forward me all of the e-mail addresses of the Development and Review Board members I would appreciate it.

Sincerely,

Don Deal

Here is a cut and paste:

Dear Planning and Development Board members,

I have never had the opportunity to meet many of you until last night. I am also unclear as to your background. However, I wish to compliment each of you for acknowledging the inconsistencies and incompatibilities in reference to the numerous Comprehensive Plan issues we brought up last night.

My background is, I have been serving on the Flagler Beach Planning and Architectural Review Board for close to 20 or more years. Before that, I also served a number of years on Flagler County's Long Range Planning Board. Roseanne Stocker, who you also heard from in the very beginning of the public comment section also serves on the Flagler Beach Planning and Architectural Review Board for almost the same amount of time. Therefore, each of us is very familiar with, both the detail of Comprehensive

Plan issues and the analysis of staff reports. We always do our homework as each of you also did last night.

As mentioned, the inconsistencies or incompatibility of the Comprehensive Plan do not change, regardless of whom the applicant is. Every applicant needs to be treated the same.

In closing, I thank each of you for recognizing that fact unanimously 7 to 0 last night in a denial to the FLUM request for Sea Ray Boats from PUD Low Density to High Intensity Commercial.

Sincerely,

Don Deal

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

ORDINANCE NO. 2001- 14

AN ORDINANCE ESTABLISHING A SIXTY-NINE (69) DAY MORATORIUM IN THE "I" INDUSTRIAL ZONING DISTRICT IN FLAGLER COUNTY ON THE ACCEPTANCE AND PROCESSING OF NEW AND EXISTING APPLICATIONS FOR PERMITS FOR ANY USE WHICH REQUIRES AN AIR CONSTRUCTION PERMIT OR AIR OPERATION PERMIT FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PURSUANT TO SECTION 62-210.300, FLORIDA ADMINISTRATIVE CODE; PROVIDING FOR TERMINATION OF THE TEMPORARY MORATORIUM; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Flagler County hereby determines that the excess generation and emission of certain odors by uses permitted in the "I" Industrial Zoning District adversely affects and threatens the quality of life on, and property values of, adjoining properties when such odors can be discerned on such adjoining properties; and

WHEREAS, the Board of County Commissioners of Flagler County further finds that the excess generation and emission of certain odors which may emanate from the "I" Industrial Zoning District may be discernible from public property such as parks and schools and could adversely affect the value of such public property and the improvements made thereon at taxpayer expense; and,

WHEREAS, the Board of County Commissioners of Flagler County further finds that the existing zoning and land development regulations of Flagler County do not adequately address the impact of objectionable odors on the quality of life of the citizens of Flagler County and on property values, both private and public; and,

*SgtH
per Scott Glass, Esq.*

WHEREAS, the Board of County Commissioners of Flagler County further finds that this regulatory gap must be addressed expeditiously due to the circumstances of the County's rapid growth from an agricultural to a predominantly suburban community and the corresponding efforts to market and sell industrially zoned lands near recently improved infrastructure; and,

WHEREAS, The Board of County Commissioners of Flagler County further finds that the Cities of Flagler Beach and Palm Coast have recently enacted ordinances that control industrial odors, but such protections do not exist for the adjoining unincorporated lands of the County; and,

WHEREAS, the Board of County Commissioners of Flagler County further finds that it must protect its substantial greenway system and its state designated scenic highway from the irreversible impacts of objectionable industrial odors; and,

WHEREAS, the Board of County Commissioners of Flagler County is empowered to adopt such ordinances and regulations as are reasonably necessary to protect and enhance the public health, safety, morals, and welfare of the citizens of Flagler County; and,

WHEREAS, the Board of County Commissioners has directed staff to research what other jurisdictions do to address the control of objectionable odors in their zoning and land development regulations; and,

WHEREAS, the Board of County Commissioners has further directed staff to consult with the Florida Department of Environmental Protection and such others who may have expertise or experience in this area in an effort to develop such zoning and land

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to consist of several overlapping loops and lines, possibly representing the initials 'JH' or a similar set of initials.

development regulations as may be necessary and desirable to promote a high quality of life and the protection of property values in Flagler County; and

WHEREAS, the Board of County Commissioners of Flagler County wishes to preserve the status quo while staff is conducting this research and developing such proposed zoning and land development regulations.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Flagler County, Florida:

SECTION ONE: There is hereby imposed a moratorium in the I Industrial zoning district on the acceptance and processing of new and existing applications for permits for any use which would require an air construction permit or an air operation permit from the Florida Department of Environmental Protection pursuant to Section 62-210.300 of the Florida Administrative Code. The imposition of this moratorium is not intended to affect the processing of any applications, which were properly filed with Flagler County on or before June 18, 2001.

SECTION TWO: The moratorium shall continue in effect for sixty-nine days from the date of its enactment and shall expire at 11:59 p.m. on October 14, 2001.

SECTION THREE: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION FOUR: This ordinance shall take effect immediately upon its passage or as soon thereafter as is provided by law.

ADVERTISED FOR THE FIRST TIME ON: JULY 9, 2001.

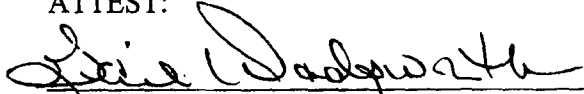
A handwritten signature in black ink, appearing to be 'Agm', is located in the bottom right corner of the page.

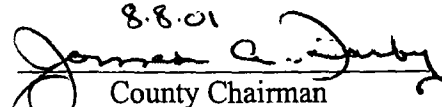
READ FIRST TIME AT PUBLIC HEARING ON: JULY 16, 2001.

ADVERTISED FOR THE SECOND TIME ON: JULY 30, 2001.

READ SECOND TIME
AND ADOPTED AT PUBLIC HEARING ON: AUGUST 6, 2001.

ATTEST:


Clerk of the Board of County Commissioners

8.8.01

County Chairman

APPROVED BY THE
FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS

ON AUGUST 6, 2001.

Effective date per
Florida Statute 125.66
August 10, 2001



ORDINANCE NO. 2001-20

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF FLAGLER, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF FLAGLER COUNTY, FLORIDA, ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00 USE AND OTHER REQUIREMENTS BY DISTRICT, 3.03.18. I-INDUSTRIAL DISTRICT, BY AMENDING THE PURPOSE AND INTENT OF G. INDUSTRIAL PERFORMANCE STANDARDS AND ADDING A NEW PART 8. ODOR PROVISIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Future Land Use Element of the Flagler County Comprehensive Plan states the Industrial Land Use category is the most intensive land use category, with the potential for producing significant environmental and economic impacts;

WHEREAS, some of the land in Flagler County designated for industrial use directly abuts, or is located in close proximity to land designated for residential uses, commercial uses or public uses;

WHEREAS, the Board of County Commissioners ("BCC") has determined that it is the County's responsibility to provide its inhabitants with air that is, to the degree reasonably practicable with modern technology, free from odors that cause distaste or annoyance or which unreasonably interfere with or impair the full use, benefit or development of the community;

WHEREAS, the BCC has also determined that the smell associated with various chemical compounds and other raw materials utilized in some manufacturing and industrial uses can be a source of irritation and annoyance in the County when such odors are allowed to escape beyond the property limits of the premises which emit such odors;

WHEREAS, the BCC further has determined that such odors may adversely impact property values and unreasonably interfere with the health and welfare and comfortable enjoyment of life or property of the community;

WHEREAS, the BCC has found that the normal conduct of business, living conditions and welfare of the inhabitants of the County may be adversely affected by the emission of such odors and that it is the responsibility of local government to prevent and control such odor emissions to the degree reasonably possible in the interest of the public health, comfort, safety and welfare of the inhabitants of the County;

WHEREAS, the BCC has consulted with the Florida Department of Environmental Protection and determined that the State of Florida has no odor control regulations or statutes which could reasonably be expected to protect the citizens of Flagler County from the unreasonable interference with the enjoyment of their life and property caused by the unreasonable emission of odors;

WHEREAS, the BCC has studied odor control ordinances from several other counties and municipalities within the State of Florida, including Brevard County and Duval County; and

WHEREAS, the BCC has the police power authority to adopt and enforce such regulations as are reasonably necessary to protect and promote the public health, safety, morals and welfare, including, but not limited to, the power to adopt reasonable regulations to control and/or eliminate odors which exist outside the property limits of the premises which emit such odors when such odors unreasonably interfere with the comfortable enjoyment of life or property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THAT ORDINANCE 91-2, ENTITLED “THE LAND DEVELOPMENT CODE OF FLAGLER COUNTY, FLORIDA,” ARTICLE III, ZONING DISTRICT REGULATIONS, SECTION 3.03.00 USE AND OTHER REQUIREMENTS BY DISTRICT, 3.03.18. I-INDUSTRIAL DISTRICT, G. INDUSTRIAL PERFORMANCE STANDARDS, IS HEREBY AMENDED AS FOLLOWS:

Section 1: The Land Development Code of Flagler County, Article III, Zoning District Regulations, Chapter 3.03.18. I-Industrial district, G. Industrial performance standards, be and the same hereby is amended to read as follows:

G. Industrial performance standards.

1. Purpose and Intent. The purpose and intent of the industrial performance standards is to provide reasonable measures to protect residential, business districts, and public property from the potentially negative impacts of odors, fumes, smoke, noise, heat, glare, vibration, soot and dust which may be associated with industrial uses.
2. General provisions. The following performance standards address a series of potential nuisances or possible sources of pollution or other public health, safety, and welfare concerns. All measurements shall be enforced at the property lines, unless otherwise specified. No part of any industrial zone and no improvement thereon shall be used or allowed to be used at any time for the manufacture, storage, distribution or sale of any product or the furnishing of any service, in a manner which is inconsistent with the requirements of this ordinance. No activity shall be carried on which may be or may become dangerous to public health, safety, or welfare which increases the fire insurance rate for adjoining or adjacent property, or which is illegal.
3. Applicability. Any new building, structure or tract of land, developed or constructed, or any new use of land that is used for, any permitted principal use, permitted special exception, or accessory use in any land

zoned I Industrial District shall comply with all of the performance standards set forth in this Section. If any existing, nonconforming use of land is extended, expanded or enlarged, the performance standards relating to odor shall apply only with respect to such extended, expanded, or enlarged portion or use of land. With respect to such extensions, expansions, or enlargements, compliance with the odor standards of this ordinance shall be based on a measurement using a thirty-minute average. The application of the performance standards relating to odor to an existing, nonconforming use of land shall not apply to the erection of new storage, office or administrative structures or the installation of equipment that will reduce emissions, provided that such erection or installation is not accompanied by an expansion or enlargement of industrial production capacity.

4. Determination of violations relating to odor. The performance standards relating to odor shall be enforced using the civil citation system as provided by Chapter 9, Article III of the Flagler County Code except to the extent amended herein. The Board of County Commissioners shall determine by resolution the monetary fines for the first, second and third violations. To determine if a violation has occurred, the code enforcement officer shall assess the existence of an odor at the property line of the industrial entity. If the officer detects an odor, the officer shall notify the industrial entity. The entity shall admit or deny that it is violating the performance standards and may provide the officer with any information or data in support of its position. If the violation is denied and the officer continues to reasonably believe that an odor is being emitted from the entity, the officer shall cause the odor to be measured at the property line in accordance with the odor standards herein. If a violation is found, the officer shall issue a civil citation. After an entity has received three citations, the officer shall refer the next following violation(s), if within 12 months of the first violation, for judicial enforcement by the County of the performance standards. The County shall seek to enjoin the violation by the offending industrial entity as a public nuisance. Three citations, followed by another violation determination, if all are within 12 months, shall constitute a public nuisance per se for purposes of enforcing these odor performance standards. In such judicial enforcement, the County will pursue compliance under the other remedies authorized by the County Code.

The remaining provisions concerning noise, glare and vibration shall be renumbered accordingly.

Section 2: The Land Development Code of Flagler County, Article III, Zoning District Regulations, Chapter 3.03.18. I-Industrial district, G. Industrial performance standards, be and the same hereby is amended to add a new part 8. "*Odor provisions*" to read as follows:

8. Odor provisions.

- (a) Performance requirements. All industrial uses as described in subsection G (3.) herein shall be controlled to prevent the emission of odorous gases or other matter in such quantities as to be readily detectable or to produce a public nuisance or hazard as defined by the odor standards herein at any point as measured along the property line. Detailed plans for the prevention or elimination of odorous matter, fumes, smoke, soot or dust to demonstrate compliance with the odor standards shall be required from the applicant before the issuance of a building permit. Performance requirements shall be reviewed by the Technical Review Committee (TRC). The plans shall be signed and sealed by an engineer registered in the State of Florida. The plans shall be reviewed by the TRC.
- (b) Odor standards. All applicants for industrial uses as described in subsection G (3.) herein shall demonstrate that they meet the odor standards herein. This determination shall be made during site plan approval. Site plans shall include documentation assuring that odor standards will not be exceeded by the intended use. Odors shall be measured by determining in parts per million (ppm) whether the chemicals are present. This measurement shall then be compared, as described hereafter, to data in *Tables 5.1 or 5.3, Odor Thresholds: for Chemicals with Established Occupational Health Standards*, published by the American Industrial Hygiene Association (1989) or the latest reprint or revision, which publications and future amendments are hereby incorporated by reference and made a binding part of this ordinance. All measurements shall follow American Society of Testing Materials (ASTM) procedures or other procedures approved by the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH), or the American Conference of Governmental Industrial Hygienists (ACGIH). When monitoring ambient air for the presence of odorous compounds, sampling should be conducted for as short a time as possible while sampling long enough to collect sufficient volume of sample so as to meet acceptable quality assurance/quality control criteria for validation of target analyte minimum detection limits.
- (1) Where *Table 5.1, Odor Thresholds: for Chemicals with Established Occupational Health Standards; Range of Acceptable Values*, referenced above contains several levels cited, the lowest acceptable value shall be used as the standard.
- (2) Where the chemical in *Table 5.1, Odor Thresholds: for Chemicals with Established Occupational Health Standards*, does not have a lowest acceptable value reported, then *Table 5.3, Odor Thresholds: for Chemicals with Established Occupational Health Standards* shall be reviewed for the chemical and the lowest value of all reported odor threshold measurements shall be used.

Section 3: Inclusion in the Land Development Code. It is the intent of the Board of County Commissioners of Flagler County, and is hereby provided that the provisions of this ordinance shall be made part of Article III, Chapter 3.03.18 Paragraph G of the Flagler County Land Development Code; that the sections of this ordinance may be renumbered or relettered; and that the word "ordinance" may be changed to "section", "article", "chapter" or other appropriate designation to accomplish such intention.

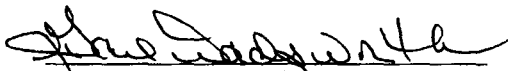
Section 4: Severability. It is the intent of the Board of County Commissioners of Flagler County, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

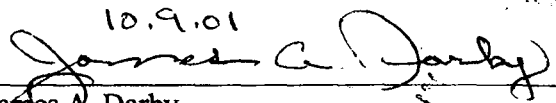
Section 5: Effective Date. This ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

ADOPTED THIS 1st DAY OF OCTOBER, 2001.


**BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA**

ATTEST:


Gail Wadsworth, Clerk and
Ex Officio Clerk to the Board

10.9.01

James A. Darby
Chairman

APPROVED AS TO FORM:


Carl E. Kern, County Attorney

Effective date per
Florida Statute 125.66
October 11, 2001

RESOLUTION NO. 2001- 91

**A RESOLUTION ADOPTING CIVIL CITATION
PENALTY AMOUNTS FOR VIOLATION OF
ODOR PERFORMANCE STANDARDS.**

WHEREAS, the Board of County Commissioners of Flagler County ("Board") has adopted an ordinance for industrial odors; and

WHEREAS, the Board has determined to use the civil citation system for enforcement;

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners as follows:

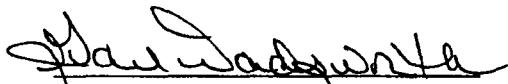
1. The Board hereby approves the following penalty amounts for violations of the ordinance for industrial odors:

First violation	\$300.00;
Second violation	\$400.00;
Third violation	\$500.00.

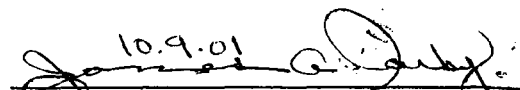
2. The Board hereby authorizes the above penalty amounts to be included in the schedule of civil citation penalties maintained by the County.

APPROVED this 1st day of October, 2001, by the Board of County Commissioners, Flagler County, Florida.

ATTEST:


Gail Wadsworth, Clerk and
Ex Officio Clerk to the Board

**FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS**

^{10.9.01}

James A. Darby, Chairman

Approved as to Form:


Carl E. Kern, County Attorney

Adam Mengel

From: Adam Mengel
Sent: Wednesday, March 04, 2015 10:20 AM
To: Roseanne Stocker (R1)
Subject: RE: please update any new info

Hi Ms. Stocker:

I am preparing the staff report now for the BCC meeting. The staff report will include a recommendation for a parcel-specific limiting policy, stating that the intended use is a parking lot and that a PUD will be put in place to ensure that only the parking lot is constructed. Otherwise, the FLUM amendment application has not been amended. The C-2 zoning request was withdrawn by the applicant at the February 10, 2015 Planning and Development Board hearing.

As we previously discussed, no site plan is required at this stage of the request, although it is my understanding that Sea Ray is preparing a site plan. Ultimately, as required by the County's LDC, a site plan will be required to be submitted.

The staff report and complete agenda should be posted sometime next week.

Please contact me with any additional questions.

Thank you,

Adam

-----Original Message-----

From: Roseanne Stocker (R1) [<mailto:RStocker1@outlook.com>]
Sent: Wednesday, March 04, 2015 9:59 AM
To: Adam Mengel
Subject: please update any new info

Dear Adam,

We have received notice in the mail that the Sea Ray FLUM request will be heard by the the BCCC on March 16.

Can you please tell me if anything is new with this request since the planning and zoning board recommended denial? Are they still asking for the same FLUM amendment and C2 zoning? Is there a site plan or any new information about this request?

Thank you,
Roseanne Stocker

Adam Mengel

From: MDeal13797@aol.com
Sent: Monday, March 09, 2015 2:44 PM
To: Julie Murphy
Cc: Adam Mengel; Gina Lemon
Subject: Public records request

Dear Julie,

After going through the public records in regards to Sea Ray's FLUM and rezoning request, I did not see any e-mail information or discussion pertaining to Project Wall as it relates to this particular request. As a matter of fact, I saw very few, if any e-mails related to pertinent discussion regarding the FLUM and resultant zoning request changes on the adjacent property next to Sea Ray between staff and Sea Ray Boats' representatives.

Did I miss something in my public records request, which I thought was very broad and would include this information? Or, is this the "exempted information" you referred to in your e-mail? In addition, Project Wall is out in the open as of Helga's EDC discussion a couple of weeks ago.

Sincerely,

Don Deal

Adam Mengel

From: Craig Coffey
Sent: Tuesday, March 10, 2015 8:20 AM
To: COMMISSIONERS
Cc: Sally A. Sherman; Adam Mengel; Albert J. Hadeed
Subject: FW: question about Sea Ray 2009 incentive

FYI, Craig

-----Original Message-----

From: Jim Landon [<mailto:JLandon@palmcoastgov.com>]
Sent: Monday, March 9, 2015 4:42 PM
To: City Council
Cc: Executive Team; A Team; Craig Coffey; Helga van Eckert
Subject: Fwd: question about Sea Ray 2009 incentive

Council,

See below. This is the second inquiry I have received about an old proposed incentive agreement with SeaRay Boats that was not finalized or approved. I am just giving you all a heads up in case you are also asked or heard rumors.

Jim Landon
City Manager
City of Palm Coast
160 Cypress Point Pkway, Suite B-106
Palm Coast, FL 32164
Tel: 386-986-3702
www.palmcoastgov.com<<http://www.palmcoastgov.com>>

Begin forwarded message:

From: Jim Landon <JLandon@palmcoastgov.com<<mailto:JLandon@palmcoastgov.com>>>
Date: March 9, 2015 at 4:35:11 PM EDT
To: "Roseanne Stocker (R1)" <RStocker1@outlook.com<<mailto:RStocker1@outlook.com>>>
Subject: Re: question about Sea Ray 2009 incentive

Ms. Stocker,

The idea/agreement you are referring to in your email below was just a proposal. It was not finalized or executed. It was a very complicated proposal with a variety of players. The most important player was the old LandMar company. When LandMar went under the deal fell apart. SeaRay completed the plant improvements they promised, but I can confirm that SeaRay did not receive any incentives/cash from the City of Palm Coast.

I hope this is helpful.

Jim Landon
City Manager
City of Palm Coast
160 Cypress Point Pkway, Suite B-106
Palm Coast, FL 32164
Tel: 386-986-3702
www.palmcoastgov.com<<http://www.palmcoastgov.com>>

On Mar 9, 2015, at 4:12 PM, Roseanne Stocker (R1)
<RStocker1@outlook.com<mailto:RStocker1@outlook.com>> wrote:

Dear Jim,

I was researching the history of Sea Ray Boats in our community and read with interest about the idea you presented Jan. 13, 2009 to help keep Sea Ray in town by giving the company a \$1.2 million incentive as well as about \$200,000 debt forgiveness annually for each year Sea Ray stayed open.

I know much probably transpired after the idea was proposed. Did the plan ever come to fruition? Did Palm Coast award this money or any economic incentives to Sea Ray?

Thank you very much.

Sincerely,
Roseanne Stocker

PLEASE NOTE: Florida has a very broad public records law.

Most written communications to or from City of Palm Coast officials and employees regarding public business are public records available to the public and media upon request.

Your e-mail communications may be subject to public disclosure.

Adam Mengel

From: Craig Coffey
Sent: Tuesday, March 10, 2015 8:56 AM
To: Helga van Eckert; Sally A. Sherman; Adam Mengel
Cc: 'Craig Wall'
Subject: FW: The Palm Coast bailout

FYI, CC

From: Frank J. Meeker [<mailto:fmeeker@bellsouth.net>]
Sent: Tuesday, March 10, 2015 8:51 AM
To: Craig Coffey
Subject: FW: The Palm Coast bailout

Updated information. I have confirmed the lack of a Palm Coast connection.

Frank

From: Roseanne Stocker (R2) [<mailto:StockerR2@outlook.com>]
Sent: Monday, March 09, 2015 4:08 PM
To: fmeeker@bellsouth.net
Subject: The Palm Coast bailout

Dear Frank,

Just to clarify, here's what we know (and don't know) about the agreements with and incentives to Sea Ray in the past. There were two different "deals". First there was the agreement between the developers and Sea Ray. Later, there was the deal with Sea Ray and Palm Coast.

In 2007, Sea Ray was the beneficiary of a \$1.5 million grant from the State's Economic Development Transportation fund. This money went to the continuation of Roberts Rd. that Sea Ray needed. At the same time \$236,813 was given to Sea Ray in as a State Rural Infrastructure Grant.

In 2005 when the residential parcels now in question were zoned residential, a "settlement agreement" was reached between Sea Ray, Landmar and Great Star, under which we believe Great Star gave or was to give \$1.5 million to Sea Ray, and Landmar was to give an additional \$1.5 in exchange for Sea Ray making capital improvements at the plant to control emissions and supporting the residential zoning.

This deal fell apart because the economic downturn hit and Landmar only gave \$300,000 to Sea Ray. We don't know for sure if Great Star ever gave their \$1.5 million, but reports indicate that the money was given.

In 2009 (Jan 13), City of Palm Coast -- Jim Landon -- presented the idea to keep Sea Ray in town by giving \$1.2 million (seems like it was to make up for the missing Landmar money from the previous deal). The city also offered about \$200,000 debt forgiveness annually for each year Sea Ray stayed open. If you could find out if this money was given to Sea Ray by the city, I believe that it is significant. The incentive was not tied to controlling emissions, but rather to just staying in town, from

what I can see. However, that is a lot of tax payer money with no requirements except to stay in town.

Here is the link from gotoby about this deal:

<http://gotoby.com/news/article/596/City-Manager-Floats-Economic-Development-Concept-at-Palm-Coast-City-Council-Workshop>

While knowing the facts about what happened in the past could be important because it shows how much money has been given to Sea Ray (and we still don't have any add-on emissions controls although developers, residents and the county have been concerned about odors from Sea Ray for decades), we still believe that one solution could be to require Sea Ray to abide by our county's odor ordinance.

Being an advocate for clean air certainly shouldn't mean anyone is anti-Sea Ray.

Perhaps more economic development incentives are in the works at the moment for Sea Ray? There is something called "Project Wall" that Helga is working on (named for Craig Wall, the plant manager) - but we have no idea if that involves financial incentives or not. Would be interesting to know.

Please let me know if you get the chance to speak with Jim Landon and find out what happened with the Palm Coast deal. I look forward to hearing from you. Thanks again for being willing to listen to both sides of this. Air pollution is very serious business.

Thanks again,
Roseanne Stocker

On 3/6/2015 12:38 PM, Frank J. Meeker wrote:

I don't think this was ever consummated. My recollection is the whole deal fell apart, Landmar may have contributed some money, Bob Million or Paul Katz, ...not sure which, didn't contribute anything, and with the deal dead, the city never brought it back to council for a final approval. Hence, the promised improvements from Sea Ray to reduce odors never happened.

Frank

-----Original Message-----

From: Roseanne Stocker (R2) [<mailto:StockerR2@outlook.com>]

Sent: Thursday, March 05, 2015 9:08 PM

To: fmeeker@bellsouth.net

Subject: The Palm Coast bailout

<http://agendas.palmcoastgov.com/attachments/be254bd7-e2ff-4989-8966-8ba436212c90.pdf>

Gina Lemon

From: Gina Lemon
Sent: Wednesday, March 11, 2015 8:33 AM
To: Adam Mengel
Subject: FW: Proposed Land Use change for Sea Ray Boats

FYI

From: johnbkeegan@aol.com [mailto:johnbkeegan@aol.com]
Sent: Tuesday, March 10, 2015 11:29 AM
To: Gina Lemon
Subject: Proposed Land Use change for Sea Ray Boats

Dear Ms Lemon,

I have sent the below e-mail to each of the Flagler County Commissioners individually. Please ensure that the message is included in the official briefing packet for the March 16 meeting. Thank you.

"Dear Commissioner (individual's name here),

As we are sure you know, the meeting of Flager County Commissioners on March 16 will consider the application on behalf of Sea Ray Boats to undo the zoning of land immediately behind our home from the Residential and Conservation classification approved by the Commissioners a decade ago and spot-zone it for High Intensity industrial use in order to benefit just one company - Sea Ray Boats. You will hear many reasons why this would be bad for Flagler Beach and Flagler County, and I will not list them at length here.

When we bought our home on Lambert Avenue we did our due diligence, and noted the zoning of the subject land. We trusted the good sense and integrity of Flagler County to abide by its own decision, and to maintain the zoning. Now, the habitability of our home hangs in the balance, and we earnestly ask you as a Commissioner not to bow to a single interest and take the remarkable step of spot-zoning. We ask that you have the courage to resist the temptation, and put the health of your citizens and the peace of their lives first. Please vote to reject the Sea Ray request.

Thank you for representing our interests.

John and Freda Keegan
1511 Lambert Avenue
Flagler Beach
386 675 0777"

Gina Lemon

From: Diane J Cline [dcline5@cfi.rr.com]
Sent: Tuesday, March 10, 2015 11:59 AM
To: Gina Lemon
Subject: Sea Ray Parking

Hi,

If we are honestly concerned about providing a decent wage for the residents of Flagler County then we will ignore the selfish manipulations that are being crafted by a small contingency of people that chose to live adjacent to a company that they are now maligning. If Sea Ray's request for additional parking is denied then all of the economic development work that we as a county/cities are professing to do is nothing but mind numbing talk.

Sincerely,

Diane J. Cline
1309 South Flagler Avenue
Flagler Beach, FL 32136

Gina Lemon

From: Gina Lemon
Sent: Wednesday, March 11, 2015 8:30 AM
To: Adam Mengel
Subject: FW: Application #2972

FYI – I do not see you copied on this.

From: SUZANNE MORROW [<mailto:morr2952@att.net>]
Sent: Tuesday, March 10, 2015 1:25 PM
To: Nate McLaughlin; Charles Ericksen Jr.; Frank Meeker; George Hanns; Barbara S. Revels
Cc: Gina Lemon
Subject: Application #2972

Dear Commissioners,

I am writing to urge you to deny Application #2972 -- Future Land Use Map Amendment and Rezoning request made by Sea Ray Boats. I understand the importance of job creation in our county and that Sea Ray has the right to operate on their current industrial site. If the company needs a new parking lot, I believe they should explore options to their immediate west rather than to the south -- which has been clearly zoned residential for the past 10 years and abuts residential zoning. If you allow Sea Ray to move commercial activities to land that is currently zoned residential, you will be severely impacting my property value, property rights and quality of life. Since Sea Ray has detailed their expansion plans in their new DEP permit and they can now increase their VOC emissions up to 978,000 lbs in any given year, I am very concerned about the negative impact this would have not only on Lambert Avenue but on all of Flagler Beach. I urge you to also make Sea Ray capture and destroy their Hazardous Air Pollutant emissions and odors. Economic Development for our tourism-based businesses in Flagler Beach is also important. Quality of life is an important component of a community's economic development. Please don't ignore the rights of the citizens of Flagler Beach to "spot zone" for one company.

Sincerely,

Suzanne & Doug Morrow
545 Lambert Ave
Flagler Beach, FL 32136
386-439-7044

Adam Mengel

From: Adam Mengel
Sent: Wednesday, March 11, 2015 11:14 AM
To: 'Roseanne Stocker (R1)'
Subject: RE: please update any new info

There are edits by internal staff (my bosses) underway now. The agenda should be published this morning; we are trying to put everything together before noon.

From: Roseanne Stocker (R1) [<mailto:RStocker1@outlook.com>]
Sent: Wednesday, March 11, 2015 11:12 AM
To: Adam Mengel
Subject: Re: please update any new info

Thanks Adam. If your staff report is ready, can you send it to me?
Roseanne

On 3/11/2015 10:59 AM, Adam Mengel wrote:

Hi Ms. Stocker:

I am forwarding your email to Administration; I do not control the Board agenda.

Thank you,

Adam

From: Roseanne Stocker (R1) [<mailto:RStocker1@outlook.com>]
Sent: Wednesday, March 11, 2015 10:57 AM
To: Adam Mengel
Subject: Fwd: RE: please update any new info

Dear Adam,

I noticed that your report is still not available online. When will you be posting it? On March 4 you told me in the email below that the plan is for a parking lot. In yesterday's Observer article, C. Coffee said the plan is for "parking lot, office space and boat transport area." Please post your report so we have a full understanding of your plan. Thank you.

Roseanne Stocker

----- Original Message -----

Subject: RE: please update any new info
Date: Wed, 4 Mar 2015 10:20:06 -0500
From: Adam Mengel <amengel@flaglercounty.org>
To: Roseanne Stocker (R1) <RStocker1@outlook.com>

Hi Ms. Stocker:

I am preparing the staff report now for the BCC meeting. The staff report will include a recommendation for a parcel-specific limiting policy, stating that the intended use is a parking lot and that a PUD will be put in place to ensure that only the parking lot is constructed. Otherwise, the FLUM amendment application has not been amended. The C-2 zoning request was withdrawn by the applicant at the February 10, 2015 Planning and Development Board hearing.

As we previously discussed, no site plan is required at this stage of the request, although it is my understanding that Sea Ray is preparing a site plan. Ultimately, as required by the County's LDC, a site plan will be required to be submitted.

The staff report and complete agenda should be posted sometime next week.

Please contact me with any additional questions.

Thank you,

Adam

-----Original Message-----

From: Roseanne Stocker (R1) [<mailto:RStocker1@outlook.com>]
Sent: Wednesday, March 04, 2015 9:59 AM
To: Adam Mengel
Subject: please update any new info

Dear Adam,

We have received notice in the mail that the Sea Ray FLUM request will be heard by the the BCCC on March 16.

Can you please tell me if anything is new with this request since the planning and zoning board recommended denial? Are they still asking for the same FLUM amendment and C2 zoning? Is there a site plan or any new information about this request?

Thank you,
Roseanne Stocker

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Gina Lemon

From: Coralee Leon [1coralee@earthlink.net]
Sent: Wednesday, March 11, 2015 1:50 PM
To: Nate McLaughlin; Charles Ericksen Jr.; Frank Meeker; George Hanns; Barbara S. Revels
Cc: Gina Lemon
Subject: Please protect residential citizens when considering Sea Ray Boats' application

To our Flagler County Commissioners:

While I understand the importance to our county of job creation and Sea Ray's position in promoting this, I believe it would be unwise to accept Sea Ray's Application #2972 (land use amendment and rezoning request) without making seriously considered demands on the company to remain the good citizen it has been.

I understand, for instance, that in their new expansion plans they will be permitted by DEP to increase their toxic emissions by a great deal, which could literally poison the atmosphere for Sea Ray's residential neighbors as well as the rest of Flagler Beach's citizens and visitors, depending on which way the wind blows.

Instead, please insist that Sea Ray use currently available technology to capture and destroy its air-polluting emissions and odors.

Also, please be sure there is enough of a physical margin of greenery and natural screening between the company and the residential neighborhoods it abuts.

These reasonable demands would enable Sea Ray to grow as it needs to for its own and the city's benefit, while ensuring a continued excellent quality of life for all.

Thank you—and thank you for making the right decision.

Cordially,

Coralee Leon
1617 South Flagler Avenue
Flagler Beach FL 32136